

Torres Rojas, Genara

10/24/12

From:
Sent: Thursday, April 05, 2012 3:49 PM
To: Duffy, Daniel
Cc: Torres Rojas, Genara; Van Duyne, Sheree
Subject: Freedom of Information Online Request Form

Information:

First Name: Timothy
Last Name: Ferrell
Company: Personal
Mailing Address 1:
Mailing Address 2:
City:
State:
Zip Code:
Email Address:
Phone:
Required copies of the records: Yes

List of specific record(s):

Current leases, operating agreements, or other contracts between the Port Authority and any automobile manufacturer, auto processing company, terminal operating company handling autos, stevedoring company handling autos. Please include any addenda, exhibits, or other external documents referenced in the leases or that modify the leases. Please send PDFs, if available. Thank you.

THE PORT AUTHORITY OF NY & NJ

Daniel D. Duffy
FOI Administrator

June 18, 2012

Mr. Timothy Farrell

Re: Freedom of Information Reference No. 13105

Dear Mr. Farrell:

This is a response to your April 5, 2012 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code") for copies of current leases, operating agreements, or other contracts between the PA and any automobile manufacturer, auto processing company, terminal operating company handling autos, stevedoring company handling autos.

Material responsive to your request and available under the Code can be found on the Port Authority's website at <http://www.panynj.gov/corporate-information/foi/13105-LPA.pdf>. Paper copies of the available records are available upon request.

Certain material responsive to your request is exempt from disclosure pursuant to exemptions (1) and (4) of the Code.

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
New York, NY 10003
T: 212 435 3642 F: 212 435 7555

BMW
AMT-1

TABLE OF CONTENTS

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<u>Section</u>		<u>Page</u>
1	Letting	1
2.	Term	1
3.	Rental.	2
4.	Rights of User.	9
5.	Lessee's Construction Work.	9
6.	Infrastructure.	27
7.	Quiet Enjoyment	29
8.	Ingress and Egress.	30
9.	Governmental and Other Requirements.	30
10.	Rules and Regulations	31
11.	Method of Operations.	32
12.	Signs	34
13.	Indemnity	34
14.	Maintenance and Repair.	37
15.	Casualty.	41
16.	Construction by the Lessee.	42
17.	Additional Rent and Charges	44
18.	Rights of Entry Reserved.	45
19.	Limitation of Rights and Privileges Granted	46
20.	Prohibited Acts.	47
21.	Termination	48
22.	Right of Re-entry	51

Section	<u>Page</u>
23. Waiver of Redemption.	51
24. Survival of the Obligations of the Lessee.	52
25. Reletting by the Port Authority	53
26. Remedies to be Non-Exclusive.	53
27. Surrender	54
28. Acceptance of Surrender of Lease.	54
29. Notices	54
30. General.	56
31. Premises.	58
32. Force Majeure	59
33. Brokerage	59
34. Non-Liability of Individuals.	60
35. Services.	60
36. Credit.	61
37. Records.	62
38. Extension of Term.	63
39. Security	65
40. Additional Provision Governing Pollution	66
41. Condemnation.	67
42. Assignment.	69
43. Subletting	72
44. Environmental Compliance.	73
45. Additional Environmental Provision	77
46. First Offer.	78
47. Entire Agreement.	81

Exhibits and Schedules

Exhibits A, B, R, X, and Y, Schedules A, B, C and D,
and Standard Endorsement L23.1

Lease No. AMT-1

THIS AGREEMENT OF LEASE, made as of the 22nd day of December 1987, 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 One World Trade Center, New York, New York 10048; and BMW OF NORTH AMERICA, INC. (hereinafter called "the Lessee"), a corporation organized and existing under the laws of the State of Delaware having an office and place of business at BMW Plaza, Montvale, New Jersey 07645 whose representative is: William F. Caver.

WITNESSETH, THAT:

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

Section 1. Letting

The Port Authority hereby lets to the Lessee and the Lessee hires and takes from the Port Authority at the property of the Port Authority more fully described in Section 30(j) hereof (sometimes hereinafter called "the Facility" or "the marine terminal"), in the City of Jersey City, in the County of Hudson and State of New Jersey, the following: the open area shown in stipple on a sketch hereto attached, hereby made a part hereof, and marked "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, the said land and buildings, structures, fixtures, improvements and other property of the Port Authority being hereinafter collectively called "the premises". The Port Authority and the Lessee hereby acknowledge that the premises constitute non-residential property.

Section 2. Term

The term of the letting under this Agreement shall commence upon the execution of this Agreement by the Port Authority and the Lessee and the delivery to the Lessee of a fully executed copy thereof (which date is sometimes hereinafter called "the Commencement Date") and, unless sooner terminated, the term of the letting shall expire at 11:59 o'clock P.M. on the last day of the calendar month preceding the calendar month in which the thirtieth (30th) anniversary of the Rental Payment Start Date, as hereinafter defined (and as the same may be postponed pursuant to the provisions of this Agreement), shall occur.

Section 3. 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:

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

(2) "Rental Payment Start Date" shall mean the earlier of

(i) October 1, 1988, or

(ii) The Completion Date, as hereinafter defined in paragraph (c) of Section 5 hereof; or

(iii) such earlier date on which the Lessee commences in the premises any of the operations authorized therein by Section 4 of this Agreement.

(3) "The Port Authority's Cost of Lessee's Work" shall mean 103% of all payments made by the Port Authority to the Lessee on account of the cost of that portion of the Lessee's construction work, as defined in paragraph (a) of Section 5 hereof, constituting Class A Work, as defined in said paragraph (a).

(b) Basic Rental

(1) The Lessee shall pay an annual rental (hereinafter called "the basic rental") at the rate of Three Hundred Ninety-Five Thousand Dollars and No Cents (\$395,000.00) per annum, payable in advance in monthly installments of Thirty-two Thousand Nine Hundred Sixteen Dollars and Sixty-seven Cents (\$32,916.67) on the Rental Payment Start Date and on the first day of each calendar month thereafter during each such annual period except that if the Rental Payment Start Date shall be a day other than the first day of a calendar month the installment of basic rental payable on the Rental Payment Start Date shall be an amount equal to the amount of the installment described in this subparagraph multiplied by a fraction the numerator of which shall be the number of days from the Rental Payment Start Date to the last day of the calendar month in which the Rental Payment Start Date shall fall and the denominator of which shall be the number of days in that calendar month. The basic rental set forth in this subparagraph shall be adjusted during the term of the letting in accordance with the provisions of subparagraph (2) of this paragraph.

(2) As used in this subparagraph:

(i) "Index" shall mean the Consumer Price Index for All Urban Consumers - New York, N.Y.-Northeastern, New Jersey (All Items, unadjusted 1967=100) published by the Bureau of Labor Statistics of the United States Department of Labor.

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

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

(iv) "Anniversary Date" shall mean the fifth anniversary of the Rental Payment Start Date under this Agreement and each fifth anniversary of such date which thereafter occurs during the term of the letting hereunder.

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

Commencing on each Anniversary Date occurring during the term of the letting under this Agreement and for the five year period commencing with such Anniversary Date and continuing through to the day preceding the following Anniversary Date, both dates inclusive, in lieu of the basic rental set forth in subparagraph (1) of this paragraph the Lessee shall pay a basic rental at a rate per annum equal to the greater of:

(i) the sum obtained by adding to the basic rental payable immediately prior to such Anniversary Date (but excluding therefrom any amount included therein as a result of prior adjustments thereof pursuant to the provisions of this subparagraph) the product obtained by multiplying the basic rental payable immediately prior to such Anniversary Date (but excluding therefrom any amount included therein as a result of prior adjustments thereof pursuant to the provisions of this subparagraph) by one hundred percent (100%) of the Percentage Increase for such Anniversary Date, or

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

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

Notwithstanding any other provision of this subparagraph, the basic annual rental that shall be payable pursuant to subparagraphs (1) and (2) hereof commencing with each Anniversary Date and continuing through to the day preceding the following Anniversary Date, both dates inclusive, shall in no event exceed the amount set forth in the Schedule annexed to this Agreement, hereby made a part hereof, and marked "Schedule B" opposite the respective Anniversary Date. For example, if the increase in the Consumer Price Index for the first Adjustment Period to occur hereunder is shown to be twenty percent (20%) then the basic annual rental for the five (5) year period from the first Anniversary Date hereunder through the day preceding the following Anniversary Date, both dates inclusive, shall be \$395,000.00 plus twenty percent (20%) thereof or \$474,000.00, but if (i) said increase is shown to be thirty percent (30%) then the basic annual rental for that five (5) year period shall be \$504,131.23, and if (ii) said increase is shown to be fifteen percent (15%) then the basic annual rental for that five (5) year period shall be \$457,913.23.

In the event the Index to be used in computing any adjustment referred to in subparagraph (2) of this paragraph is not available on the effective date of such adjustment, the Lessee shall continue to pay the basic rental at the annual rate then in effect subject to retroactive adjustment at such time as the specified Index becomes available, provided, however, that the Port Authority may at its option substitute for such Index the Index for the latest preceding month then published to constitute the specified Index. In the event the United States Consumer Price Index for all Urban Consumers - New York, N. Y. Northeastern N.J. (All Items, unadjusted 1967=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, N.Y. - Northeastern, N.J. (All Items, unadjusted 1967=100), then for the purposes hereof there shall be substituted for the Index such other appropriate index or indices properly reflecting changes in the value of current United States money in a manner similar to that established in the Index used in the latest adjustment as the Port Authority may in its discretion determine.

If after an adjustment in 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 rental due for such period as recomputed over amounts theretofore actually paid on account of the rental for such period. If such change or adjustment results in a reduction in the rental due for any period prior to notification, the Port Authority will credit the Lessee with the difference between the rental as recomputed for that period and amounts of rental actually paid.

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

(3) Upon certification by the Port Authority pursuant to paragraph (c) of Section 5 of this Agreement of the substantial completion of the Lessee's construction work, as hereinafter defined in Section 5 (a), the Lessee shall be entitled to a credit against the basic rental payable by the Lessee pursuant to subparagraphs (1) and (2) of this paragraph in an amount equal to the lesser of (i) the cost incurred by the Lessee in connection with that portion of the Lessee's construction work, as hereinafter defined in Section 5(a), which is hereinafter designated as "the Site Clearing Work" or (ii) One Hundred Thousand Dollars and No Cents (\$100,000.00). Such credit shall be applied against monthly installments of basic rental payable by the Lessee as they become due until exhausted. As used herein "the Site Clearing Work" shall mean: (i) clearance of debris and vegetation from the premises and (ii) grubbing.

(c) Facility Rental

(1) In addition to all other rentals set forth herein, the Lessee shall pay to the Port Authority a rental (hereinafter called "the Facility Rental") at a monthly rate which shall be determined by multiplying 0.0095232 by the Port Authority's Cost of Lessee's Work as hereinbefore defined, which rental shall be payable in advance on the Rental Payment Start Date and on the first day of each calendar month thereafter during the term of the letting. If the Rental Payment Start Date shall be a day other than the first day of a calendar month the Facility Rental payable on the Rental Payment Start Date shall be a sum equal to the amount of the full monthly payment prorated on

a daily basis for the period from the Rental Payment Start Date to the end of the calendar month in which the Rental Payment Start Date falls and the last payment shall be a sum equal to the full monthly payment prorated on a daily basis for a period from the first day of the calendar month in which the term of the letting hereunder shall expire to the expiration date.

(2) If the Rental Payment Start Date shall occur before accurate and final determination of the Port Authority's Cost of Lessee's Work then interim Facility Rental shall be payable by the Lessee during the period prior to such determination at the monthly rate of One Hundred Forty-seven Thousand One Hundred Thirty-three Dollars and Forty-four Cents (\$147,133.44) payable in advance on the Rental Payment Start Date (or in an appropriate prorated amount if such date is other than the first day of a calendar month) and on the first day of each calendar month thereafter until such determination has been made. If the monthly amount of Facility Rental, as finally determined, is greater than the monthly rate of interim Facility Rental, the sum of the excess over the total amount of interim Facility Rental theretofore paid of the correct amount of Facility Rental as finally computed for the period prior to final determination of the Port Authority's Cost of Lessee's Work together with the then current monthly payment of Facility Rental shall be payable on the first day of the calendar month next ensuing after final computation and determination of the Port Authority's Cost of Lessee's Work. If such final computation and determination shall result in an amount of Facility Rental payable for the period prior to final determination which is less than the total amount of interim Facility Rental theretofore paid, the Lessee shall be entitled to a credit equal to such excess against the next succeeding Facility Rental payments due hereunder.

(3) Notwithstanding any other provisions of this Agreement, the Facility Rental shall not be subject to abatement or suspension or reduction for any reason whatsoever.

(d) Additional Basic Rental

(1) In addition to all other rentals set forth herein, and subject to the provisions of this paragraph, the Lessee shall pay to the Port Authority an additional basic rental under this Agreement as follows: If during any annual period, the Port Authority shall not receive dockage and wharfage charges pursuant to the Port Authority's tariff, as incorporated in Federal Maritime Commission Schedule PA-9 (hereinafter called "dockage and wharfage charges") on at least thirty thousand (30,000) automobiles discharged to the Facility by the Lessee, then the Lessee shall pay to the Port Authority an amount equal to the product obtained by multiplying (i) thirty thousand (30,000) less the number of automobiles discharged to the Facility by the Lessee during the annual period as to which the Port Authority shall have received dockage and wharfage charges

by (ii) the Unit Rate, as hereinafter defined. As used herein "Unit Rate" shall mean Seven Dollars and Twenty-five Cents (\$7.25). The Unit Rate shall be subject to adjustment as set forth in subparagraph (3) of this paragraph. If the sworn statement required to be supplied to the Port Authority by the Lessee pursuant to Section 37 hereof shall show any additional basic rental due hereunder the Lessee shall remit the amount of such additional basic rental together with the statement.

(2) For purposes of determining the number of automobiles discharged to the Facility by the Lessee under the provisions of subparagraph (1) of this paragraph, the following categories of automobiles (and no others whatsoever) shall be counted: (i) automobiles manufactured by the Lessee or an affiliated company thereof (hereinafter in this Agreement sometimes called "BMW's") and which are discharged to other Port Authority marine terminal facilities; (ii) automobiles which, with the prior approval of the Port Authority, are discharged to a marine terminal facility that is not operated by the Port Authority and which are processed by the Lessee at the Facility; and (iii) automobiles discharged to the Facility and processed by the Lessee at the Facility.

(3) The Unit Rate set forth in subparagraph (1) of this paragraph shall be adjusted during the term of the letting hereunder proportionately to the adjustment in basic rental in accordance with the provisions of subparagraph (2) of Section 3(b) hereof. For example, if the basic annual rental for the period from the first Anniversary Date hereunder through the day preceding the following Anniversary Date shall be increased from \$395,000.00 to \$474,000.00 (reflecting a twenty percent (20%) increase in the Consumer Price Index), then the Unit Rate for said period shall be increased to \$8.70 (reflecting a proportionate increase of twenty percent (20%)).

(4) In the event that any law, rule or regulation of any United States governmental body or agency having jurisdiction over the matter shall be passed or promulgated reducing the number of cars manufactured in Germany which may be imported into the United States (which law, rule or regulation is hereinafter called "the Import Control Legislation") then for the purpose of calculating the amount of additional basic rental payable by the Lessee during the period when the Import Control Legislation shall remain in effect the number thirty thousand (30,000) set forth in subparagraph (1) of this paragraph (which number is hereinafter sometimes called "the Guarantee Number") shall be reduced for the annual period in which the Import Control Legislation shall become effective and for each annual period which shall occur thereafter during which the Import Control Legislation shall remain in effect by multiplying the Guarantee Number by a fraction, the numerator of which shall be the number of all automobiles manufactured in Germany and imported into the United States during the respective annual period and the denominator of which shall be the number of all

automobiles manufactured in Germany and imported into the United States during the twelve (12) month period preceding the effective date of the Import Control Legislation. In the event that any law, rule or regulation of any United States governmental body or agency having jurisdiction over the matter, other than Import Control Legislation, shall be passed or promulgated for the purpose, stated or unstated, of reducing the number of all automobiles imported into the United States (which law, rule or regulation is hereinafter called "Other Trade Legislation") and the number of all automobiles imported into the United States in any annual period following the effective date of the Other Trade Legislation is diminished by ten percent (10%) or more as compared to the number of all automobiles imported into the United States during the twelve (12) month period preceding the effective date of the Other Trade Legislation, then for the purpose of calculating the amount of additional basic rental payable by the Lessee during the period when the Other Trade Legislation shall remain in effect the Guarantee Number shall be reduced for the annual period in which the Other Trade Legislation shall become effective and for each annual period which shall occur thereafter during which the Other Trade Legislation shall remain in effect by multiplying the Guarantee Number by a fraction the numerator of which shall be the number of all automobiles imported into the United States during the respective annual period and the denominator of which shall be the number of all automobiles imported into the United States during the twelve (12) month period preceding the effective date of the Other Trade Legislation.

(5) For the purposes of subparagraph (4) of this paragraph, the determination of the number of automobiles imported into the United States during any given year or annual period shall be made by the Port Authority based on reports of commodities imported into the United States issued by the Foreign Trade Division of the Bureau of the Census of the United States Department of Commerce. In the event that any number required for the computation set forth in subparagraph (4) of this paragraph is not available by the date that additional basic rental is payable pursuant to the provisions of subparagraph (1) of this paragraph, the Lessee shall pay the additional basic rental computed pursuant to the provisions of said subparagraph (1) subject to retroactive adjustment at such time as the required number becomes available. In the event the Foreign Trade Division of the Bureau of the Census of the United States Department of Commerce shall cease to issue reports of commodities imported into the United States then for the purposes hereof there shall be substituted for such reports of commodities imported into the United States such other governmental statistical reports of a similiar nature as the Port Authority, acting in a non-arbitrary and non-capricious manner, may determine to be appropriate.

Section 4. Rights of User

The Lessee shall use and occupy the premises primarily for the receipt and storage incidental to distribution of imported motor vehicles and parts therefor which are substantially waterborne to the Facility, but also for the receipt and storage incidental to distribution of non-imported motor vehicles to be waterborne from the Facility, and parts therefor; for the preparation of said motor vehicles for distribution and for the distribution thereof; and for purposes necessarily incidental to the other uses enumerated in this Section. The Lessee shall not use the premises for any other purpose whatsoever.

Section 5. Lessee's Construction Work

(a) The Lessee understands that construction and installation work is required in order to prepare the premises for its occupancy and operations, and the Lessee agrees to and shall perform the following categories of work to prepare the premises for the Lessee's operations therein (which categories of work are hereinafter collectively referred to as "the Lessee's construction work"): (1) the construction of a motor vehicle preparation facility and an integrated multi-level garage not to exceed fifty-five (55) feet in height for the storage of motor vehicles, and containing such miscellaneous realty improvements related to the work previously described in this subparagraph (1) as are listed on the Schedule annexed to this Agreement, hereby made a part hereof, and marked "Schedule C" (work described in this subparagraph (1) being hereinafter called "Class A Work"); and (2) building interior work involving the installation of trade fixtures and equipment (work described in this subparagraph (2) being hereinafter called "Class B Work"). The Class A Work shall be paid for by the Port Authority as provided for in paragraphs (p) and (q) of this Section.

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

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

(ii) The risk of death, injury or damage, direct or consequential, to the Port Authority, and its

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

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

(c) (1) Prior to the commencement of any of the Lessee's construction work, the Lessee shall prepare and submit to the Port Authority for its review a conceptual plan for the development of the premises containing (i) preliminary renderings and layouts, (ii) estimated commencement and completion dates, (iii) preliminary functional plans for the buildings to be constructed on the premises showing the proposed location of on premises utility systems, all connections between the premises and the Facility's off-premises utility supply lines, all necessary roadways, ramps, and pedestrian circulation areas, and appropriate landscaping, if any, (iv) preliminary information relating to estimated scheduling requirements during construction, and (v) estimated time and manner of delivery of equipment and materials. Not later than twenty-one (21) days following the Port Authority's receipt of the Lessee's construction application and complete plans and specifications, the Port Authority, acting in a non-arbitrary and non-capricious manner, shall give its written approval or rejection thereof, or shall request such revisions or modifications thereto as the Port Authority, acting in a non-arbitrary and non-capricious manner, may find necessary based upon the standards hereinafter enumerated in this subparagraph. Following approval by the Port Authority of the Lessee's conceptual plan for the development of the premises, the Lessee shall submit to the Port Authority for its approval a Construction Application, in the form attached to this Agreement as Exhibit B, which Exhibit is hereby made a part of this Agreement, 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 separately each

of the items constituting Class A Work and Class B Work and shall describe in detail the systems, improvements, fixtures and equipment to be installed by the Lessee. Subject to the provisions of paragraphs (p) and (q), the Lessee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be directed by the Port Authority, acting in a non-arbitrary and non-capricious manner, and for developing, completing and submitting detailed plans and specifications for the work. The plans and specifications to be submitted by the Lessee shall be in sufficient detail for a contractor to perform the work and shall bear the seal of a qualified architect or professional engineer who shall be responsible for the administration of the work in accordance with the Port Authority's requirements. In connection with review by the Port Authority of the Lessee's submissions under this paragraph, the Port Authority shall not request any revisions or modifications to the plans and specifications covering the Lessee's construction work (i) unless the Port Authority, acting in a non-arbitrary and non-capricious manner, determines that the work shown thereon is inconsistent with the Lessee's approved conceptual plan, or (ii) except for reasons of safety, health, operational utility, impact on or compatibility of the proposed work on utility systems or on other parts of the Facility, or (iii) unless the Port Authority, acting in a non-arbitrary and non-capricious manner, determines that the proposed work fails to comply with all governmental laws, ordinances, enactments, resolutions, rules and orders including, without limitation, the enactments, ordinances, resolutions, and regulations of the City of Jersey City and its various departments, boards, and bureaus, that are applicable or would be applicable if the Port Authority were a private corporation, or fails to comply with all applicable requirements of the National Fire Protection Association or the Insurance Services Office of New Jersey. All plans and specifications submitted by the Lessee in accordance with this paragraph shall be in such detail as may permit the Port Authority, acting in a non-arbitrary and non-capricious manner, to make a determination as to whether the standards set forth in this subparagraph are met. The Port Authority shall not apply the standards enumerated in this subparagraph in an arbitrary or capricious manner, and the Port Authority shall apply such standards without discrimination against the Lessee. In connection with review by the Port Authority of the Lessee's submissions under this Section, the Lessee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority, acting in a non-arbitrary and non-capricious manner, may require for such review. Not later than twenty-one (21) days following the Port Authority's receipt of the Lessee's Construction Application and complete plans and specifications, the Port Authority, acting in a non-arbitrary and non-capricious manner, shall give its written approval or rejection thereof, or shall request such revisions or modifications thereto as the Port Authority, acting in a non-arbitrary and non-capricious manner, may find necessary based

upon the standards enumerated in this subparagraph. 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 or subcontractor is operating under, have been approved by the Port Authority. In considering the Lessee's requests for approval of contractors and the contracts such contractors are operating under, the Port Authority shall not act in an arbitrary or capricious manner, and the Port Authority agrees to act with reasonable promptitude in granting or withholding its approval thereof after written request therefor by the Lessee. 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 annexed hereto as Exhibit B. 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 and such performance bonds as the Port Authority, acting in a non-arbitrary and non-capricious manner, 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. When the Lessee's construction work has been substantially completed and the premises is ready for use by the Lessee, the Lessee shall deliver to the Port Authority a certificate to such effect signed by the architect or engineer who sealed the Lessee's plans pursuant to the provisions of this subparagraph certifying that all of the work has been performed in accordance with the approved plans and specifications and the provisions of this Agreement. Within thirty (30) days' thereafter the Port Authority shall inspect the work and, unless such certification is not correct, or the Port Authority, acting in a non-arbitrary and non-capricious manner, determines that the premises is unsuitable for occupancy and use by the Lessee, a certificate of substantial completion shall be delivered to the Lessee by the Port Authority. The date specified in such certificate or the date of delivery of such certificate to the Lessee, whichever is later, shall constitute the "Completion Date" under this Agreement. Except as set forth in subparagraph (3) of this paragraph, the Lessee shall not use or permit the use of the premises for the purposes set forth in Section 4 of this Agreement prior to the Completion Date. Upon final completion of all of the Lessee's construction work the Lessee shall supply the Port Authority with a final certificate signed 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 two (2) sets of as-built drawings of the Lessee's construction work. The Lessee shall keep said drawings current during the term of the letting

under this Agreement. No changes or modifications to such work shall be made without prior Port Authority consent.

(2) If the Port Authority shall fail to respond to the Lessee within the applicable time periods set forth in subparagraph (1) of this paragraph the Lessee's plans and specifications which are the subject of the Port Authority's review, or the work which is the subject of the Port Authority's inspection, as the case may be, shall be deemed disapproved, unless the Port Authority and the Lessee agree to extend the applicable time period.

(3) In the event that from time to time during the performance of the Lessee's construction work integral and material portions of the buildings to be constructed on the premises are substantially completed or properly usable, the Lessee may deliver to the Port Authority a certificate signed by a responsible officer of the Lessee certifying that such portion of the Lessee's construction work has been performed in accordance with the Construction Application and the plans and specifications applicable thereto which have been approved by the Port Authority and in compliance with all applicable governmental laws, rules, orders, ordinances, enactments, resolutions, regulations, statutes, requirements, codes, directions, and executive orders and the provisions of this Agreement and certifying that such portion of the Lessee's construction work can be properly and safely be used even though the balance of the Lessee's construction work to be performed on the premises has not been completed, and that the Lessee desires such use. In addition the architect or engineer who sealed the Lessee's plans in accordance with the provisions of this paragraph shall certify that such portion of the Lessee's construction work has been performed in accordance with the Construction Application and the plans and specifications applicable thereto which have been approved by the Port Authority and in compliance with all applicable governmental laws, rules, orders, ordinances, enactments, resolutions, regulations, statutes, requirements, codes, directions, and executive orders and the provisions of this Agreement and certifying that such portion of the Lessee's construction work can be properly and safely be used even though the balance of the Lessee's construction work to be performed on the premises has not been completed. The Port Authority will inspect such portion of the Lessee's construction work and, exercising its discretion in a non-arbitrary and non-capricious manner, may deliver a certificate to the Lessee with respect to such portion of the Lessee's construction work permitting the Lessee to use such portion of the building for the purposes set forth in Section 4 hereof. In such event the Lessee may use such portion of the building for the purposes set forth in Section 4 hereof subject to the condition that all risk thereafter with respect to the construction and installation of the same and any liability therefor for negligence or other reason shall be borne by the Lessee and subject to such further limitations, restrictions and requirements as the Port Authority, acting in a

non-arbitrary and non-capricious manner, may at that time impose. Use of any portion of the premises for the purposes set forth in Section 4 hereof prior to the Completion Date in accordance with the provisions of this subparagraph shall be subject to and in accordance with all of the terms, provisions and conditions of this Agreement except as amended by the terms of the above mentioned Port Authority consent. At any time prior to the issuance of the certificate of substantial completion pursuant to this paragraph the Lessee shall promptly upon receipt of a written notice from the Port Authority cease its use of such portion of the Lessee's construction work which it had been using pursuant to permission granted in this paragraph.

(d) Except as set forth in paragraph (e) of this Section, the Lessee shall not commence any portion of the Lessee's construction work until the 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.

(e) The Lessee has submitted a written request to the Port Authority 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. If the Lessee shall submit to the Port Authority a separate Construction Application in the form annexed hereto as Exhibit B for any or all of the portions of the Lessee's construction work 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 each 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, acting in a non-arbitrary and non-capricious manner, shall give its written approval or rejection of the Partial Approval Work Plans with respect to each such portion of the Lessee's construction work, or shall request such revisions or modifications thereto as the Port Authority, acting in a non-arbitrary and non-capricious manner, may find necessary based upon the standards set forth in paragraph (c) of this Section not later than twenty-one (21) days following the Port Authority's receipt of the Construction Application and the Partial Approval Work Plans covering each such such portion of the Lessee's construction work. As used in this paragraph "Partial Approval Work shall mean:

- (i) Site Work
- (ii) Vehicle Preparation Center Foundation/Structural Work
- (iii) Vehicle Preparation Center
Mechanical/Plumbing/Electrical Work Under Slab.
- (iv) Vehicle Preparation Center Architectural
Work (Building)
- (v) Vehicle Preparation Center Structural Work (Building)
- (vi) Vehicle Preparation Center
Mechanical/Plumbing/Electrical Work (Building)
- (vii) Vehicle Preparation Center and Parking Structure
Fire Sprinkler Work
- (viii) Parking Structure Building Foundation Work
(Structural)
- (ix) Parking Structure Building Structural Work
- (x) Parking Structure Building Architectural Work
- (xi) Parking Structure Mechanical/Plumbing/Electrical Work
(Building)

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 City of Jersey City, 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 the performance of such item of Partial Approval Work.

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

(5) The fact that the Lessee has performed any item of Partial Approval Work and that the Port Authority has consented to the performance thereof shall not affect or limit the obligations of the Lessee under this Agreement with respect to the Lessee's construction work. The Lessee specifically understands that neither the Port Authority's approval of any 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, acting in a non-arbitrary and non-capricious manner, 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 at any time during the performance of any portion of any item of Partial Approval Work under the approval granted by the Port Authority pursuant to this paragraph shall fail to comply with all of the provisions of this Agreement with respect to such work or shall fail to comply with the provisions of the Construction Application covering such work and the plans and specifications forming a part thereof, or shall fail to

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comply with any requirements, stipulations, or provisions imposed by the Port Authority in its approval of the performance of such item of Partial Approval Work, or if in the Port Authority's opinion the Lessee shall be in breach of any of the provisions of this Agreement covering such work or shall be in breach of any of the provisions of the Construction Application and plans and specifications covering the performance of such work, or 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 all or such part of such item of the Partial Approval Work as 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 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. As soon as possible after the cessation of construction the Port Authority shall meet with the Lessee to discuss the Lessee's proposal for modifying, correcting or changing the work so that the work may be resumed with a minimum of interruption.

(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 acknowledgement on the part of the Port Authority that the Lessee has in fact performed such work in accordance with the terms of this Agreement, the 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 a minimum of air pollution, water pollution or any other type of pollution, and a minimum of noise emanating from, arising out of, or resulting from construction. Subject to the provisions of this Agreement, the Lessee shall construct such 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 Section.

(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, 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 recognizes that its obligation to pay all rentals provided for in this Agreement shall commence on the Rental Payment Start Date established pursuant to the provisions of Section 3 of this Agreement whether or not the Lessee's construction work is then completed and regardless of whether the Lessee is then conducting any public operations in the premises. The Lessee shall conduct no public operations in 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. 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.

(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 all preventive maintenance and make all repairs, replacements, rebuilding (ordinary or extraordinary, structural or non-structural) and painting necessary to keep such systems, improvements, additions, fixtures, finishes, decorations and equipment (whether the same involves structural or non-structural

work) in the condition they were in when made or installed except for reasonable wear and tear which does not (i) adversely affect the watertight condition or structural integrity of the building, (ii) adversely affect the efficient or proper utilization of any part of the premises, or (iii) materially adversely affect the appearance 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:

(i) Comprehensive General Liability Insurance including but not limited to Independent Contractor coverage and coverage for Products Liability-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 which coverage shall not exclude claims arising out of or in connection with work performed within fifty feet of railroad property, and which are customarily insured under such a policy, with a minimum combined single limit coverage for bodily injury and property damage of \$5 million. Said insurance shall also include coverage for explosion, collapse and underground property damage hazards.

(ii) Comprehensive Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with said construction with a minimum combined single limit coverage of \$2 million.

(iii) Workers' Compensation Insurance in accordance with the requirements of law. The Workers' Compensation Insurance Policy required pursuant to the provisions of this paragraph shall be specifically endorsed to include coverage afforded by the U.S. Longshoremen's and Harbor Workers' Compensation Act.

(k) (1) In addition to the insurance required pursuant to the provisions of paragraph (j) of this Section, the Lessee shall procure or cause to be procured prior to the commencement of any work Builder's Risk Insurance (All Risk) covering loss or damage (including any loss or damage resulting from flood or

earthquake) to any structures, improvements, fixtures and equipment and furnishing and materials on the premises during said construction, whether or not attached to the land, in an amount equal to the full replacement cost. Such insurance shall name the Port Authority as an insured and such policy shall provide that the loss shall be adjusted with the Port Authority, and that the proceeds thereof shall be paid to the Port Authority and except under the circumstances described in subparagraph (2) of this paragraph shall be made available to the Lessee for and applied strictly and solely to the payment of the cost of the repair, replacement, rebuilding or other performance of the Lessee's construction work.

(2) In the event that for any single occurrence the insurance proceeds exceed in the aggregate One Million Dollars and No Cents (\$1,000,000.00) such proceeds shall be deposited in an interest bearing account with a bank or trust company selected by the Lessee and approved by the Port Authority (which bank or trust company is hereinafter in this Agreement called "the Insurance Trustee") having its principal office in New York County and having a capital and surplus of at least \$50,000,000 to be disbursed by the Insurance Trustee from time to time as work progresses, upon the written request of the Lessee, to be accompanied by the following:

(i) A certificate signed by a responsible officer of the Lessee, dated not more than thirty (30) days prior to such request, setting forth the following:

(aa) That the sum then requested either has been paid by the Lessee, or is justly due to contractors, subcontractors, materialmen, engineers, architects or other persons who have rendered services or furnished materials for the rebuilding or restoration therein specified, the names and addresses of such person, a brief description of such services and materials, the several amounts so paid or due to each of said persons in respect thereof, that no part of such expenditures has been made the basis, in any previous or then pending request, for the withdrawal of insurance money or has been paid out of the proceeds of insurance received by the Lessee, and that the sum then requested does not exceed the value of the services and materials described in the certificate.

(bb) That except for the amount, if any, stated in such certificate to be due for services or materials, there is no outstanding indebtedness known to the persons signing such certificate, after due inquiry, then due for labor, wages, materials, supplies or services in connection with such rebuilding or restoration which, if unpaid, might become the basis of a vendor's, mechanic's, laborer's or materialman's statutory or similar lien or alleged lien upon such

rebuilding or restoration or upon the premises or any part thereof or upon the Lessee's leasehold interest therein.

(cc) That the cost, as estimated by the persons signing such certificate, of the rebuilding or restoration required to be done subsequent to the date of such certificate in order to complete the same, does not exceed the insurance proceeds, plus any amount deposited by the Lessee to defray such cost remaining in the hands of the Insurance Trustee after payment of the sum requested in such certificate.

(ii) An opinion to the best of Lessee's counsel's knowledge or other evidence, satisfactory to the Port Authority, to the effect that there has not been filed with respect to the premises or any part thereof or upon the Lessee's leasehold interest therein any vendor's, mechanic's, laborer's, materialman's or other lien which has not been discharged of record, except such as will be discharged by payment of the amount then requested.

(3) Upon compliance with the provisions of subparagraph (2) of this paragraph the Insurance Trustee shall, out of such insurance money, pay or cause to be paid to the Lessee or the persons named (pursuant to subdivision (i) (aa) of subparagraph (2) of this paragraph) in such certificate the respective amounts stated therein to have been paid by the Lessee or to be due to them, as the case may be.

(4) Nothing contained herein shall be or be deemed or construed as a submission by the Port Authority to the application to itself of any vendor's, mechanics, laborer's or materialman's statutory or similar lien.

(1) With the exception of the Workers' Compensation Insurance policy each policy of insurance described in paragraph (j) of this Section shall include the Port Authority as an additional insured, and no such policy shall contain any exclusion for bodily injury to or sickness, disease or death of any employee of the Lessee or of any of its contractors which would conflict with or in any way impair the coverages resulting from the Port Authority's status as an additional insured or the coverage under the contractual liability endorsement described in subdivision (i) of paragraph (j) of this Section. Such insurance shall also contain an endorsement providing that the protection afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third party shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority and against the Port Authority by the Lessee, but said endorsement shall not limit, vary, change or affect the protections afforded the Port Authority as an additional insured. Such insurance shall contain a provision that the insurer shall not, without obtaining express

advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.

(m) Unless otherwise set forth herein, each policy of insurance described in paragraphs (j) and (k) of this Section shall be subject to the applicable provisions of Section 13 of this Agreement.

(n) Title to and property in all improvements and fixtures placed, constructed or installed in or on the premises shall vest in the Port Authority upon placement, construction or installation thereof and title to and property in any and all equipment and trade fixtures removable without substantial injury to the premises placed in or installed upon the premises shall vest in the Lessee upon the installation thereof. Title to all of the Class B Work shall remain in the Lessee and upon the expiration or earlier termination of this Agreement the Lessee shall remove the Class B Work from the premises and repair all damage to the premises caused by such removal. Without limiting any other term of this Agreement, upon notice given by the Port Authority either prior to or within sixty (60) days after expiration or earlier termination of the letting of the premises under this Agreement the Lessee shall remove from the premises any improvements, fixtures, trade fixtures, or equipment as the Port Authority may specify in its notice, and shall repair any damage to the premises caused by such removal.

(o) In the performance of the Lessee's construction work the Lessee shall not permit any situation or condition to continue that causes any labor troubles at the Facility which interferes with the progress of other construction work at the Facility. The determinations of the Port Authority which are not arbitrary or capricious shall be conclusive on the Lessee and, upon notice from the Port Authority, the Lessee shall or shall cause its contractor to rectify any condition specified in the notice as soon as is reasonably possible, unless failure to rectify any condition specified in the notice immediately will result in an emergency situation, in which event the Lessee shall or shall cause its contractor to rectify such condition immediately. In the event of failure by the Lessee or any of its contractors to comply with the requirements of this paragraph (whether or not such failure is due to the Lessee's fault) the Port Authority by notice shall have the right to suspend the Port Authority's permission to the Lessee to proceed with any portion of the Lessee's construction work being performed by or on behalf of the Lessee, and the Lessee shall thereupon immediately cease the same. Unless failure to immediately suspend construction will result in an emergency condition, the Port Authority will give the Lessee reasonable advance notice before directing a

cessation of construction. When labor troubles shall be so settled that such interference or the danger thereof no longer exists, the Port Authority by notice to the Lessee, shall reinstate the permission to the Lessee to perform the work on all the same terms and conditions as before the suspension. "Labor troubles" shall mean and include strikes, boycotts, picketing, work-stoppages, slowdowns, complaints, disputes, controversies or any other type of labor trouble, regardless of the employer of the person involved or their employment status, if any.

(p) Upon performance by the Lessee of the Lessee's construction work in accordance with the provisions of this Section the Port Authority will pay to the Lessee a sum (hereinafter sometimes referred to as "the Class A Work Qualifying Cost") equal to the lesser of: (i) the cost, as hereinafter defined, of that portion of the Lessee's construction work constituting Class A Work, or (ii) Fifteen Million Dollars and No Cents (\$15,000,000.00). To the extent permitted by sound accounting practice, the sum of the following items of cost incurred by the Lessee in performing the Class A Work shall constitute the cost thereof for the purposes of this Agreement.

(1) The Lessee's payments to contractors;

(2) The Lessee's payments for equipment, supplies and materials;

(3) The Lessee's payments to persons, firms or corporations other than construction contractors or suppliers of equipment and material for services rendered or rights granted in connection with construction, not including services of the types mentioned in items (4), (5) and (6) of this paragraph;

(4) The Lessee's payments of premiums for such insurance coverage as the Lessee is required to maintain in effect during the period of construction only in accordance with the provisions of paragraphs (j) and (k) of this Section and such performance bonds as the Port Authority may specify in accordance with the provisions of paragraph (c) of this Section;

(5) The Lessee's payments for engineering services for the period of the construction only;

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

(7) The Lessee's payments for permits and approvals required in connection with the Class A Work;

(8) The sum of the costs approved under items (4), (5), (6) and (7) shall not exceed 20% of the sum of the

costs approved under items (1), (2) and (3) of this paragraph; if in fact there is any such excess, such excess shall not be a part of the cost incurred by the Lessee in the performance of Class A Work for the purposes of this paragraph.

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

(g) Upon substantial completion of the Lessee's construction work, the Lessee shall submit to the Port Authority a certification to that effect signed by a responsible officer thereof which certificate shall certify the cost of all of the Class A Work performed by the Lessee to the date of the certificate, the cumulative payments made by the Lessee on account of such cost to the date of the certificate, and shall also certify (i) that except for the amount, if any, stated in such certificate to be due for services, equipment, supplies and materials, there is no outstanding indebtedness known to the persons signing such certificate, after due inquiry, then due on account of the purchase of any equipment or fixtures described in the certificate or for labor, wages, materials, supplies or services in connection with any work described therein which, if unpaid, might become the basis of a vendor's, mechanic's, laborer's or materialmen statutory or similar lien or alleged lien upon said work or upon the premises or any part thereof, or upon the Lessee's leasehold interest therein, nor are any of the equipment, or fixtures described in such certificate secured by any liens, mortgages, security interests or other encumbrances. Nothing contained herein shall be deemed or construed as a submission by the Port Authority to the application to itself of any such lien; and (ii) that the work for which the amount set forth in the certificate is due has been performed in accordance with the Lessee's approved plans and specifications and the provisions of this Agreement. In addition, the architect or engineer who sealed the Lessee's plans and specifications pursuant to paragraph (c) of this Section shall certify that the portion of the Lessee's construction work described in the certificate has been performed in accordance with the Lessee's approved plans and specifications. Within thirty days' after it has received such certificate, the Port Authority shall inspect the premises and the work and after such inspection the Port Authority shall notify the Lessee if the Lessee's construction work has been substantially completed in accordance with the approved plans and specifications and the provisions of this Agreement. If such work has been substantially completed in accordance with the approved plans and specifications, and the provisions of this Agreement, the Port Authority will pay to the Lessee on account of the cost of the Class A Work an amount

(which amount is hereinafter called "the First Payment Amount") equal to the lesser of (i) the cost, as defined in paragraph (p) of this Section, of such portion of the Class A Work as has been substantially completed, or (ii) Thirteen Million Five Hundred Thousand Dollars and No Cents (\$13,500,000.00). Upon final completion of all of the Lessee's construction work to be performed by the Lessee as set forth in the Lessee's approved plans and specifications, the Lessee shall submit to the Port Authority a certification signed by a responsible officer thereof that all of the Lessee's construction work has been completed; which certificate shall certify the final cost of all of the Class A Work performed by the Lessee, the cumulative payments made by the Lessee on account of the cost of the Class A Work, and shall also contain the statements set forth in subdivisions (i) and (ii) of this paragraph with respect to all of the Lessee's construction work. In addition, the architect or engineer who sealed the Lessee's plans and specifications pursuant to paragraph (c) of this Section shall certify that all of the Lessee's construction work has been performed in accordance with the Lessee's approved plans and specifications. The Lessee shall maintain in accordance with accepted accounting practice records and books of account of the type and character set forth in the Schedule annexed to this Agreement, hereby made a part hereof, and marked "Schedule D" to substantiate the certificates. Within ninety (90) days of its receipt of the Lessee's final certificates, the Port Authority shall examine such certificates and such records and books of accounts as the Lessee is required to maintain to substantiate the certificates, and, if the Port Authority, acting in a non-arbitrary and non-capricious manner, shall determine that such records and books of account do not substantiate the certificates the Port Authority shall have the right to examine such other supporting documents and records as are necessary, based upon a reasonable standard, to verify the information set forth in the records and books of account listed on Schedule D. Within such ninety (90) day period the Port Authority shall also finally inspect the premises and the work and after such inspection the Port Authority shall notify the Lessee if all of the work has been performed in accordance with the approved plans and specifications and the provisions of this Agreement. If all of the work has been completed in accordance with the approved plans and specifications, and the provisions of this Agreement, and if the Port Authority, acting in a non-arbitrary and non-capricious manner, has verified the Lessee's certificate of cost, the Port Authority will pay to the Lessee on account of the cost of the Class A Work the difference between the First Payment Amount and the lesser of (i) the cost, as defined in paragraph (p) of this Section, of the Class A Work, or (ii) Fifteen Million Dollars and No Cents (\$15,000,000.00). No payment made to the Lessee pursuant to the provisions of this paragraph shall be deemed a determination by the Port Authority of the final cost of the Class A Work until the Port Authority has examined and approved the Lessee's final certificate of cost, such records and books of account as the Lessee is required to maintain to substantiate the

certificate, and, if the Port Authority, acting in a non-arbitrary and non-capricious manner, shall determine that such records and books of account do not substantiate the certificates such other supporting documents and records as are necessary, based upon a reasonable standard, to verify the information set forth in the records and books of account listed on Schedule D. The Lessee shall permit the Port Authority by its agents, employees and representatives at all reasonable times prior to a final determination of the cost of the Class A Work to examine and audit the records and other documentation of the Lessee which pertain to and will substantiate such cost. In no event whatsoever shall the cost of any portion of the Class A Work as finally determined and computed in accordance with the provisions of paragraph (p) of this paragraph and in accordance with the provisions of this paragraph include any expenses, outlays or charges whatsoever by or for the account of the Lessee for or in connection with any improvements, equipment or fixtures or the performance of any work unless such are actually and completely installed in and or made to the premises nor shall cost include the costs of any equipment, fixture or improvements which are secured by liens, mortgages, other encumbrances or conditional bills of sale.

(r) The Lessee agrees that it will complete the Lessee's construction work prior to the Rental Start Date, as such date may be postponed pursuant to the provisions of this Agreement, subject to the Section of this Agreement entitled "Force Majeure." The Port Authority shall not be obligated to pay for any item constituting a portion of the Class A Work which has been constructed or installed subsequent to the day preceding the Rental Start Date, as the same may be postponed pursuant to the provisions of this Agreement. The Port Authority's entire obligation under this Agreement to make payments to the Lessee on account of the cost of the Class A Work shall be limited in amount to the lesser of (i) the cost, as defined in paragraph (p) of this Section, of the Class A Work, or (ii) Fifteen Million Dollars and No Cents (\$15,000,000.00). 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.

(s) As a matter of policy the Port Authority requires the Lessee and the Lessee shall require its contractor to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBE's) and Women Business Enterprises (WBE's) in the Lessee's construction work. "Meaningful participation" shall mean at least ten percent (10%) of the firms performing the work are MBE's, and at least one percent (1%) of the firms performing the work are WBE's. A Minority Business Enterprise shall mean a company or firm at least 51% of which is owned and controlled by a minority or

minorities. A Women Business Enterprise shall mean a company or firm at least 51% of which is owned and controlled by a woman or women. For purposes of this paragraph minority is a member of one of the following groups:

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

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

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

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

Good faith efforts to include meaningful participation by MBE's and WBE's shall include at least the following:

(1) Making plans and specifications for prospective construction work available to MBE's and WBE's in sufficient time for review.

(2) Utilizing the list of eligible MBE's and WBE's maintained by the Port Authority or seeking minorities or women from other sources for the purpose of soliciting bids for contractors.

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

(4) Insuring that provision is made to provide progress payments to MBE's and WBE's on a timely basis.

(5) Not requiring bonds from and/or providing bonds and insurance for MBE's and WBE's, where appropriate.

Section 6. Infrastructure

(a) Subject to all the provisions of this Agreement (including but not limited to the Section of this Agreement entitled "Force Majeure"), the Port Authority, through its employees, agents, representatives, contractors and subcontractors shall cause to be constructed or installed at the Facility, off the premises, (i) a berth for the loading and unloading of seagoing car carrying vessels (hereinafter sometimes

called "the Berth"), (ii) a paved access route connecting the Berth to the premises (iii) an open area in the vicinity of either the Berth or any future berth constructed at the Facility, of such size as the Port Authority, acting in a non-arbitrary and non-capricious manner, shall determine is sufficient for the receipt of approximately one thousand five hundred (1,500) vehicles discharged to the Facility by the Lessee and which shall be lighted and fenced in such a manner as the Port Authority, acting in a non-arbitrary and non-capricious manner, shall determine is suitable for the use of such area for such purpose, the configuration of which area shall be designated by the Facility Manager from time to time (which area is hereinafter sometimes called "the First Rest Area"), and (iv) storm and sanitary drains and water mains which will be brought by the Port Authority to a point on the perimeter of the premises as determined by the Port Authority (the facilities described in items (i), (ii), (iii), and (iv) are hereinafter collectively referred to as "the Infrastructure"). Subject to such non-arbitrary rules and regulations as the Port Authority may have or may hereafter promulgate for the safe and efficient operation of the Facility in accordance with the provisions of Section 10 of this Agreement, the Port Authority hereby grants to the Lessee the right to use the Infrastructure in common with other users thereof. The Lessee shall not do anything or permit anything to be done which will interfere with the rights of others to use the Infrastructure and the Port Authority agrees to require its other lessees at the Facility not to interfere with the Lessee's right to use the Infrastructure, as set forth herein. Nothing in this paragraph shall be deemed or construed to be a grant or letting to the Lessee of any berth, roadway, utility lines or structures, or common area, or of any facility forming a part of the Infrastructure. The effective period of the permission granted under this Agreement with respect to the use of the facilities forming a part of the Infrastructure shall commence on the Rental Payment Start Date and shall expire simultaneously with the expiration (or earlier termination) of the letting of the premises hereunder. If on the Rental Payment Start Date any portion of the Infrastructure is unavailable for use by the Lessee by reason of the fact that the Infrastructure, or any portion thereof, or any portion of the Facility, are in the course of construction, repair, alteration or improvement, or by reason of any cause or condition beyond the control of the Port Authority, the permission hereby granted with respect to the use of the Infrastructure shall be postponed with respect to such portion. In the event that the permission granted to the Lessee to use the Infrastructure or a portion thereof shall be postponed pursuant to the provisions of this paragraph then in lieu of all other damages to which the Lessee may be entitled, the Rental Payment Start Date shall be postponed until the Infrastructure or such portion thereof is completed to such an extent as to permit the Lessee's use of the premises. No such postponement shall affect the validity of this Agreement or the obligations of the Lessee hereunder (except as to postponement of payment of rentals), and the Port Authority shall not be subject to any

liability for any failure to complete the Infrastructure or any portion thereof. Except as specifically set forth in this Agreement, the Port Authority shall provide no improvements or perform any work to prepare the premises for the Lessee' use. The Port Authority makes no representations or warranties with respect to the condition or suitability of any portion of the premises or the Infrastructure for the design and construction by the Lessee of any building to be constructed by the Lessee pursuant to the provisions of this Agreement. The Port Authority shall be responsible for the repair, replacement, and maintenance of the Infrastructure unless such repairs, replacements, or maintenance are required as a result of the acts or omissions of the Lessee, its officers, employees, agents, representatives, or contractors.

(b) In the event that pursuant to the Coastal Zones Management Act the Lessee is required to obtain a permit from the Division of Coastal Resources (or any successor thereof) of the New Jersey Department of Environmental Protection in order to use the premises for the purposes set forth in Section 4 hereof, and the premises are unavailable for use by the Lessee on the Rental Payment Start Date as a result of delays caused by the requirement to obtain such permit, the Rental Payment Start Date shall be postponed one day for each day the Lessee's use of the premises has been delayed as a result of the requirement to obtain such permit. No such postponement shall affect the validity of this Agreement or the obligations of the Lessee hereunder (except as to postponement of payment of rentals), and the Port Authority shall not be subject to any liability for any delays caused by the requirement to obtain such permit, provided, however, that if such permit is required and the Lessee is not able to obtain the permit within ninety (90) days of the Rental Payment Start Date the Lessee shall have the option exercisable by five (5) days' written notice to the Port Authority given at any time within ten (10) days immediately following said ninety (90) day period to terminate the letting hereunder. Termination under the provisions of this paragraph shall have the same effect as if the effective date of termination stated in the notice were the date of expiration of the letting. Termination under the provisions of this paragraph shall release the Lessee and the Port Authority from any and all obligations and liabilities which each may have had to the other under this Agreement with respect to the premises.

Section 7. Quiet Enjoyment

So long as the Lessee shall pay all rentals provided for in this Agreement and shall observe and perform all the terms, covenants and conditions on the Lessee's part to be observed and performed under this Agreement, the Lessee may peaceably and quietly enjoy the premises, during the initial term of the letting and any extension thereof entered into pursuant to the provisions of this Agreement, without hindrance or molestation by anyone claiming by, through or under the Port

Authority, subject, nevertheless, to the terms, covenants and conditions of this Agreement, it being understood that the Port Authority's liability hereunder shall obtain only so long as it remains the owner of the premises.

Section 8. Ingress and Egress

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

Section 9. Governmental and Other Requirements

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

(b) The Lessee shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, rules, regulations, requirements, orders and directions which may pertain or apply to its operations hereunder, or to its use and occupancy of the premises hereunder, and in addition shall make all improvements, repairs and alterations which may be so required.

(c) The obligation of the Lessee to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and

property in or near the Facility, and proper operation by the Lessee. Such provision herein is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

Section 10. Rules and Regulations

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

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

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

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

Section 11. Method of Operation

(a) In the performance of its obligations hereunder and in the use of the premises, the Lessee shall use reasonable efforts to conduct its operations in an orderly and proper manner, so as not to annoy, disturb or be offensive to others near the premises or at the Facility, and within twenty-four (24) hours the Lessee shall remove the cause of any objection made by the Port Authority, acting in a non-arbitrary and non-capricious manner, relative to the improper conduct of any of the employees of the Lessee or of any others on the premises with the consent of the Lessee. Except in case of emergency the Port Authority will give the Lessee written notice of any objection it may have relative to the improper conduct of any of the employees of the Lessee or of any others on the premises with the consent of the Lessee.

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

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

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

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

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

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

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

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

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

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

Section 12. Signs

(a) Except with the prior consent of the Port Authority, the Lessee shall not erect, maintain or display any advertising, signs, posters or similar devices at or on the exterior of the premises or elsewhere at the Facility, provided, however, that the Lessee may erect, maintain, and display one (1) identification sign on the exterior of the premises and may erect, maintain, and display a reasonable number of identification, directional and informational signs necessary for its operations within the premises and in the hallways of the building in which the premises are located. The type of signs erected by the Lessee pursuant to this provision, and the location and method of installation thereof shall be subject to the Port Authority's approval which approval shall not be withheld except on account of the standards set forth in paragraph (c) of Section 5 of this Agreement. The Lessee shall keep all signs installed in any portion of the premises regularly open to the public and any signs installed on the exterior of any portion of the premises at all times in a clean, first-class condition and appearance. All maintenance, repair and replacement obligations of the Lessee pursuant to this Agreement shall be applicable to all signs installed by the Lessee, and on or before the expiration or earlier termination of this Agreement the Lessee shall remove the same and repair and restore the area affected thereby to the same condition and appearance as the adjacent surface.

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

Section 13. Indemnity

(a) The Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from all claims and demands of third persons

including but not limited to claims and demands for death, claims and demands for personal injuries, and claims and demands for property damages, arising out of the use or occupancy of the premises by the Lessee or by its officers, agents, employees, or representatives, contractors, subcontractors or their employees, or by others on the premises with the consent of any of the foregoing persons, or out of any other acts or omissions of the Lessee, its officers, agents or employees on the premises or elsewhere at the Facility, or out of the acts or omissions of others on the premises with the consent of the Lessee, excepting only claims and demands which result solely from the negligent or wilful acts of the Port Authority.

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

(c) The Lessee, in its own name as assured, shall maintain and pay the premiums on the following described policies of comprehensive general liability insurance (which insurance shall include without limitation garage keeper's legal liability coverage) and comprehensive automobile liability insurance covering all owned, non-owned or hired vehicles used in connection with its operations hereunder which policies shall cover its operations hereunder and shall be effective throughout the letting, in limits not lower than the following:

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

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

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

(d) With the exception of the Workers' Compensation Insurance Policy, each policy of insurance described in paragraph (c) of this Section shall include the Port Authority as an additional insured 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. Such policies shall not exclude or except from their coverage damages arising out of injury to or destruction of property occupied or used by or rented to the Lessee, and shall not exclude claims arising out of or in connection with work performed within fifty feet of railroad property. Each such policy shall contain a contractual liability endorsement covering the obligations assumed by the Lessee under paragraph (a) of this Section and such policies shall not contain any 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 additional insured or the coverage under the contractual liability endorsement described in this paragraph. Such insurance shall also contain an endorsement providing that the protection afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third party shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority and against the Port Authority by the Lessee, but said endorsement shall not limit, vary, change or affect the protections afforded the Port Authority as an additional insured.

(e) As to insurance of any type whatsoever required or permitted by any provision of this Agreement, a certified copy of each of the policies or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within fifteen (15) days after the commencement date of the letting. In the event any binder is delivered it shall be replaced with due diligence by a certified copy of the policy or by a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written advance notice thereof to the Port Authority. A binder evidencing each renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the letting hereunder, as the letting may be from time to time extended, and a certificate or a certified copy of each such renewal policy shall be delivered to the Port Authority with due diligence. If at any time any policy shall be or become unsatisfactory to the Port Authority as to form or substance, 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.

Section 14. Maintenance and Repair

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

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

(c) Throughout the term of the letting under this Agreement, the Lessee shall assume the entire responsibility for, and shall relieve the Port Authority from all responsibility from, all care, maintenance, repair and rebuilding whatsoever in the premises, whether such care, maintenance, repair, or rebuilding be ordinary or extraordinary, partial or entire, inside or outside, foreseen or unforeseen, structural or otherwise; and without limiting the generality of the foregoing the Lessee shall maintain and make repairs and replacements, structural or otherwise to all improvements located on the premises and all other fixtures, machinery, or equipment now or hereafter belonging to or connected with said premises or the Lessee's operations being constructed thereon. The Lessee shall maintain all such improvements, fixtures, machinery and equipment at all times in good condition, and shall perform all necessary preventive maintenance thereto so that at the expiration or termination of the letting and all times during the letting, the same (or a reconstruction of all or any part thereof) will be in as good condition as at the commencement thereof (or, in the case of improvements made during the letting hereunder, in as good condition as at the time of the installation or construction thereof), except for reasonable wear and tear which does not adversely affect the watertight condition or structural integrity of the building or other structures on the premises or adversely affect the efficient or the proper utilization of any part of the premises. The Lessee shall make frequent periodic inspections of the premises and subject to Sections 5, 13, and 16 of this Agreement shall make all repairs and replacements, and do all rebuilding, inside and outside, ordinary and extraordinary, partial and entire, foreseen and unforeseen, structural or otherwise, regardless of the cause of the condition requiring such repairs, rebuilding or replacements and whether or not caused by fire or other casualty, which repairs, rebuilding and replacements by the Lessee shall be in quality and class not inferior to the original in materials and workmanship.

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

(e) Upon sixty (60) days' notice from the Lessee that any part of the water area adjacent to the Berth (or any subsequent berth at the Facility employed by the Lessee) has shallowed to a depth of twenty-eight (28) feet below mean low water, the Port Authority shall proceed (to the extent permitted by governmental authorities having jurisdiction) to dredge that part of the water area specified in the said notice (or such portion thereof as may be necessary), either directly or through a contractor, to a depth of thirty (30) feet below mean low water, at no cost or expense to the Lessee. The term "mean low water" as used in this paragraph shall mean mean low water as most recently at the time of execution of this Agreement determined by observations of the United States Coast and Geodetic Survey. Notwithstanding the foregoing, the dredging required shall be only such as shall produce (or leave in place) such depths and slopes as the Port Authority, acting in a non-arbitrary and non-capricious manner, shall determine may be required for underwater support of structures, which determination shall be controlling as long as the Port Authority is acting in a non-arbitrary and non-capricious manner. The term "governmental authorities having jurisdiction" as used in this paragraph shall not include the Port Authority.

(f) Except under circumstances as to which paragraph (b) of this Section applies, the Port Authority will repair, replace, and maintain the Infrastructure. Notwithstanding the foregoing, in the event that as a result of a casualty insured against in favor of the Port Authority under the New Jersey Standard Form of Fire Insurance Policy and the New Jersey Form of Extended Coverage Endorsement carried by it on any wharf, roadway, structure, or other facility which is part of the Infrastructure or in the event of a casualty which at the time of the occurrence of the damage would have been covered by the New Jersey Standard Form of Fire Insurance Policy and the New Jersey Standard Form of Extended Coverage Endorsement, whether or not said policy or endorsement was actually carried by the Port

Authority at the time of such damage, the Infrastructure is damaged (without the fault of the Lessee, its officers, employees, agents, or contractors) so as to render it unusable in whole or in part, then

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

(2) if the Port Authority, acting in a non-arbitrary and non-capricious manner, determines that the necessary repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, then the Port Authority shall have the option exercisable by notice given to the Lessee within sixty (60) days' of the occurrence of the damage: (i) to repair or rebuild with due diligence, provided, that in the event the Port Authority shall notify the Lessee that the Port Authority elects this option, the Lessee shall have the right on thirty (30) days' notice to the Port Authority given within ten (10) days' of its receipt of the Port Authority's notice to terminate the letting under this Agreement with the same effect as expiration provided, that, a responsible officer or partner of the Lessee shall certify to the Port Authority that on an economic or operational basis the premises are unusable by the Lessee for the operations described in Section 4 of this Agreement prior to the substantial completion of the repairs or rebuilding and the Lessee shall give the Port Authority notice of such termination in writing within twenty (20) days after the Lessee's receipt of notification from the Port Authority respecting the duration of the repairs or rebuilding and provided, further, that the Lessee is not then in default under this Agreement after the giving of a notice thereof, and the expiration of any applicable period to cure, or under notice of termination from the Port Authority either on the date of the giving of its notice to the Port Authority or on the effective date thereof; or (ii) to terminate the Lessee's right to the use of the damaged wharf, roadway, structure, or other facility only, provided, that in the event the Port Authority shall notify the Lessee that the Port Authority elects this option, the Lessee shall have the right on thirty (30) days' notice to the Port Authority given within ten (10) days' of its receipt of the Port Authority's notice to terminate the letting under this Agreement with the same effect as expiration provided, that a responsible officer of the Lessee certifies to the Port Authority that on an economic or operational basis the premises is unusable for the continued operations of the Lessee as provided in Section 4 hereof without the use of the damaged wharf, roadway, structure, or other facility which has been damaged or destroyed and the Lessee shall give the Port Authority notice of such termination in writing within twenty (20) days after the Lessee's receipt of notification from the Port Authority terminating the Lessee's right to the use thereof, and provided, further, that the Lessee

is not then in default under this Agreement after the giving of a notice thereof, and the expiration of any applicable period to cure, or under notice of termination from the Port Authority either on the date of the giving of the notice or on the effective date thereof; or (iii) to terminate the letting as to the entire premises, provided, that in the event the Port Authority elects this option the Port Authority shall certify to the Lessee that at least 50% of the other leases at the Facility have been similarly terminated. In the event the letting under this Agreement is terminated pursuant to the provisions of this paragraph, this Agreement and the letting hereunder shall cease and expire on the effective date of termination stated in the notice as if such date were the date originally stated herein for the expiration of this Agreement. Such termination shall not relieve the Lessee of any obligations or liabilities which shall have accrued on or before the effective date of termination stated in the notice, or which shall mature on such date.

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

(g) The Lessee shall secure and maintain in its own name as assured and shall pay the premiums on the following policy of insurance in the limit set forth below, which policy shall be effective during the term of the letting under this Agreement:

(1) All risk property damage insurance covering the full replacement cost of any property owned, leased, or within the care, custody or control of the Lessee and now or in the future located on or constituting a part of the premises leased to the Lessee, except for any personal property owned by the Port Authority. Full replacement cost shall be determined by the Port Authority acting in a non-arbitrary and non-capricious manner. 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 and smoke, and, if the Port Authority so requests, also covering nuclear property losses and contamination and boiler and machinery hazards and risks (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 Lease) as the insureds, as their respective interests may appear, and shall provide that loss, if any, shall be adjusted with and payable to the Port Authority and, except under the circumstances described in paragraph (1) of Section 5 of this Agreement, shall be made available to the Lessee to be applied by the Lessee strictly and solely to the repair, replacement, or rebuilding of the premises as elsewhere provided in this Agreement. As to any insurance required by this paragraph, a certificate of insurance, or binders, shall be delivered by the Lessee to the Port Authority simultaneously with the delivery of an executed copy of this Agreement by the Lessee. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certificate of insurance. Each such policy shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving at least thirty (30) days' written advance notice thereto to the Port Authority and an endorsement to the effect that the insurance as to the interest of the Port Authority shall not be invalidated by any act or negligence of the Lessee or any other insured. Each policy of insurance shall have attached thereto an endorsement that the Port Authority will be given at least thirty (30) days' prior notice of any material change in the policy. A certificate of insurance with respect to a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the effective period hereof. If at any time the policy required by this paragraph shall be or become unsatisfactory to the Port Authority as to form or substance, or if the carrier issuing such policy shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new and satisfactory policy in replacement.

Section 15. Casualty

(a) In the event that as a result of a casualty, whether or not insured or insurable, the premises are damaged the Lessee shall rebuild the same with due diligence. Except under the circumstances described in paragraph (1) of Section 5 of this Agreement, the proceeds of insurance from coverages secured in accordance with Section 14 shall be made available to the Lessee against the cost of such rebuilding. Under the circumstances described in paragraph (1) of Section 5 of this Agreement the proceeds of such insurance shall be deposited directly in the Insurance Trustee's account described in paragraph (1) of said

Section 5. The procedures for such rebuilding and for making proceeds available to the Lessee shall be the same as for the initial construction as set forth in Section 5, except that the Port Authority shall have no obligation to make any payment pursuant to Section 5(p) or 5(q) hereof.

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

(c) In the event of damage to or a partial or total destruction of the premises, the Lessee shall within thirty (30) days after the occurrence commence to remove from the premises or from the portion thereof destroyed, all damaged property (and all debris thereof) including damaged buildings and structures, and all damaged property belonging to the Lessee or to any third person whatsoever, and thereafter shall diligently continue such removal, and if the Lessee does not perform its obligation hereunder, the Port Authority may remove such debris and dispose of the same and may remove such property to a public warehouse for deposit or may retain the same in its own possession and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, and second to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority within ten (10) business days following written demand. Without limiting any term or provision of this Agreement, the Lessee shall indemnify and save harmless the Port Authority, its officers, agents, employees, contractors and subcontractors, from and against any and all claims of third persons arising out of the exercise by the Port Authority of its right to remove property as hereinabove provided including all claims for conversion, all claims for damage or destruction of property, all claims for injuries to persons (including death), and all other claims for damages, consequential or otherwise, excepting only claims which result solely from the negligent or wilful acts of the Port Authority, its Commissioners, officers, employees and representatives.

Section 16. Construction by the Lessee

After completion of the construction work described in Section 5 hereof, the Lessee shall not erect any structures, make any improvements or do any other construction work on the premises or alter, modify or make additions, improvements or repairs to or replacements of, any structure now existing or built at any time during the letting, or install any fixtures without the prior consent of the Port Authority. If after completion of the construction work described in Section 5 hereof the Lessee desires to make any improvements or do any other construction work on the premises or alter, modify or make

additions, improvements or repairs to or replacements of, any structure now existing or built at any time during the letting, or install any fixtures, the Port Authority shall act with reasonable promptitude in connection with review by the Port Authority of any request by the Lessee for any consent required under this Section and the Port Authority shall not arbitrarily or capriciously withhold its consent to the installation of any fixtures in the existing buildings constructed on the premises. Nothing contained herein is intended to relieve the Lessee of its repair, replacement, and rebuilding obligations as elsewhere set forth in this Agreement. In the event any construction, improvement, alteration, modification, addition, repair or replacement is made, with or without the Port Authority's consent, and unless the consent of the Port Authority shall expressly provide otherwise, the same shall immediately become the property of the Port Authority, and the Lessee shall have no right to remove the same either during the letting or at the expiration thereof unless the Port Authority, at any time prior to the expiration of the term of the letting, or any extension or renewal thereof, shall give notice to the Lessee to remove the same, or, with respect to any thing done without the Port Authority's consent, to cause the same to be changed to the satisfaction of the Port Authority, in which case the Lessee agrees to remove the same, or change it in compliance with such notice. In case of any failure on the part of the Lessee to comply with such notice, the Port Authority may effect the removal or change, and the Lessee hereby agrees to pay the cost thereof to the Port Authority upon demand. In the event the Port Authority consents to the performance of any construction, improvement, alteration, modification, addition, repair, replacement or installation work pursuant to the provisions of this Section, or the Lessee is required to perform such work, the Lessee shall submit to the Port Authority a duly executed Construction Application in the form attached to this Agreement as Exhibit B, together with complete plans and specifications covering the work, which shall bear the seal of a qualified architect or professional engineer and shall be in sufficient detail for a contractor to perform the work. The Port Authority shall not request any revision to the Lessee's proposed plans and specifications covering such work except for reasons of safety, health, operational utility, impact on or compatability of the proposed work on utility systems or on other parts of the Facility, or unless the Port Authority, acting in a non-arbitrary and non-capricious manner shall determine that the proposed work shall fail to comply with all governmental laws, ordinances, enactments, resolutions, rules and orders including, without limitation, the enactments, ordinances, resolutions, and regulations of the City of Jersey City and its various departments, boards, and bureaus, that are applicable or would be applicable if the Port Authority were a private corporation, or fails to comply with all applicable requirements of the Insurance Services Office of New Jersey. All plans and specifications submitted by the Lessee in accordance with this Section shall be in such detail as may reasonably permit the Port Authority to

make a determination as to whether the requirements set forth herein are met and in connection with review by the Port Authority of such submissions, the Lessee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority, acting in a non-arbitrary and non-capricious manner, shall determine is necessary for such review. The Port Authority will apply the standards enumerated in this Section consistently and without discrimination against the Lessee.

Section 17. Additional Rent and Charges

(a) If the Port Authority has paid any sum or sums or has incurred any obligations or expense which the Lessee has agreed to pay or reimburse the Port Authority for, or if the Port Authority is required or elects to pay any sum or sums or incurs any obligations or expense by reason of the failure, neglect or refusal of the Lessee to perform or fulfill any one or more of the conditions, covenants or agreements contained in this Agreement or as a result of an act or omission of the Lessee contrary to the said conditions, covenants and agreements, the Lessee shall pay to the Port Authority the sum or sums so paid or the expense so incurred, including all interest, costs, damages and penalties, and the same may be added to any installment of rent thereafter due hereunder, and each and every part of the same shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the basic rental as set forth in Section 3 of this Agreement. Prior to the exercise by the Port Authority of the right described in this paragraph the Port Authority, except in case of emergency, will give the Lessee not less than thirty (30) days prior notice specifying the obligation which the Lessee has failed or refused to perform, and except in an emergency the Port Authority will not proceed to perform any such obligation if during the thirty (30) day period following the Port Authority's notice that it will perform the said obligation the Lessee shall perform such obligation (or, if fulfillment of such obligation requires activity over a period of time, shall commence to perform whatever may be required for fulfillment and shall continue such performance without interruption except for causes beyond its control). If the curing of such default requires activity over a period of time and the Lessee shall have commenced the curing of such default within the said thirty day period, and shall diligently continue such performance, the said thirty day period shall be extended for such further period of time as such performance requires.

(b) For all purposes under this Section and in any suit, action or proceeding of any kind between the Port Authority and the Lessee, any receipt showing any payment of any sum or sums by the Port Authority for any work done or material furnished shall be prima facie evidence against the Lessee that the amount of such payment was necessary and reasonable. Should the Port Authority elect to use its operating and maintenance

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

(c) The term "cost" in this Agreement 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 18. Rights of Entry Reserved

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

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

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

(d) In the event that any property of the Lessee shall obstruct the access of the Port Authority, its employees, agents or contractors to any of the existing or future utility, mechanical, electrical and other systems and thus shall interfere

with the inspection, maintenance or repair of any such system, the Lessee shall move such property, as directed by the Port Authority, acting in a non-arbitrary and non-capricious manner, 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, acting in a non-arbitrary and non-capricious manner, to do so, the Port Authority may move it and the Lessee hereby agrees to pay the cost of such moving upon demand.

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

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

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

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

Section 19. Limitation of Rights and Privileges Granted

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

are located; (iii) permits, licenses, regulations and restrictions, if any, of the United States the municipality or State in which the premises are located, or other governmental authority.

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

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

Section 20. Prohibited Acts

(a) Subject to all the terms and provisions of this Agreement, the Lessee may install a cafeteria or other eating facility in the premises pursuant to an approved construction application as provided in Section 5 and Section 16 hereof and may operate such facility with its own employees, or arrange for the operation thereof by an independent contractor or operator selected by the Lessee unless the Port Authority, acting in a non-arbitrary and non-capricious manner, determines that said contractor or operator will adversely affect or interfere with operations at the Facility or will cause or contribute to the causing of labor problems or disturbances thereat and the Lessee may install vending machines or devices designed to dispense or sell food, beverages, tobacco or tobacco products, or arrange for the installation and operation of such machines, subject to the Port Authority's approval of the type and method of installation thereof provided, further, that the Port Authority shall not withhold its consent to the method and location of such installation except on account of the standards set forth in Section 16 of this Agreement. The Lessee may use an independent contractor, operator or supplier for such machines selected by the Lessee unless the Port Authority, acting in a non-arbitrary and non-capricious manner, determines that said contractor, operator or supplier will adversely affect or interfere with operations at the Facility or will cause or contribute to the causing of labor problems or disturbances thereat. Such cafeteria and vending machines shall be installed and operated solely for use by the Lessee's officers, members, employees, contractors, customers, guests, and invitees. The Lessee's agreement with any contractor, operator or supplier of eating facilities or vending machines shall permit cancellation by the

Lessee on short term notice in the event the Port Authority, acting in a non-arbitrary and non-capricious manner, notifies the Lessee that such contractor, operator or supplier fails to meet the standards described in this paragraph. 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 and 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.

(b) Subject to all the terms and provisions of this Agreement, the Lessee may permit the installation in the premises of telephone pay-stations provided that the number thereof, the method of installation and the location thereof shall have been consented to in advance by the Port Authority, provided, further, that the Port Authority shall not withhold its consent to the method and location of such installation except on account of the standards set forth in Section 16 of this Agreement.

(c) Except as expressly permitted by the provisions of paragraphs (a) and (b) 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, dispensing or sale of food, beverages, tobacco, tobacco products or merchandise of any kind, whether or not included in the above categories, or of any equipment or device for the furnishing to the public of any retail service.

(d) Subject to the provisions of paragraphs (a) and (b) of this Section, the Port Authority, by itself, or by contractors, lessees, or permittees, shall have the exclusive right to install, maintain and receive and retain the revenues from all coin-operated or other machines or devices for the sale of merchandise of all types, or for the rendering of services, which may be operated on the premises. The Lessee shall have the right to receive and retain the revenues from all coin-operated or other machines or devices which it may install on the premises pursuant to the provisions of paragraphs (a) and (b) of this Section, or from the operation of such facilities as may be operated on the premises pursuant to said paragraphs (a) and (b).

Section 21. Termination

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

(1) The Lessee shall become insolvent, or shall take the benefit of any present or future

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

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

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

(4) Except as expressly permitted in subparagraph (a)(5) of this Section and in Section 42 hereof or in Section 43 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 or corporation; or

(5) The Lessee shall, without the prior approval of the Port Authority, become a possessor or merged corporation in a merger, a constituent corporation in a consolidation, or a corporation in dissolution; provided, however, that a merger or consolidation shall not be a ground for termination if the resulting corporation meets all the requirements of a permitted assignee under Section 42 hereof; or

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

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

(8) The Lessee shall voluntarily abandon, desert or vacate the premises or discontinue its operations at the premises or at the Facility for a period in excess of sixty (60) days or, after exhausting or abandoning any right of further appeal, the Lessee shall be prevented for a period of forty-five (45) days by action of any governmental agency from conducting its operations on the premises, regardless of the fault of the Lessee; or

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

(10) The Lessee shall fail duly and punctually to pay the rental or to make any other payment required under this Agreement when due to the Port Authority within five (5) days after receipt of notice of default from the Port Authority referring to this Section and specifying the rental, fee, charge or other sum which has not been paid; or

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

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

termination and the exercise thereof shall be and operate as a conditional limitation.

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

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

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

Section 22. Right of Re-entry

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

Section 23. Waiver of Redemption

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

event the Port Authority obtains possession of the premises in any lawful manner.

Section 24. Survival of the Obligations of the Lessee

(a) In the event that the letting shall have been terminated in accordance with a notice of termination as provided in Section 21 of this Agreement, or the interest of the Lessee shall have been cancelled pursuant thereto, or in the event that the Port Authority has re-entered, regained or resumed possession of the premises in accordance with the provisions of Section 22 of this Agreement, all of the obligations of the Lessee under this Agreement shall survive such termination or cancellation, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of the letting, as originally fixed in Section 2 hereof, and the amount or amounts of damages or deficiency shall become due and payable to the Port Authority to the same extent, at the same time or times and in the same manner as if no termination, cancellation, re-entry, regaining or resumption of possession has taken place. The Port Authority may maintain separate actions each month to recover the damage or deficiency then due, or at its option and at any time may sue to recover the full deficiency (less the proper discount) for the entire unexpired term. Notwithstanding any provisions of this Agreement to the contrary, it is understood that in no event shall the Lessee have the right, nor will the Lessee be required to enter the premises to perform any of its obligations under this Agreement subsequent to termination or cancellation (or to re-entry, regaining or resumption of possession). Nothing contained herein shall or shall be deemed to relieve the Lessee from its obligations hereunder to reimburse the Port Authority for any damages suffered by the Port Authority as a result of the Lessee's failure to perform under the terms of this Agreement or shall or shall be deemed to alter or limit any other remedies available to the Port Authority against the Lessee under this Agreement, or otherwise, in the event the Lessee defaults in the performance of any of its obligations under this Agreement.

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

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

(2) An amount equal to all expenses incurred by the Port Authority in connection with regaining possession and restoring and reletting the premises, for legal expenses, boiler insurance premiums, if any, putting the premises in order including without limitation, cleaning, decorating and restoring (on failure of the Lessee to restore), maintenance and brokerage fees.

Section 25. Reletting by the Port Authority

The Port Authority, upon termination or cancellation pursuant to Section 21 of this Agreement, or upon any re-entry, regaining or resumption of possession pursuant to Section 22 of this Agreement, may occupy the premises or may relet the premises and shall have the right to permit any person, firm or corporation to enter upon the premises and use the same. Such reletting may be of part only of the premises or of the premises or a part thereof together with other space, and for a period of time the same as or different from the balance of the term hereunder remaining, and on terms and conditions the same as or different from those set forth in this Agreement. The Port Authority shall also, upon termination or cancellation pursuant to Section 21 of this Agreement, or upon re-entry, regaining or resumption of possession pursuant to Section 22 of this Agreement, have the right to repair and to make structural or other changes in the premises, including changes which alter the character of the premises and the suitability thereof for the purposes of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder. In the event either of any reletting or of any actual use and occupancy by the Port Authority (the mere right to use and occupy not being sufficient however) there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the premises (or portion thereof) during the balance of the term of the letting as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the premises as the Port Authority may itself during such period actually use and occupy, all reasonable expenses, reasonable costs and reasonable disbursements incurred or paid by the Port Authority in connection therewith. Neither any such letting nor any such other use or occupancy shall be or be construed to be an acceptance of a surrender.

Section 26. Remedies to Be Nonexclusive

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

Section 27. Surrender

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

(b) Unless required for the performance by the Lessee of its obligations hereunder, the Lessee shall have the right at any time during the letting to remove from the premises, all 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, the proceeds of which shall be applied: first to the expenses of removal, including repair required thereby, and of storage and sale; second, to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if the expenses of such removal, repair, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority upon demand. Without limiting any other term or provision of this Agreement, the Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, employees and contractors from all claims of third persons arising out of the Port Authority's removal and disposition of property pursuant to this Section, including claims for conversion, claims for loss of or damage to property, claims for injury to persons (including death), and claims for any other damages, consequential or otherwise.

Section 28. Acceptance of Surrender of Lease

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

Section 29. Notices

(a) All notices, permissions, requests, consents and approvals given or required to be given to or by either the Port

Authority or the Lessee, except as otherwise expressly provided herein, shall be in writing (which shall include a telegram when delivered to the telegraph company), and all such notices and requests shall be (i) personally delivered to the party or to the duly designated officer or representative of such party; or (ii) delivered to an office of such party, officer or representative during regular business hours; or (iii) delivered to the residence of such party, officer or representative at any time; or (iv) if directed to the Lessee, delivered to the premises at any time; or (v) forwarded to such party, officer or representative at the office or residence address by registered or certified mail, or delivered to such party at such address by "Federal Express" or similar courier service. The Lessee shall designate an office within the Port of New York District and an officer or representative whose regular place of business is at such office. Until further notice, the Port Authority hereby designates its Executive Director, and the Lessee designates the person whose name appears on the first page of this Agreement as their respective officers or representatives upon whom notices and requests may be served, and the Port Authority designates its office at One World Trade Center, New York, New York 10048, and the Lessee designates its office, the address of which is set forth in Page 1 of this Agreement, as their respective offices where notices and requests may be served. In the event the Port Authority gives any written notice in accordance with this Section pursuant to any provisions of this Agreement, the Port Authority, solely as an accommodation to the Lessee, and for information purposes only, will endeavor to forward a duplicate copy of such notice to Stanley Tannenbaum, Esq., Sills, Beck, Cummis, Zuckerman, Radin, Tischman & Epstein, 33 Washington Street, Newark, New Jersey 07102, but it is expressly understood and agreed that the giving of such duplicate notice shall not be or be deemed to be a condition precedent to the effectiveness of such notice, nor shall the failure to give such duplicate notice impose any liability on the Port Authority or prevent or be deemed to prevent the taking of any action or the doing of any thing which the Port Authority has the right to take or do upon the giving of notice in accordance with this Section. The Port Authority shall forward such duplicate notice in the same manner as the original notice is served on the Lessee, but the Port Authority shall not be required to offer proof of service or proof of receipt of such duplicate notice.

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

Section 30. General

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

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

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

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

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

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

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

(d) The Lessee's representative, hereinbefore specified in this Agreement, (or such substitute as the Lessee may hereafter designate in writing) shall have full authority to

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

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

(f) All payments required of the Lessee by this Agreement shall be made by mail to the Port Authority at P. O. Box 17309, Newark, New Jersey, 07194, or to such other address as may be substituted therefor.

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

(h) As used in Sections 11 and 18, the phrase "utility, mechanical, electrical and other systems" shall mean and include (without limitation thereto) the following: machinery, engines, dynamos, boilers, elevators, escalators, incinerators and incinerator flues, systems for the supply of fuel, electricity, water, gas and steam, plumbing, heating, sewerage, drainage, ventilating, air-conditioning, communications, fire-alarm, fire-protection, sprinkler, telephone, telegraph and other systems, fire hydrants and fire hoses, and their respective wires, mains, switches, conduits, lines, tubes, valves, pipes, motors, cables, fixtures and other equipment.

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

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

(k) As used in this Agreement, "letting" shall include any extension of the letting under this Agreement, whether made

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

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

Section 31. Premises

(a) The Lessee acknowledges that it has not relied upon any representation or statement of the Port Authority or its Commissioners, officers, employees or agents as to the condition of the premises or the suitability thereof for the operations permitted on the premises by this Agreement upon performance by the Lessee of its obligations under Section 5 hereof. The Lessee, prior to the execution of this Agreement, has thoroughly examined the premises as existing and has found the same to be suitable and satisfactory for the operations of the Lessee contemplated and permitted under this Agreement. Without limiting any obligation of the Lessee to commence operations under this Agreement at the time and in the manner stated elsewhere in this Agreement, the Lessee agrees that no portion of the premises will be used initially or at any time during the letting which is in a condition unsafe or improper for the conduct of the operations of the Lessee, so that there is possibility of injury or damage to life or property, and the Lessee further agrees that before any use it will immediately correct any such unsafe or improper condition. Nothing contained in this Section is intended to relieve the Port Authority from any obligations expressly assumed by the Port Authority as elsewhere set forth in this Agreement.

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

Section 32. Force Majeure

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

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

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

Section 33. Brokerage

Each party represents and warrants that in connection with the negotiation of this Agreement and the letting hereunder

it has not had any contacts, dealings, or conversations with any broker. Each party shall indemnify and save harmless the other of and from any and every claim for commission or brokerage made by any and all persons, firms or corporations whatsoever for services in connection with the negotiation and execution of this Agreement based on its acts or omissions.

Section 34. Non-Liability of Individuals

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

Section 35. Services

(a) The Port Authority shall be under no obligation to supply the Lessee with any utilities, including but not limited to water, gas, electricity, sewer service, heat, steam, air-conditioning, telephone, telegraph, cable, or electrical guard or watch service. Nothing contained herein shall be construed to relieve the Port Authority of its obligation to construct the Infrastructure pursuant to the provisions of Section 6 of this Agreement.

(b) The Lessee shall promptly pay all water-bills covering consumption on the premises. In the event that any such water-bill or bills shall remain unpaid for a period of six (6) months after the same becomes due and payable, or in the event that any such bill remains unpaid at the date of expiration or earlier termination of the letting under this Agreement, the Port Authority may pay the same and any interest or penalties thereon, and the total payment or payments shall constitute an item of additional rental, payable to the Port Authority on demand.

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

(d) If any federal, state, municipal or other governmental body, authority or agency, or any public utility or other entity providing any service, assesses, levies, imposes, makes or increases any charge, fee, rent or assessment on the Port Authority, for any service, system or utility now or in the future supplied to or available at the premises or to any tenant, lessee, occupant or user thereof, or to the structures or buildings, which, or a portion or portions of which, are included in the premises (such charge, fee, rent or assessment or such

increase thereof being hereinafter referred to as an "Imposition"), 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 Imposition (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. The Port Authority shall not discriminate against the Lessee or arbitrarily single out the Lessee or its premises in connection with the requirement to pay any Imposition pursuant to the provisions of this paragraph, and in making the allocation referred to in this paragraph, the Port Authority shall not act in an arbitrary or capricious manner and upon request by the Lessee will supply the Lessee with a statement showing how such allocation was made.

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

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

Section 36. Credit

During the term of the letting under this Agreement the Lessee shall be entitled to a credit against the basic rental payable by the Lessee pursuant to subparagraphs (1) and (2) of Section 3(b) hereof as follows:

(a) If during an annual period the Port Authority shall receive dockage and wharfage charges on a number of automobiles discharged to the Facility by the Lessee that is in excess of forty thousand (40,000) but not in excess of forty-five thousand (45,000) automobiles, then the Lessee shall be entitled to a credit against basic rental in an amount equal to the product obtained by multiplying (i) the number of automobiles so discharged by the Lessee that is in excess of forty thousand (40,000) by (ii) twenty-five percent (25%) of the Unit Rate (as adjusted pursuant to the provisions of subparagraph (3) of Section 3(d) hereof).

(b) If during any annual period the Port Authority shall receive dockage and wharfage charges on a number of automobiles discharged to the Facility by the Lessee that is in excess of forty-five thousand (45,000) automobiles, then the Lessee shall be entitled to a credit against basic rental in an amount equal to the product obtained by multiplying (i) the number of automobiles so discharged by the Lessee that is in excess of forty-five thousand (45,000) by (ii) fifty percent (50%) of the Unit Rate (as adjusted pursuant to the provisions of subparagraph (3) of Section 3(d) hereof). Notwithstanding anything to the contrary in this paragraph, the Lessee shall not be entitled to a credit against basic rental pursuant to this Section for any automobile discharged to the Facility by the Lessee during any annual period that is in excess of seventy-five thousand (75,000) automobiles discharged to the Facility by the Lessee during such annual period.

(c) For purposes of determining the number of automobiles discharged to the Facility by the Lessee under the provisions of paragraphs (a) and (b) of this Section, the following categories of automobile (and no others whatsoever) shall be counted: (i) automobiles discharged to the Facility and processed by the Lessee at the Facility and (ii) fifty percent (50%) of the automobiles other than BMWs discharged to the Facility from a seagoing vessel carrying at least one hundred (100) BMWs; provided, that, the manufacturer of an automobile so discharged shall not have discharged any automobile to any marine terminal facility within the Port of New York District during the three (3) year period preceding the first discharge to the Facility of said automobile following said three (3) year period. The Lessee shall give notice to the Port Authority of said first discharge to the Facility of any said automobile within ten (10) days thereafter. If the Lessee shall notify the Port Authority that a seagoing vessel carrying at least one hundred (100) BMWs has discharged such vehicles to the Facility the Port Authority shall inform the Lessee what other vehicles, if any, were discharged to the Facility from such vessel.

(d) Any credit to which the Lessee shall be entitled pursuant to this Section shall be applied in equal installments against monthly installments of basic rental payable by the Lessee during the next succeeding annual period until exhausted. Any such credit arising during the thirtieth (30th) annual period under the letting hereunder shall be paid to the Lessee within thirty (30) days after receipt by the Port Authority of the sworn statement required by Section 37 hereof.

Section 37. Records

(a) The Lessee shall maintain in accordance with accepted accounting practice during the letting under this Agreement and for one year thereafter bills of lading and manifests recording all transactions in any way connected with or reflecting upon the payment of additional basic rental by the

Lessee pursuant to Section 3(d) hereof or the granting of any credit against basic rental pursuant to the provisions of Section 36 hereof, which bills of lading and manifests shall be kept at all times within the Port of New York District, as defined in the Port Compact of 1921 authorized by C. 154 Laws of N.Y. 1921 and C. 151 Laws of N.J. 1921, approved by Public Resolution No. 17 of the 67th Congress, First Session, and permit, in ordinary business hours during such time, the examination and audit by the officers, employees and representatives of the Port Authority of such bills of lading and manifests and also any of such records and books of account of any company which is owned or controlled by the Lessee, if said company performs services, similar to those performed hereunder by the Lessee, anywhere in the Port of New York District. If the Lessee does not make available bills of lading and manifests, the Port Authority shall be entitled to examine and audit such other records and books of account as the Port Authority, acting in a non-arbitrary and non-discriminatory manner, shall deem necessary to calculate the payment of additional basic rental which the Lessee is obligated to make pursuant to Section 3(d) hereof or to substantiate any credit against basic rental which the Lessee has taken pursuant to the provisions of Section 36 hereof.

(b) On or before the fifteenth day following the end of any annual period the Lessee shall supply the Port Authority with a statement sworn to by the Lessee's chief financial officer or person performing similar functions setting forth separately the number of BMWs and automobiles other than BMWs processed by the Lessee at the premises during the annual period and the marine terminal to which such BMWs and automobiles other than BMWs were discharged. The certificate required hereunder shall set forth sufficient information to enable the Port Authority to determine the current amount of additional basic rental to be paid by the Lessee pursuant to subparagraph (1) of Section 3(d) hereof and of any credit against basic rental due the Lessee pursuant to Section 36 hereof.

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

Section 38. Extension of Term

(a) The Lessee shall have the right to extend this Agreement and the term of the letting hereunder, as to the entire premises only, for an additional fifteen (15) year period effective upon the expiration date set forth in Section 2 hereof (such additional period being hereinafter in this Agreement sometimes called "the extension period"), provided, however, that

the Lessee shall give unconditional written notice to the Port Authority of its election so to do subscribed by an executive officer of the Lessee not later than twelve (12) months prior to the expiration date of the term of the letting as stated in said Section 2, and not earlier than fifteen (15) months prior to such date, and provided, further, however, that the Lessee shall not then be in default in the performance or observance of any of the terms of this Agreement after the giving of a notice thereof, and the expiration of any applicable period to cure, or under notice of termination from the Port Authority as a result of such default, either on the date of the giving of the said notice or on the intended effective date thereof and that on both such dates the letting under this Agreement shall be in full force and effect. All of the terms, covenants, conditions and provisions of this Agreement shall apply during the extension period, except that the rental payable by the Lessee during the extension period shall be determined in accordance with paragraph (b) of this Section and the Lessee shall have no further right to extend the letting under this Agreement.

(b) In the event the Lessee shall exercise its right to extend the term of the letting as set forth in paragraph (a) of this Section, the Lessee shall pay to the Port Authority a basic annual rental for the premises during the extension period determined as follows: Not later than ninety (90) days following the twenty-ninth (29th) anniversary of the Rental Payment Start Date the Port Authority shall by written notice to the Lessee advise the Lessee of the basic annual rental to be payable by the Lessee during the extension period and in such notice shall state whether and how such rental shall be adjusted, and the during the extension period the Lessee shall pay to the Port Authority the basic rental set forth in the Port Authority's notice, in advance, in equal monthly installments, on the first day of each calendar month during the extension period, which basic rental shall be subject to adjustment in accordance with the provisions of the Port Authority's notice unless the Lessee concludes that the basic rental for the premises, together with the adjustments thereto, as stated in the Port Authority's notice, exceeds the then current fair rental value of the premises and so advises the Port Authority, in writing, within thirty (30) days after receipt of the Port Authority's notice by the Lessee. In such event, within thirty (30) days after the Port Authority has received the Lessee's notice the Port Authority and the Lessee shall each appoint an arbitrator and a third arbitrator shall be appointed by the arbitrators so appointed. Pursuant to the then rules of the American Arbitration Association, or any successor organization, an arbitration shall be held and the question to be answered by the arbitrators shall be:

"Is the basic rental for the extension period for the premises, together with the adjustments thereto, as established by the Port Authority in its notice to the Lessee, in excess of the then current fair rental value of such premises, unencumbered by the Lease"?

In determining the fair rental value of the premises the arbitrators shall not give any consideration to the fact that the premises are owned by a public authority.

FAIR

If the arbitrator's decision is in the negative then the Lessee shall pay to the Port Authority during the extension period the basic rental for the premises established by the Port Authority in its notice to the Lessee, in advance, in equal monthly installments, on the first day of each calendar month during the said period, and such rental shall be subject to adjustment in accordance with the provisions of the Port Authority's notice.

UNFAIR



If the decision of the arbitrators is that the basic rental for the premises, together with the adjustments thereto, as stated in the Port Authority's notice, exceeds the then current fair rental value thereof the arbitrators shall thereupon determine the then current fair rental value thereof and in such event the Lessee shall pay to the Port Authority during the extension period a basic rental for the premises in an amount equivalent to the greater of (1) the then current fair rental value thereof as determined by the arbitrators; or (2) the basic rental payable by the Lessee for such premises on the expiration date of the initial term of the letting under the Lease as adjusted to such date pursuant to the provisions of the Lease, and subject to further adjustment in accordance with the provisions of the Port Authority's notice, in advance, in equal monthly installments as provided above in this paragraph. In the event the rental described in this paragraph has not been determined as herein provided prior to the commencement of the extension period the Lessee shall continue to pay the monthly installments of such rental at the rate theretofore in effect and upon determination of the applicable rental for the extension period pursuant to the provisions of this paragraph, the Lessee shall within thirty (30) days thereafter pay any amounts due to the Port Authority arising out of the excess (if any) of the monthly installments of the rental as so determined over the monthly installments thereof actually paid by the Lessee for such period. The basic rental determined by the arbitrators shall, during the extension period, be subject to adjustment in accordance with the provisions of the Port Authority's notice. The Port Authority and the Lessee shall each bear the cost of the arbitrator appointed by them. All other costs of such arbitration including, but not limited to, the cost of the third arbitrator shall be borne equally by the Port Authority and the Lessee. Nothing contained in this Agreement shall in any way affect the obligation of the Lessee to pay the basic rental for the premises during the initial term of the letting under this Agreement, which basic rental shall be payable in accordance with all of the terms, provisions, covenants and conditions of this Agreement.



Section 39. Security

The Lessee shall deposit and maintain with the Port Authority a security deposit in accordance with the provisions of

Standard Endorsement No. L23.1 attached to this Agreement and hereby made a part hereof. In connection with the provisions of Standard Endorsement No. L23.1, the Lessee hereby certifies that its Employer Identification Number is (Ex. 1)

Section 40. Additional Provision Governing Pollution

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

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

the use of any procedure or method. The agreement of the Lessee to assume the obligations under paragraph (a) of this Section is a special inducement and consideration to the Port Authority in entering into this Agreement with the Lessee.

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

Section 41. Condemnation

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

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

(c) The terms "governmental agencies" and "governmental authority" as used in this Section shall not include the Port Authority unless the Port Authority is acting pursuant to specific legislative authority and not acting solely as landlord of the premises.

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

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

(f) 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 per cent (50%) or more of the total usable area of the premises including both open and enclosed space, 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.

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

Section 42. Assignment

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

(b) Notwithstanding the provisions of paragraph (a) of this Section 9, and without otherwise limiting the generality thereof, the Lessee and any subsequent person who shall become the Lessee pursuant to the provisions of this Agreement shall have the right from time to time to assign the this Agreement and the term of the letting hereunder in its entirety to a corporation which is and continues to be wholly owned and controlled by the Lessee, or which wholly owns and controls the Lessee, or which is under common control with the Lessee, or which is wholly owned and controlled by a corporation which wholly owns and controls the Lessee or which the Lessee wholly owns and controls, provided, however, that any such assignee shall use the premises solely for the purposes set forth in Section 4 of this Agreement and for no other purpose or purposes whatsoever and provided, further, however, that no such assignment shall be effective until an agreement in the form annexed hereto as "Exhibit X" and hereby made a part of the

Lease as herein amended and extended has been executed by the Lessee, the proposed assignee, and the Port Authority, and the Port Authority's consent as herein stated shall be effective only as long as the proposed assignee maintains one of the relationships described in this paragraph to the Lessee.

(c) Without otherwise limiting the provisions of paragraph (a) of this Section the Lessee and any subsequent person who shall become the Lessee pursuant to the provisions of this Agreement shall have the right from time to time to assign this Agreement and the letting hereunder in its entirety to a person, firm or corporation not described in paragraph (b) of this Section provided, that, an assignment pursuant to this paragraph shall not be effective unless (1) the proposed assignee shall have a financial standing as of the date of the assignment which in the opinion of the Port Authority is sufficient to assure the ability of the proposed assignee to meet all of its obligations under this Agreement throughout the balance of the term of the letting hereunder and such party shall furnish to the Port Authority such additional security or guaranty as the Port Authority may deem necessary; (2) the proposed assignee shall have the same obligation as the Lessee has as to the use of the premises which shall be in accordance with the purposes set forth in Section 4 of this Agreement, and the proposed assignee shall use the premises for no other purpose whatsoever; (3) the proposed assignee and its Chief Executive Officer, Chairman of the Board, President, Chief Operating Officer, Chief Financial Officer, and any member of its Office of the President or Presidium, if any, or any director or partner thereof and any person, firm or corporation having an outright or beneficial interest in twenty percent (20%) or more of the monies invested in the proposed assignee if the proposed assignee is a corporation or partnership, by loans thereto, stock ownership therein, or any other form of financial interest has as of the date of the proposed assignment a good reputation for integrity and financial responsibility and has not, within the prior five years, been convicted of or is not under current indictment for any crime involving corruption, bribery of a public official or body, or misuse of public funds; (4) neither the proposed assignee nor its Chief Executive Officer, Chairman of the Board, President, Chief Operating Officer, Chief Financial Officer, or any member of its Office of the President or Presidium, if any, nor any director or partner thereof nor any person, firm or corporation having an outright or beneficial interest in twenty percent (20%) or more of the monies invested in the proposed assignee, if the proposed assignee is a corporation or partnership, by loans thereto, stock ownership therein or any other form of financial interest has filed a voluntary petition in bankruptcy or has been adjudicated a bankrupt within five years prior to the date of the proposed assignment; (5) the proposed assignee or its Chief Executive Officer, Chairman of the Board, President, Chief Operating Officer, Chief Financial Officer, or any member of its Office of the President or Presidium, if any, or any director or partner thereof or any

person, firm or corporation having an outright or beneficial interest in twenty percent (20%) or more of the monies invested in the proposed assignee, if the proposed assignee is a corporation or partnership, by loans thereto, stock ownership therein, or any other form of financial interest shall not be in conflict of interest, as defined under the laws of the State of New Jersey, with any Commissioner of the Port Authority as of the date of the proposed assignment; and (6) an Agreement of Assignment and Assumption in the form annexed hereto as Exhibit X shall have been duly executed by the Lessee and the proposed assignee and delivered to the Port Authority. The Port Authority will execute the same and deliver executed counterparts to the Lessee and the proposed assignee provided all of the conditions set forth in this paragraph have been satisfied.

(d) No assignment of this Agreement or the letting hereunder shall be effective if on the effective date of such proposed assignment (i) the Lessee shall be under notice of default under this Agreement as to which the applicable period to cure, if any is provided for in this Agreement, has passed, (ii) this Agreement shall not be in full force and effect, or (iii) the Port Authority shall have served a notice of termination of this Agreement.

(e) In the event of an assignment consented to by the Port Authority pursuant to the provisions of paragraph (c) of this Section and upon execution by the Port Authority, the Lessee and the proposed assignee of the Agreement of Assignment and Assumption referred to in paragraph (c) of this Section, the Lessee shall be relieved of all liabilities and obligations thereafter accruing under this Agreement. Nothing contained herein shall be construed to release the Lessee under such assignment from any liabilities or obligations which shall have accrued prior to the effective date of such assignment or which shall mature on such date.

(f) If the Lessee assigns, sells, conveys, transfers, mortgages or pledges in violation of paragraph (a) of this Section, except as authorized by the provisions of paragraph (b) or (c) hereof, 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 or anyone who claims a right to this Agreement or to the letting or who occupies the premises, and shall apply the net amount collected to the rental herein reserved; and no such collection shall be deemed a waiver by the Port Authority of the covenants contained in paragraph (a) of this Section, nor an acceptance by the Port Authority of any such assignee, 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.

(g) With respect to a corporation, "control" as used in paragraph (b) of this Section shall mean legal and beneficial ownership by one person, firm or corporation, or a group acting

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

(h) The Lessee further covenants and agrees that it will not use or permit any person whatsoever to use the premises or any portion thereof for any purpose other than as provided in Section 4 of this Agreement.

Section 43. Subletting

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

(b) Without otherwise limiting the provisions of paragraph (a) of this Section, the Lessee may, after the commencement of the letting, sublet the premises in its entirety provided that all of the following conditions precedent and requirements have been met or satisfied: (1) the proposed subtenant shall have the same obligation as the Lessee has as to the use of the premises which shall be in accordance with the purposes set forth in Section 4 of this Agreement, and the proposed subtenant shall use the premises for no other purpose whatsoever; (2) the proposed subtenant is not a current occupant of a Port Authority marine terminal facility and has not been in active discussion with the Port Authority towards its current or future occupancy of space in a Port Authority marine terminal facility during the two year period immediately preceding the effective date of the proposed subletting; (3) the rental payable by the proposed subtenant to the Lessee for or in connection with the proposed subtenant's use or occupancy of the subleased space shall not be less than the rental charged by the Port Authority for comparable space on the effective date of such subletting; (4) if the rental and any other consideration payable by the proposed subtenant to the Lessee for or in connection with the proposed subtenant's use or occupancy of the subleased space, shall be in excess of the rental rate provided for in this Agreement, the Lessee shall so notify the Port Authority and the Lessee will pay the excess to the Port Authority as received; and (5) the Lessee, the proposed subtenant and the Port Authority shall each have executed a Consent to Sublease Agreement in the form attached hereto and marked "Exhibit Y".

(c) The Lessee and the proposed subtenant shall present in advance all documents, information and other data which the Port Authority may require relating to the matters covered in subparagraphs (1), (2), (3) and (4) above and each of them shall supply during the continuance of any approved subletting such additional or current documents, information or other data as the Port Authority may from time to time require.

If after the subletting becomes effective any of the foregoing conditions shall be violated as to any subtenant in the premises, the Port Authority shall have the right in addition to all other rights and remedies available under this Agreement, to cancel the consent to said subletting by notice to the Lessee, in which event the Sublease between the Lessee and the said subtenant shall immediately terminate and expire and the Lessee shall immediately cause the said subtenant to vacate the premises. Use or occupancy of the premises by a subtenant pursuant to the consent granted in this Section shall not entitle such subtenant to any rights or privileges which the Port Authority has or may hereafter accord to lessees of space in the Facility, but nothing herein shall be deemed to prohibit the Lessee from sharing with its permitted subtenants any such rights or privileges which the Port Authority has accorded to the Lessee. The Lessee shall at all times be solely responsible for complying with any requirements regarding the permissible number of persons to occupy the premises.

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

(e) The Lessee further covenants and agrees that it will not use or permit any person whatsoever to use the premises or any portion thereof for any purpose other than as provided in Section 4 of this Agreement.

Section 44. Environmental Compliance

(a) Without limiting the Lessee's obligations elsewhere in this Agreement to comply with all laws, ordinances, governmental rules, regulations and orders which or at any time are in effect during the term of the letting under this Agreement, the Lessee understands and agrees that it shall be obligated at its cost and expense to comply with the requirements of all environmental laws, rules, regulations, requirements, orders and directives, including but not limited to the provisions of the Environmental Cleanup Responsibility Act, N.J.S.A. 13:1K-6 et seq. and the regulations promulgated thereunder (hereinafter in this Agreement called "ECRA"). Nothing in the foregoing shall be construed as a submission by

the Port Authority to the application to itself of such requirements or any of them; provided, however, that no immunity or exemption of the Port Authority from any of the foregoing requirements shall excuse compliance or be grounds for noncompliance on the part of the Lessee. Without limiting the generality of any provision contained herein, the Lessee shall be responsible at its cost and expense, and subject to the direction of the Port Authority, for (i) the preparation of and submission to the New Jersey Department of Environmental Protection (hereinafter in this Agreement called the "NJDEP") of any notice, negative declaration, cleanup plan, non-applicability affidavit or communication, or any other documentation or information, (ii) the obtaining of any surety bond or the giving of any other financial assurances, and (iii) the obtaining from the NJDEP of any approval of a negative declaration or non-applicability letter or other form of release or mitigation, all as may be required or permitted under ECRA. If so directed by the Port Authority at any time during or subsequent to the letting hereunder, the Lessee at its cost and expense shall promptly provide all information requested by the Port Authority as may be necessary for the preparation of any notice, non-applicability affidavit or communication, negative declaration, or cleanup plan, all as may be required or permitted under ECRA, and shall promptly swear to, sign or otherwise fully execute such notice, non-applicability affidavit or communication, negative declaration or cleanup plan when and as directed by the Port Authority, and the Lessee agrees that any such document may be filed by the Port Authority with the NJDEP on behalf of the Lessee and at the Lessee's cost and expense. In the event that the NJDEP, or any other environmental agency or regulating authority having jurisdiction, requires that a cleanup plan be prepared and that a cleanup be undertaken because of any spill or discharge of hazardous waste or substances at any portion of the premises then it shall be the Lessee's responsibility at its cost and expense to prepare and submit the required plans, to submit the required financial assurance, and to carry out the cleanup and take all other actions required by the approved plans and the regulating authorities. The Lessee understands and agrees that should the provisions of any environmental laws, or regulatory requirements or directives, become effective on termination or expiration of the letting under this Agreement, or on the closure or transfer of the Lessee's operations as defined by the NJDEP, the Lessee shall be required to comply therewith at its cost and expense including those laws, requirements and directives relating to the cleanup of hazardous waste or substances discharged or spilled at any portion of the premises during the term of the letting under this Agreement. The Port Authority shall also have the right to direct the Lessee at its cost and expense to clean up any spills or discharges of hazardous waste or substances at the premises at any time during the term of the letting under this Agreement regardless of whether any applicable environmental law, regulation or directive would require cleanup at that time or during the term of such letting. 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 and after the term of the letting under this Agreement to such equitable relief, including restraining injunctions and declaratory judgments, 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 or subsequent to termination or expiration of the letting may elect (but shall not be required) to perform such obligations and the Lessee shall pay to the Port Authority upon demand its costs thereof, including all overhead costs as determined by the Port Authority.

(b) Without limiting the generality of the provisions of paragraph (a) of this Section the Lessee agrees, unless directed otherwise by the Port Authority, to provide the Port Authority with copies of all documentation, records, correspondence, notices and submissions provided by the Lessee to the NJDEP, the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration or any other Federal, State, or local authority which requires submission of any information concerning environmental matters or hazardous wastes or substances pursuant to Federal, State or local law, rule, regulation or ordinance, including but not limited to the Worker and Community Right to Know Act (N.J.S.A. 34:5A-1 et seq.) and the Hazardous Substance Discharge - Reports and Notices Act (N.J.S.A. 13:1K-15 et seq.) and the regulations promulgated thereunder, and the Lessee shall also provide the Port Authority with all documentation, records, correspondence, notices and submissions received by the Lessee regarding hazardous wastes and substances from any environmental regulatory authority.

(c) Notwithstanding the provisions of paragraph (a) of this Section, and without otherwise limiting the generality thereof, the Lessee shall not be obligated to cleanup and remove hazardous wastes and substances discharged or spilled on the premises if the presence of such hazardous wastes and substances did not arise out of any default of the Lessee in performing or observing any term or provision of this Agreement, or out of the use or occupancy of the premises by the Lessee or by others with its consent, or out of any acts or omissions of the Lessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees, and other persons who are doing business with the Lessee or are on the premises with the Lessee's consent if with regard to such hazardous wastes and substances:

(i) Neither the Lessee nor any of its officers, employees, agents, representatives, contractors, customers, guests, invitees, and other persons who are doing business with the Lessee or who are on the premises with the Lessee's consent committed any negligent acts or omissions with respect to such hazardous wastes and substances; and

(ii) Neither the Lessee nor any of its officers, employees, agents, representatives, contractors, customers, guests, invitees, and other persons who are doing business with the Lessee or who are on the premises with the Lessee's consent failed to observe and comply with governmental laws, rules, regulations, requirements, orders and directives with respect to such hazardous wastes and substances, or failed to observe and comply with Port Authority requirements, directives and procedures regarding any hazardous wastes and substances at the premises, including but not limited to those set forth in any design guidelines or construction guidelines which may be established by the Port Authority for the Facility and submitted to the Lessee.

(d) Without limiting the generality of any other provision contained in this Agreement, the Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives from (and shall reimburse the Port Authority for its costs or expenses including legal expenses incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, and from (and shall reimburse the Port Authority for its costs or expenses including legal expenses, fines, penalties, and costs of compliance incurred in connection with) all claims and demands of any governmental agency, arising out of or in any way resulting from (i) any spill or discharge of hazardous waste or substances at the premises or any portion thereof during the term of this Agreement or (ii) the failure of the Lessee to observe or perform its obligations under the provisions of this Section, including without limitation the failure of the Lessee to provide all information, make all submissions and take all other actions required or permitted under ECRA; provided, however, that the Lessee shall not be obligated to indemnify and hold harmless the Port Authority as to any claim or demand arising out of or resulting from the presence of hazardous wastes and substances discharged or spilled on the premises if the presence of such hazardous wastes and substances did not arise out of any default of the Lessee in performing or observing any term or provision of this Agreement, or out of the use or occupancy of the premises by the Lessee or by others with its consent, or out of any acts or omissions of the Lessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees, and other persons who are doing business with the Lessee or are on the premises with the Lessee's consent if with regard to such hazardous wastes and substances:

(i) Neither the Lessee nor any of its officers, employees, agents, representatives, contractors, customers, guests, invitees, and other persons who are doing business with the Lessee or who are on the premises with the Lessee's consent committed any negligent acts or omissions with respect to such hazardous wastes and substances; and

(ii) Neither the Lessee nor any of its officers, employees, agents, representatives, contractors, customers, guests, invitees, and other persons who are doing business with the Lessee or who are on the premises with the Lessee's consent failed to observe and comply with governmental laws, rules, regulations, requirements, orders and directives with respect to such hazardous wastes and substances, or failed to observe and comply with Port Authority requirements, directives and procedures regarding any hazardous wastes and substances at the premises, including but not limited to those set forth in any design guidelines or construction guidelines which may be established by the Port Authority for the Facility and submitted to the Lessee;

(e) The failure of the Lessee to observe or perform any of its obligations under the provisions of this Section shall entitle the Port Authority to terminate the letting under this Agreement at any time, with any such termination to be and to operate as a conditional limitation. The Lessee's obligations under this Section shall survive the expiration or earlier termination of this Agreement and shall continue so long as the Port Authority remains responsible for any spill or discharge of hazardous wastes or substances at the premises.

Section 45. Additional Environmental Provision

If the environmental testing and sampling performed by the Lessee pursuant to the permission granted by the Port Authority to the Lessee by a certain letter agreement between the Port Authority and the Lessee dated October 1, 1987 shall disclose the presence on the premises of any environmentally hazardous wastes or substances (hereinafter sometimes called "the Wastes"), and the Lessee shall so notify the Port Authority of such on or before December 31, 1987 (which notice shall specify in detail the nature, elements and locations of the Wastes and shall include, without limitation, a copy of any environmental test or sample performed by the Lessee in regard to the premises), the Port Authority shall proceed to clean up or otherwise mitigate the Wastes. Notwithstanding any other provision contained in this Section, if the cost of said cleanup or mitigation of the Wastes would in the reasonable opinion of the Port Authority exceed Seven Hundred Fifty Thousand Dollars (\$750,000), the Port Authority shall have the right, in lieu of undertaking said cleanup or mitigation, to terminate this Agreement upon fifteen (15) days' notice given to the Lessee within sixty (60) days of receipt by the Port Authority of the Lessee's notice. Termination under the provisions of this Section shall have the same effect as if the effective date of termination determined hereunder were the date of expiration of the letting.

Section 46. First Offer

(a) In the event that the Port Authority shall elect to sell the entire premises separately from the balance of the Facility, the Port Authority shall notify the Lessee of said election, which notice shall set forth the terms of the sale, including without limitation the sale price, which shall not exceed the "appraised value of the premises" as determined by an independant appraiser selected by the Port Authority, and such other terms and conditions as the Port Authority shall in its sole discretion deem appropriate. "Appraised value of the premises" shall mean that amount of money a third party purchaser in an arms length transaction would pay for title to the premises allowing for the greatest possible use and development thereof, considered as vacant, unimproved and unencumbered. The Lessee shall have the right to purchase the premises on the terms and conditions set forth in the Port Authority's notice, provided that the Lessee shall give the Port Authority firm, unconditional notice of the Lessee's election to purchase the premises within fifteen (15) days after the date of the Port Authority's notice, and provided, further, that the Lessee is not in default in the performance or observance of any term, provision or condition of this Agreement on the date of said notice from the Port Authority and that this Agreement is in full force and effect. In the event that the Lessee concludes that the price set forth in the Port Authority's notice exceeds the appraised value of the premises but desires to purchase the premises, the Lessee give the Port Authority firm, unconditional notice of the Lessee's election to purchase the premises at the appraised value of the premises within fifteen (15) days after the date of the Port Authority's notice and shall in such notice advise the Port Authority that it desires to select its own independant appraiser, including the name and address of the person designated to act as appraiser on its behalf. Within thirty (30) days' thereafter the appointed appraiser shall deliver his valuation to the Port Authority. If the appraisers appointed by the Port Authority and the Lessee, respectively, fail to agree on the appraised value of the premises within fifteen (15) days' of the delivery to the Port Authority of the valuation determined by the Lessee's appraiser, the appraisers selected by the Lessee and the Port Authority, respectively, shall be required to appoint a third independant appraiser. Within thirty (30) days' after the appointment of a third independant appraiser the three appraisers shall determine the appraised value of the premises. In the event that the appraisers appointed by the Lessee and the Port Authority, respectively, can not agree on the appointment of a third independant appraiser, then such third independant appraiser shall be selected in accordance with the then existing rules of the American Arbitration Association, or any successor association. Each party shall bear the costs of its own appraiser and shall share the costs of the third appraiser, equally. Each appraiser selected pursuant to the provisions of this paragrph shall be a competent and impartial person, and a member of the American Institute of Real Estate Appraisers, or

its successor organization, and shall have had at least fifteen (15) years' experience in appraising property similar to the premises in the Port of New York District prior to the date of his appointment. After the appraised value of the premises has been determined in accordance with the applicable provisions of this paragraph, the Port Authority shall prepare an appropriate agreement providing for the purchase of the premises by the Lessee, which document shall contain such terms and conditions as the Port Authority, acting in a non-arbitrary and non-capricious manner, shall deem appropriate for the safe and efficient operation of the Facility subsequent to the transfer of title and for the protection, maintenance, safeguarding, and enhancement of its rights and interests as owner and operator of the Facility and the rights and interests of users and occupants at the Facility, including but not limited to provisions regarding use of the premises, use of common facilities and roadways, permissible operations, security, maintenance, repair, appearance, indemnity, insurance, financial obligations (including payment of common operating and maintenance costs), law compliance, environmental compliance and health and safety matters and in addition thereto and without limiting the foregoing such purchase agreement shall include and incorporate such provisions of this Agreement as the Port Authority deems appropriate to accomplish the aforesaid objectives. The provisions of the purchase agreement shall be deemed covenants running with the land and shall survive the deed referred to below. The Lessee shall have thirty (30) days after receipt to duly execute and deliver the purchase agreement to the Port Authority accompanied by an amount equivalent to ten percent (10%) of the appraised value of the premises as set forth in the purchase agreement. If the Port Authority does not receive a duly executed and delivered purchase agreement accompanied by the required deposit from the Lessee within the thirty (30) day period provided for herein, then the Lessee's option to purchase the premises shall be null and void and without further force and effect and this Agreement and the letting hereunder shall continue in full force and effect and notwithstanding the provisions of this paragraph, and the Lessee shall have no further rights to purchase the premises at any time thereafter. In such event, the Port Authority shall have the right to sell the premises, or any portion thereof, to others on terms and conditions (including but not limited to sale price) different from those which would have governed the sale to the Lessee of the premises and on more or less favorable terms and conditions all as the Port Authority may at its discretion determine. It is understood and agreed that this Agreement and the letting hereunder and all the rights and obligations of the parties hereunder shall continue in full force until the closing date and the actual transfer of title to the premises by the Port Authority to the Lessee.

(b) In the event that at any time subsequent to the Rental Start Date established pursuant to Section 3 of this Agreement the Port Authority shall determine that any leased

space at the Facility of up to fifteen (15) acres in area that is contiguous to the premises shall become available for leasing, and provided the Lessee is not in default in the performance or observance of any term, provision or condition of this Agreement after notice thereof from the Port Authority and that this Agreement is in full force and effect, the Port Authority will notify the Lessee of the date that it expects such space to become available or ready for occupancy and the amount and configuration of such space, which notice shall set forth the terms of letting, including without limitation the amount and nature of all rentals to be charged for the space and such other terms and conditions as the Port Authority shall in its sole discretion deem appropriate. If the Lessee desires to lease such space on the terms and conditions set forth in the Port Authority's notice, the Lessee shall deliver to the Port Authority, within fifteen (15) days after the date of the Port Authority's notice, firm, unconditional notice of the Lessee's election to accept such space in its entirety, "as is" and in the condition such space is in when vacated by the prior occupants thereof for the balance of the term of the letting under this Agreement. The Port Authority shall thereupon prepare an appropriate document supplementing this Agreement to confirm the inclusion of such space in the premises in accordance with the provisions of this Section, which document shall contain such terms and conditions in addition to those set forth in the Port Authority's notice as the Port Authority shall in its sole discretion elect to include. The Lessee shall execute such document and return it to the Port Authority within thirty (30) days after the Lessee's receipt thereof. In the event the Lessee fails to indicate its unconditional acceptance of such space within the time prescribed in this Section or refuses to execute such document within the time set forth in the preceding sentence, the Lessee shall thereupon have no rights or interest in or to such space and the provisions of this Section with respect thereto shall be of no further force or effect throughout the balance of the term of the letting under this Agreement, and the Port Authority shall have the right to lease such space, or any portion thereof, to others on terms and conditions (including but not limited to rental, term, construction and use provisions) different from those which would have governed the letting to the Lessee of such space and on more or less favorable terms and conditions all as the Port Authority may at its discretion determine. The Lessee expressly understands and agrees that the provisions of this Section are subject to the availability for leasing of space as described above in this paragraph at the Facility and that nothing contained in this paragraph shall obligate or be construed to obligate the Port Authority to furnish or make available such space to the Lessee, nor shall anything contained in this paragraph be deemed to prohibit or be construed to prohibit the Port Authority from extending any lease covering such space or otherwise continuing in occupancy a tenant of such space, or from consenting to an assignment of any such lease or consenting to a sublease covering such space nor shall such space be deemed available for rental for purposes of this

paragraph if it is then rented to or under negotiation with another tenant, or if a tenant thereof relets or extends or otherwise modifies or amends the term of the letting as to such space. The Lessee further understands and agrees that the provisions of this paragraph shall not be deemed to prohibit the Port Authority from entering into a lease for all of the remaining space in the Greenville portion of the Facility, even if such lease includes the fifteen acres contiguous to the premises, or shall be deemed to require the Port Authority to notify the Lessee of any negotiations regarding such a lease.

Section 47. Entire Agreement

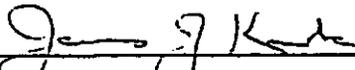
The within Agreement consists of pages number 1 through 81, together with Exhibits A, B, R, X and Y, Schedules A, B, C and D and Standard Endorsement L23.1. It constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended, except by written instrument duly executed on behalf of both the Port Authority and the Lessee. The Lessee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in this Agreement.

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

ATTEST:


SECRETARY

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

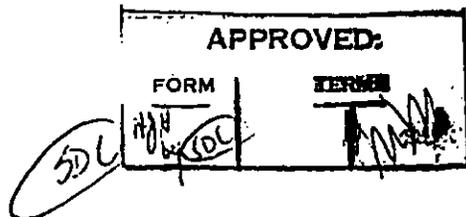
By 
(Title) JAMES J. KIEK
DIRECTOR, PORT DEPARTMENT

ATTEST:


ASST. SECRETARY

BMW OF NORTH AMERICA, INC.

By 
(Title) Senior Vice President Finance
Senior Vice President



SCHEDULE A

For the five year period commencing on each of the following anniversary dates of the Rental Payment Start Date:

Fifth Anniversary Date	\$457,913.23
Tenth Anniversary Date	\$530,846.97
Fifteenth Anniversary Date	\$615,397.20
Twentieth Anniversary Date	\$713,413.92
Twenty-Fifth Anniversary Date	\$827,042.31

3% min
sch.

SCHEDULE B

For the five year period commencing on each of the following anniversary dates of the Rental Payment Start Date:

Fifth Anniversary Date	\$ 504,131.23
Tenth Anniversary Date	\$ 643,413.44
Fifteenth Anniversary Date	\$ 821,176.56
Twentieth Anniversary Date	\$1,048,052.50
Twenty-Fifth Anniversary Date	\$1,337,610.10

max 5%
sch.

SCHEDULE C

1. Dewax Building
2. Car wash Building
3. Polish building
4. Underground utilities
5. Building sub-structure
 - a) Roof
 - b) Walls
 - c) HVAC
 - d) Mechanical, Electrical, and Plumbing
6. Roof
7. Walls
8. Site Improvements
9. Exterior lighting
10. Parking garage
11. Gates
12. Guard house
13. Mechanical, Electrical, and Plumbing
14. HVAC
15. Paving
16. Fencing
17. Conveyors permanently affixed to the realty
18. Access control systems permanently affixed to the realty
19. In ground water separator systems
20. Fueling operation facility
21. Elevators
22. Security systems permanently affixed to the realty

SCHEDULE D

1. Certification of cost signed by Lessee
2. Lessee's contracts with construction contractors
3. Invoices from contractors
4. Evidence of payments made to contractors such as cancelled checks, bank statements, etc.
5. Check disbursements book

Upon the execution of this Agreement by the Lessee and delivery thereof to the Port Authority, the Lessee shall deposit with the Port Authority (and shall keep deposited throughout the letting under this Agreement) the sum of Two Hundred Thousand Dollars and No Cents (\$200,000.00)

either in cash, or bonds of the United States of America, or of the State of New Jersey, or of the State of New York, or of The Port Authority of New York and New Jersey, having a market value of that amount, as security for the full, faithful and prompt performance of and compliance with, on the part of the Lessee, all of the terms, provisions, covenants and conditions of this Agreement on its part to be fulfilled, kept, performed or observed. Bonds qualifying for deposit hereunder shall be in bearer form but if bonds of that issue were offered only in registered form, then the Lessee may deposit such bonds or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Lessee) in a manner satisfactory to the Port Authority. The Lessee may request the Port Authority to accept a registered bond in the Lessee's name and if acceptable to the Port Authority the Lessee shall deposit such bond together with an irrevocable bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Lessee any expenses incurred by the Port Authority in re-registering a bond to the name of the Lessee shall be borne by the Lessee. In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Lessee. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Lessee. With respect to any bonds deposited by the Lessee, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Lessee, to sell the same in whole or in part, at any time, and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of

Standard Endorsement No. L23.1 (Page 1)
Security Deposit
All Facilities
2/6/85

all claims, equities or rights of redemption of the Lessee. The Lessee hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Lessee. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Lessee. Any balance remaining shall be retained in cash toward bringing the deposit to the sum specified above. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have declined below the above-mentioned amount, the Lessee shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times to the full amount above stated, and such additional deposits shall be subject to all the conditions of this Standard Endorsement. After the expiration or earlier termination of the letting under this Agreement, as the said letting may have been extended, and upon condition that the Lessee shall then be in no wise in default under any part of this Agreement, as this Agreement may have been amended or extended (or both), and upon written request therefor by the Lessee, the Port Authority will return the deposit 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. The Lessee agrees that it will not assign or encumber the deposit. The Lessee may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest bearing bank accounts.

Standard Endorsement No. L23.1 (Page 2)
Security Deposit
All Facilities
2/6/85

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

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

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

an individual, residing at

a partnership, consisting of

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

an individual, residing at

a partnership, consisting of

the representative of which is

WITNESSETH, THAT:

WHEREAS, the Assignor desires to assign to the Assignee that certain Agreement
of Lease dated as of _____, 19____, made by and between The Port Authority and
the Assignor, and hereinafter, as the same has been heretofore amended and extended, called
"the Lease";

covering premises at

; and

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

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

1. The Assignor does hereby assign, transfer and set over to the Assignee, heirs, executors, administrators and successors, to and their own proper use, benefit and behoof forever, the Lease, to have and to hold the same unto the Assignee heirs, executors, administrators and successors from the day of 19 , for and during all the rest, residue, and remainder of the term of the letting under the Lease, subject nevertheless to all the terms, provisions, covenants and conditions therein contained; and the Assignor does hereby assign, transfer and set over unto the Assignee heirs, executors, administrators and successors, all right, title and interest of the Assignor in and to a certain deposit (whether of cash or bonds) in the amount of

made by the Assignor with the Port Authority, as security for the performance of the terms, provisions, covenants and conditions of the Lease, but subject to the provisions of the Lease and to any claim or right to the said deposit or any part thereof heretofore or hereafter made or to be made on the part of the Port Authority

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

3. The Assignor agrees that this assignment of the Lease and this consent of the Port Authority thereto shall not in any way whatsoever affect or impair the liability of the Assignor to perform all the terms, provisions, covenants and conditions, including without limitation thereto the obligation to pay rent, of the Lease on the part of the Lessee or tenant thereunder to be performed, and that the Assignor shall continue fully liable for the performance of all the terms, provisions, covenants and conditions, including without limitation thereto the obligation to pay rent, on the part of the Lessee or tenant thereunder to be performed. The liability of the Assignor as set forth in this paragraph shall remain and continue in full force and effect as to any and every renewal, modification, or extension of the Lease whether in accordance with the terms of the Lease or by a separate or additional document, and notwithstanding any such renewal, modification, or extension, whether or not the Assignor has specifically consented to such renewal, modification, or extension. The liability of the Assignor hereunder shall in no way be affected by the failure of the Port Authority to obtain the Assignor's consent to any such renewal, modification or extension notwithstanding that the Port Authority had previously obtained such consent with respect to a prior renewal, modification, or extension.

4. The Assignee does hereby assume the performance of and does hereby agree to perform all the terms, provisions, covenants and conditions, including without limitation thereto the obligation to pay rent, contained in the Lease, to be performed on the part of the lessee or tenant thereunder, as though the Assignee were the original signatory to the Lease. The execution of this instrument by the Port Authority does not constitute a representation by it that the Assignor has performed or fulfilled every obligation required by the Lease; as to such matters the Assignee agrees to rely solely upon the representation of the Assignor.

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

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

(b) The impairment, limitation or modification of the liability of the Assignee or its estate in bankruptcy, or of any remedy for the enforcement of the Assignee's said liability under the Lease, resulting from the operation of

any present or future provision of the Bankruptcy Code or any other statute or from the decision of any court having jurisdiction over the Assignee or its estate; or

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

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

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

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

ASSIGNOR:

By _____

(Title) _____ President
(Seal)

ASSIGNEE:

By _____

(Title) _____ President
(Seal)

ATTEST:

Secretary

ATTEST:

Secretary

ATTEST:

Secretary

By _____

(Title) _____ President
(Seal)

CONSENT TO SUBLEASE

Port Authority Lease No.

Port Authority Facility -

THIS AGREEMENT, made as of
by and among THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (here-
inafter called "the Port Authority"), and
(hereinafter called "the Lessee"), and
(hereinafter called "the Sublessee"),

WITNESSETH, That:

WHEREAS, the Port Authority and the Lessee have entered
into a lease identified above by Port Authority Lease Number and
by date and covering premises at the abovementioned Port Authority
Facility (which lease, as the same may have been supplemented,
amended and extended is hereinafter called "the Lease"); and

WHEREAS, the Lessee has requested the consent of the Port
Authority to a proposed sublease, a copy of which is attached here-
to and made a part hereof (hereinafter called "the Sublease");

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

1. On the terms and conditions hereinafter set forth,
the Port Authority consents to the Sublease.
2. The Sublease shall terminate, without notice to the
Sublessee, on the day preceding the date of expiration or earlier
termination of the Lease, or on such earlier date as the Lessee and
Sublessee may agree upon. The Sublessee shall quit the subleased
premises and remove its property and property for which it is
responsible therefrom on or before the termination of the Sublease.
3. If the Lessee shall at any time be in default under
the Lease, the Sublessee shall on demand of the Port Authority pay
directly to the Port Authority any rental, fee or other amount due
to the Lessee. No such payment shall relieve the Lessee from any

Exhibit Y

obligations under the Lease or under this Consent, but all such payments shall be credited against the obligations of the Lessee or of the Sublessee, as the Port Authority may determine for each payment or part thereof.

4. In any case of difference between the provisions of the Lease and those of the Sublease, the Lease shall be controlling, it being the intention of the Port Authority merely to permit the exercise of the Lessee's rights (to the extent permitted by the Sublease) by the Sublessee, and not to enlarge or otherwise change the rights granted by the Lease. All of the terms, provisions, covenants and conditions of the Lease shall be and remain in full force and effect.

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

6. Without in any wise affecting the obligations of the Lessee under the Lease and under this Consent, the Sublessee agrees with respect to its acts and omissions to indemnify the Port Authority and to make repairs and replacements as if it were the Lessee under the Lease. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Lessee under the Lease and the Lessee shall also be severally responsible therefor, including but not limited to the obligations of indemnification and repair.

7. In addition to all other remedies available to the Port Authority under the Lease or otherwise, this Consent may be revoked by the Port Authority by notice to the Lessee and the Sublessee in event of any breach by the Sublessee of any term or provision of the Lease or of this Consent and no such revocation shall be deemed to affect the Lease or the continuance thereof. Any notice given to Sublessee shall be sufficient if given in accordance with the Section of the Lease entitled "Notices", for the purpose of which the Sublessee hereby designates the person named as representative on the first page hereof as its officer or representative upon whom notices may be served and the Sublessee designates its office at the address stated on the first page hereof as the office where such notices may be served.

8. The Lessee and Sublessee represent and warrant that the attached Sublease sets forth the full and entire rental or consideration payable to the Lessee by the Sublessee for or in connection with the subletting hereunder or use or occupancy of subleased space and they further represent and warrant that there is no rental or consideration other than as stipulated in the attached Sublease.

Exhibit Y

9. The granting of this Consent by the Port Authority shall not be or be deemed to operate as a waiver of the rights of the Port Authority, or as a consent to any subsequent subleasing (by the Lessee or by the Sublessee) or to any assignment of the Lease or the Sublease or of any rights under either of them, whether in whole or in part.

10. Reference herein to the Sublessee shall mean and include the Sublessee, its officers, agents, employees and also others on the premises or the Facility with the consent of the Sublessee.

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

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

ATTEST:

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By _____

(Title) _____

(Seal)

ATTEST:

Lessee

By _____

(Title) _____

(Corporate Seal)

ATTEST:

Sublessee

By _____

(Title) _____

(Corporate Seal)

Exhibit Y

STATE OF NEW YORK

COUNTY OF NEW YORK

On this 22nd day of December, 1987, before me, the subscriber, a notary public of New York, personally appeared Jane J. Kurb, the Director, Port Authority of New York and New Jersey, who I am satisfied is the person who has signed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Commissioners.

Catherine Dufda
(notarial seal and stamp)

CATHERINE DUFDA
Notary Public, State of New York
No. 03-1051050 Bronx County
Term Expires March 30, 1989

12/31/89

STATE OF New York }
COUNTY OF New York }

On this 22nd day of December, 1987, before me, the subscriber, a notary public of New York, personally appeared Peter Moll, Sr. Vice Pres. Friedrich Homan, Sr. Vice Pres. the President of BMW of North America, Inc.,

who I am satisfied is the person who has signed the within instrument; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Directors.

Catherine Dufda
(notarial seal and stamp)

CATHERINE DUFDA
Notary Public, State of New York
No. 03-1051050 Bronx County
Term Expires March 30, 1989

12/31/89

STATE OF }
COUNTY OF }

Be it remembered that on this _____ day of _____, 197, before me, the subscriber, a notary public of _____, personally appeared _____

who I am satisfied is the person named in and who executed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as his voluntary act and deed for the uses and purposes therein expressed.

(notarial seal and stamp)

Agreement, the Port Authority will pay to the Lessee on account of the cost of the Port Authority construction work the difference between the sum obtained by adding together all prior payments made by the Port Authority to the Lessee on account of the cost of Port Authority construction work and the Qualifying Cost of the Port Authority construction work, and on account of the Port Authority construction management work the difference between the sum obtained by adding together all prior payments made by the Port Authority to the Lessee on account of the Port Authority construction management work and the sum of One Hundred Thousand Dollars and No Cents (\$100,000.00). In addition, the Port Authority shall remit to the Lessee the sum of Forty Thousand Dollars and No Cents (\$40,000.00) as final payment on account of the Port Authority design work. If the sum of all of the previous payments made by the Port Authority to the Lessee on account of the cost of the Port Authority design work, the Port Authority construction work or the Port Authority construction management work, respectively, exceeds Forty Thousand Dollars and No Cents (\$40,000.00), the Qualifying Cost of the Port Authority construction work, or One Hundred Thousand Dollars and No Cents (\$100,000.00), as the case may be, the Lessee shall pay to the Port Authority the amount of such excess on demand. The Lessee's acceptance of final payment shall be and operate to release the Port Authority from all claims and liability to the Lessee for all matters arising out of or in connection with the performance of the Port Authority design work, the Port Authority construction work, and the Port Authority construction management work pursuant to the provisions of the Lease as herein amended, including, without limitation, claims in the nature of breach of contract and claims based on the claims of third persons. The Lessee's acceptance of final payment shall be and operate to release the Lessee from any liability to the Port Authority for any claim based upon breach of contract or failure to perform the Port Authority design work, the Port Authority construction work, and the Port Authority construction management work in accordance with the provisions of the Lease as herein amended, unless the Lessee had notice of such claim prior to the date of its receipt of final payment from the Port Authority, it being understood that no such payment shall operate to release any of the Lessee's contractors or subcontractors, or any surety, from any obligation arising out of or in connection with the performance of the Port Authority design work, the Port Authority construction work, and the Port Authority construction management work pursuant to the provisions of the Lease as herein amended, or arising out of or under any performance bond, and that no such payment shall operate to release the Lessee from any obligations or liabilities assumed by the Lessee pursuant to the provisions of paragraph 2 of this Agreement. In the event the Lessee is notified of a claim based upon breach of contract or failure to perform the Port Authority design work, the Port Authority construction work, and the Port Authority construction management work in accordance with the provisions of the Lease as herein amended subsequent to the Lessee's receipt of final payment, the Lessee shall have the right and the obligation to enforce all remedies against its

contractors and subcontractors available under the contracts and subcontracts the Lessee entered into with such contractors and subcontractors, or otherwise available under the law, or in equity, provided, however, that all monies collected by the Lessee from such contractors and subcontractors, for such breach or failure, less unrecovered customary and ordinary costs, expenses and fees shall be remitted by the Lessee to the Port Authority as and when collected. The Port Authority shall not be required to incur any expense or to commence any legal action or proceeding against the Lessee's contractors or subcontractors, but nothing herein contained shall be or be deemed to be a waiver by the Port Authority of rights or remedies it may wish in its discretion to enforce against such contractors or subcontractors by legal action, proceeding, or otherwise. To the extent necessary for the purpose of commencing any legal action or proceeding against such contractors and subcontractors, the Lessee shall and does hereby assign to the Port Authority any and all rights and remedies of the Lessee under its contracts with such contractors and subcontractors. The Lessee's agreement as expressed in the preceding sentence of this paragraph shall be deemed based upon the consideration forming a part of this Agreement and not to be gratuitous; but in any event if the Lessee's agreement as expressed in the preceding sentence of this paragraph shall be deemed gratuitous and without consideration it shall nevertheless be effective. The Lessee's release of the Port Authority pursuant to the provisions of this paragraph shall extend to all claims, whether or not in litigation and whether or not under consideration by the Engineer. Such release shall be effective notwithstanding any purported reservation of right by the Lessee to preserve such claim. The Lessee hereby waives its right to, and further agrees that it shall not seek and shall not be entitled to any judgement, whether pursuant to the Lease as herein amended, or otherwise, for final payment pursuant to the provisions of this paragraph, or for an amount equivalent thereto, or based thereon, or for any part thereof, if such judgement would have the effect of varying, setting aside, disregarding, or making inapplicable the provisions of this paragraph, or have the effect in any way of entitling the Lessee to accept final payment pursuant to the provisions of this paragraph other than as a voluntary acceptance of such final payment and subject to all of the provisions of this paragraph, unless and until the Lessee shall obtain a judgement on any claim arising out of or in connection with the performance of the Port Authority design work, the Port Authority construction work, or the Port Authority construction management work (including a claim based on breach of contract) for an amount not included in the final payment. The Lessee shall keep and maintain in accordance with accepted accounting practice, and shall cause its contractors and subcontractors to so keep and maintain accurate records and books of account relating to the cost of the Port Authority construction work. The Lessee shall permit the Port Authority by its agents, employees and representatives at all reasonable times prior to the Lessee's receipt of final payment on account of the cost of the Port Authority construction work

and for a period of one year thereafter to examine and audit the records and other documentation of the Lessee which pertain to and will substantiate such cost. Whenever the compensation payable by the Lessee to any contractor, materialman, or consultant engaged with respect to any aspect of the Port Authority construction work is determined on any basis other than by payment of a lump sum or unit price amount the Lessee shall obtain for the Port Authority the right to inspect and audit the books and records of such contractor, materialman, or consultant relating to such aspect of the work. If prior to a final determination of the cost of the Port Authority construction work the Port Authority shall notify the Lessee of a pending claim against the Lessee or any of its contractors, materialmen, or consultants under the Lease as herein amended in connection with any aspect of the Port Authority construction work, the Port Authority design work, or the Port Authority construction management work to which the Lessee's records or the records of any of its contractors, materialmen, or consultants relate either directly or indirectly, the Lessee agrees to and shall keep and maintain such records and shall cause its contractors, materialmen, or consultants to keep and maintain such records for a period of six years from the date of final payment. No provision of this Agreement relating to the Port Authority's right of audit and inspection shall or shall be deemed to limit or affect any right of audit or inspection which the Port Authority would have in the absence such provision. No payment made by the Port Authority to the Lessee pursuant to the provisions of this paragraph shall be deemed a final determination by the Port Authority of the ~~final cost~~ of the Port Authority construction work. Such final determination shall occur only after the Port Authority has examined and approved such records and books of account as the Lessee is required to maintain pursuant to the provisions of this paragraph. In no event whatsoever shall the cost of any portion of the Port Authority construction work as finally determined and computed in accordance with the provisions of this paragraph include any expenses, outlays or charges whatsoever by or for the account of the Lessee for or in connection with any improvements, equipment or fixtures or the performance of any work unless such are actually and completely installed in and or made to the Facility nor shall cost include the costs of any equipment, fixture or improvements which are secured by liens, mortgages, other encumbrances or conditional bills of sale.

(d) The Port Authority's entire obligation under this Agreement to make payments to the Lessee on account of the cost of the Port Authority construction work shall be limited in amount to the Qualifying Cost of the Port Authority construction work and the Port Authority's entire obligation under this Agreement to make payments to the Lessee on account of the Port Authority design work and the Port Authority construction management work, respectively, shall be limited in amount to the sum of Two Hundred Thousand Dollars and No Cents (\$200,000.00) and One Hundred Thousand Dollars and No Cents (\$100,000.00),

3

2

respectively. 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.

11. Neither the Lessee nor any consultant engaged by the Lessee shall communicate with any department, board, agency, commission, or other governmental organization in connection with the Port Authority construction work or the Port Authority construction management work without the express written permission of the Port Authority. Nothing contained herein shall be or be deemed to prohibit the Lessee or any consultant engaged by the Lessee from communicating with any contractor, materialman, or manufacturer unless the Port Authority has specifically instructed the Lessee to the contrary.

12. All of the applicable provisions of the Lease, including without limitation the applicable provisions of Section 5 shall apply to the performance of the Port Authority construction work, the Port Authority design work, and the Port Authority construction management work as though all of such work were a part of the Lessee's construction work which the Lessee is required to perform pursuant to Section 5 of the Lease.

13. Nothing contained in this Agreement, including, without limitation, any rights reserved to the Port Authority with respect to the performance of the Port Authority construction work pursuant to the provisions of paragraph 1 of this Agreement, shall be or be construed to modify the Port Authority's obligations described in Section 6 of the Lease.

14. Paragraph (j) of Section 30 of the Lease is hereby deleted, and the following paragraph shall be deemed inserted in lieu thereof:

"(j) As used in this Agreement, "Facility" or "marine terminal" shall mean both "the Greenville Site", as hereinafter defined, and "the Port Jersey Site", as hereinafter defined. As used in this paragraph, the term "the Greenville Site" shall mean the real property, buildings, structures, fixtures, improvements, and other property transferred to the Port Authority under the provisions of two deeds from the Penn Central Corporation, a Pennsylvania corporation, and one deed from The United New Jersey Railroad and Canal Company, a New Jersey corporation, each of which was dated December 30, 1981, and the term "the Port Jersey Site" shall mean the real property, buildings, structures, fixtures, improvements, and other property transferred to the Port Authority under the provisions of a deed from Teachers Insurance and Annuity Association of America, a New York corporation, dated January 15, 1982, and a deed from the Harborland Corporation, a New Jersey corporation, dated July

13, 1982. As used in this Agreement, "Facility" or "marine terminal" shall also mean such additional property adjacent to either the Greenville Site or the Port Jersey Site as the Port Authority may hereafter acquire and any additional structures, fixtures, improvements and other property which may have been heretofore or may hereafter be installed or constructed on any property or properties heretofore mentioned".

15. As hereby amended all the terms, provisions, covenants, agreements and conditions of the Lease shall be and remain in full force and effect.

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

17. This Supplemental Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing 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 the Lease or in this Supplemental Agreement.

IN WITNESS WHEREOF, The Port Authority and the Lessee have executed these presents as of the date first above written.

ATTEST:

Joris E. ...
SECRETARY

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By *Robert N. Steiner*
(Title) ROBERT N. STEINER
DEPUTY DIRECTOR
PORT DEPARTMENT

ATTEST:

Kathleen Wall
Asst. Secretary

BMW OF NORTH AMERICA, INC.

By: *[Signature]*
Title: *SA VP*

APPROVED:
FORM *[Signature]* | TERMS *[Signature]*

SCHEDULE E

The Port Authority shall prepare a preliminary set of plans covering the Port Authority construction work showing the proposed location of utilities and roadways which the Lessee is required to construct as part of the Port Authority construction work, and containing such other information as is reasonably required by the Lessee to prepare appropriate plans and specifications covering the Port Authority construction work. Based upon the information submitted by the Port Authority, the Lessee shall plan and design the Port Authority construction work. The Lessee shall retain all architectural, engineering and other technical consultants and services as may be directed by the Port Authority and shall develop complete and detailed plans and specifications for the work. The Lessee shall submit seven (7) copies of such plans and specifications to the Port Authority for its approval together with a Construction Application in the form annexed to the Lease as Exhibit B. 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 registered in the State of New Jersey who shall be responsible for the administration of the work in accordance with the Port Authority's requirements. The data to be supplied by the Lessee shall identify separately each of the items constituting the Port Authority construction work, shall describe in detail the systems, improvements and equipment to be installed by the Lessee, and shall show the proposed method of tying in the utility lines and connections constituting part of the Port Authority construction to existing systems and utilities located off the Facility. In connection with review by the Port Authority of the Lessee's submissions under this paragraph, the Lessee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may require for such review, and shall promptly prepare revisions and modifications to such submissions if required by the Port Authority. The Lessee shall keep the final plans and specifications covering the Port Authority construction work current during the period of the performance of the Port Authority construction work, incorporating all addendums and change orders. Upon completion of the Port Authority construction work the Lessee shall supply the Port Authority with one (1) reproduceable set of as-built drawings of the Port Authority construction work on Mylar, and one (1) black and white print thereof.

SCHEDULE F

The Lessee shall provide the following expert professional services relating to construction management in connection with the Port Authority construction work:

1. Consultation during the preliminary design phase to advise on construction site use and improvements, selection of materials, building systems and equipment.

2. Provide recommendations on construction feasibility, alternate design concepts, availability of materials and labor, time requirements for installation and construction, and factors related to costs, including costs of alternate designs or materials, preliminary budgets, and possible economies.

3. Coordination and integration of design efforts with construction schedules. Update monthly the project time schedule including realistic activity sequences and durations, and delivery of products requiring long lead-time procurement. Include Port Authority occupancy requirements showing portions of the Facility having occupancy priority. Analyze project planning requirements which may have an impact on the cost of the Port Authority construction work, and adapt time schedules for the work so as to minimize the overall effect of these requirements.

4. Submit a budget for the Port Authority construction work as soon as major requirements for the work have been identified, but in any event within thirty days from the execution of this Agreement by both parties and the delivery of a fully executed copy thereof to the Lessee. Update the budget monthly as the development of the contract drawings and specifications proceeds and advise the Port Authority if it appears that the budget will not be met. Make recommendations for corrective action.

5. Review the contract drawings and specifications with the Port Authority as they are being prepared to eliminate areas of conflict and overlapping in the areas of the work to be performed by the various trade contractors. Recommend alternate solutions whenever design details affect construction feasibility schedules.

6. Develop bid packages and solicit bids. The Lessee shall perform the Port Authority construction work only through the use of independent contractors. Unless the Port Authority consents in writing, the Lessee shall not enter into any contracts for any portion of the Port Authority construction work unless such contracts were competitively bid among at least three qualified contractors approved by the Port Authority. Any contracts awarded by the Lessee for any portion of the Port

Authority construction work shall be awarded only to the lowest qualified bidder from among those submitting bids thereon. The Lessee shall not engage any contractor or subcontractor unless and until each such contractor and subcontractor have been approved by the Port Authority. Further, the Lessee shall not engage any contractor unless and until the contract such contractor is operating under has been approved by the Port Authority. The Lessee shall include in any such contract such provisions as the Port Authority may approve or require, including, without limitation thereto, provisions regarding labor harmony. The Lessee shall cause each such contractor to obtain and maintain in force such insurance coverage as is described in the Agreement to which this Schedule is annexed and such performance bonds as the Port Authority may specify. No changes or modifications to such work shall be made without prior Port Authority consent. The Lessee shall:

(a) prepare and submit to the Port Authority, for approval, the recommended bidders list for each item of the work and for each purchase required in connection therewith;

(b) respond to questions during the bid period, and arrange for and conduct pre-bid conferences, where required.

(c) evaluate base bids, alternate proposals, unit prices, and such other data as may be pertinent;

(d) review all cost proposals in relation to known local and current market conditions for similar work. The Lessee's in-house cost data and recent buy-out information shall be utilized.

(e) hold meetings with bidders to discuss and analyze their bids and quotations, and their proposed approach to insure that they fit within the coordinated construction schedule. Where applicable these meetings shall deal with project logistics, manpower, and sequence of operation.

(f) make a complete evaluation for the Port Authority of the bids and quotations and of all post bid discussions, and recommend award to the Port Authority, including alternates to be accepted, unit prices, total compensation (including overhead and profits), and such other determinations as may be appropriate;

(g) upon receipt of written approval from the Port Authority the Lessee shall enter into contracts and purchase agreements. No changes shall be made to an awarded contracts without the prior written approval of the Port Authority.

7. Prior to the award of any contract for any portion of the Port Authority construction work the price of which is such that the cost of the Port Authority construction work, as defined in subparagraph (b) of paragraph 10 of the Agreement to which this Schedule is attached will exceed Five Million Dollars and No Cents (\$5,000,000.00) the Lessee will notify the Port Authority and forward to it a copy of the contractor's proposal and advise the Port Authority of the amount of the excess. The Port Authority shall then have the option of either (i) giving the Lessee approval to proceed with the award of the contract without revision, which approval shall constitute the Port Authority's agreement to pay the Lessee the amount of such excess in accordance with the provisions of paragraph 10 of the Agreement to which this Schedule is attached, or (ii) to direct the Lessee to revise the final plans and specifications covering the Port Authority construction work for the purpose of effecting a reduction in the cost of the Port Authority construction work. If within sixty (60) days' after the Lessee has notified the Port Authority that the cost of the Port Authority construction work will exceed Five Million Dollars and No Cents (\$5,000,000.00) the Lessee shall not have received the Port Authority's notice electing either option (i) or (ii) in accordance with the provisions of this Schedule the Lessee shall not be obligated to perform any portion of the Port Authority construction work then remaining unfinished. If the Port Authority shall elect option (ii) the Port Authority shall provide the Lessee with sufficient information as is reasonably required to enable the Lessee to prepare revised plans and specifications for the Port Authority construction work and the Lessee shall thereafter prepare such revised plans and specifications and submit them to the Port Authority for review and approval in accordance with the provisions of Schedule E annexed to this Agreement. Upon the Port Authority's approval of the revised plans and specifications the Lessee, by rebidding or, with the Port Authority's prior approval, by negotiations with one or more bidders, shall seek to obtain for the revised work a price which will result in a cost for the Port Authority construction work which does not exceed Five Million Dollars and No Cents (\$5,000,00.00). If the Lessee is successful in obtaining such a price the Lessee shall proceed to perform the Port Authority construction work in accordance with the provisions of the Agreement to which this Schedule is attached. If the Lessee is unable to obtain such reduced price it shall so notify the Port Authority and forward to it a copy of the contractor's proposal based on the revised plans and specifications and advise the Port Authority of the amount the excess over Five Million Dollars and No Cents (\$5,000,00.00) required to perform the Port Authority construction work in accordance with the revised plans and specifications. If within sixty (60) days' after the Lessee has notified the Port Authority of the cost of the Port Authority construction work in excess of Five Million Dollars and No Cents (\$5,000,000.00) based on the revised plans and specifications, the Lessee shall not have received from the Port Authority a notice giving the Lessee

approval to proceed with the award of the contract based upon the revised plans and specifications, which approval shall constitute the Port Authority's agreement to pay the Lessee the amount of such excess in accordance with the provisions of paragraph 10 of the Agreement to which this Schedule is annexed, the Lessee shall not be obligated to perform any portion of the Port Authority construction work remaining unfinished.

B. The Lessee shall not engage any consultants for any element of the work without the express advance written permission of the Port Authority as to the particular consultant, the services to be performed, the form of the agreement, and the compensation to be paid thereunder or the factors entering into the determination of the compensation. The use of consultants shall not relieve the Lessee of any of its obligations under the Lease as herein amended with respect to the performance of the Port Authority construction work. If the consultant does not perform in accordance with the approved plans and specifications covering the work, the Port Authority may rescind its approval for the use of such consultant and require performance by the Lessee through approved contractors, or through other approved consultants. In the event the Lessee receives approval for the use of consultants, the Lessee shall:

(a) prepare and submit to the Port Authority, for approval, the recommended list of consultants for each item of the work requiring a consultant. Prepare the request for proposals and sample consultant agreement, and incorporate therein all provisions required by the Port Authority;

(b) respond to questions during the proposal period, and arrange for and conduct pre-proposal conferences, where required.

(c) evaluate base proposals, alternate proposals, prices, scope of services, and such other data as may be pertinent;

(d) hold meetings with consultants to discuss and analyze their proposals and proposed approach to insure that they fit within the coordinated construction schedule.

(e) make a complete evaluation for the Port Authority of the proposals and all post proposal discussions, and recommend award to the Port Authority, including alternates to be accepted, total compensation (including overhead and profits), and such other determinations as may be appropriate;

(f) upon receipt of written approval from the Port Authority the Lessee shall enter into consultant agreements.

9. During the performance of the Port Authority construction work, the Lessee shall furnish a full time professional manager at the Facility to coordinate the construction. The Lessee shall monitor daily construction activities to insure quality standards, compliance with contract drawings and specifications, scheduling, labor harmony, and compliance with MBE/WBE requirements.

10. The Lessee shall process payment applications and recommend approval or disapproval based on contract terms. The Lessee shall prepare monthly reports to the Port Authority containing updated progress Schedules, cost analysis, daily reports, MBE/WBE reports, and other pertinent data. The Lessee shall hold job meetings with the Port Authority and/or contractors as required.

11. All estimates, reports, records, data, charts, documents, models, designs, renderings, drawings, specifications, computations, and other papers of any type whatsoever, whether written, or in the form of figures or delineations, prepared or compiled in connection with any aspect of the Port Authority design work, the Port Authority construction work, or the Port Authority construction management work shall become the property of the Port Authority and the Port Authority shall have the right to use or to permit the use thereof or of any ideas or methods represented thereby for any purpose and at any time without additional compensation. The Lessee represents and warrants that the Port Authority shall have such ownership and rights at all times free and clear of all claims of third persons, whether presently existing or arising in the future, and whether or not presently known to either the Port Authority or the Lessee. Nothing contained herein shall be or be deemed to impose upon the Lessee the obligation to obtain the right to use any idea, design, method, material, equipment, or other matter which is the subject of a valid patent unless such patent is owned by the Lessee or one of its employees, or by one of its consultants, or its employees. It is further agreed that all information of whatsoever nature which is in any way connected with the performance of the Port Authority construction management work by the Lessee, regardless of the form of the communication, which has or may be given to the Port Authority, or any of its Commissioners, officers, agents, employees, contractors, or consultants by the Lessee or on its behalf, whether prior or subsequent to the execution of this Agreement, is not given in confidence and may be used or disclosed by or on behalf of the Port Authority without liability of any kind, except as may arise under valid existing or pending patents, if any.

12. If research or development is furnished in connection with the performance of the Port Authority design work, the Port Authority construction work, or the Port Authority construction management work, and if in the course of such research and development patentable subject matter is produced by the Lessee or any of its officers, agents, employees, or

consultants the Port Authority shall have an irrevocable, non-exclusive, royalty-free license to make, have, and use, such subject matter, without cost or expense, either itself or on its behalf, in connection with any activity now or in the future engaged in by the Port Authority or any of its subsidiaries. Upon request, the Lessee shall furnish or obtain a form of license satisfactory to the Port Authority from the appropriate person, but it is expressly understood that as between the Port Authority and the Lessee the license provided for herein shall arise for the benefit of the Port Authority immediately upon the production of the subject matter and shall not await formal exemplification in a written license agreement.

13. The Lessee shall promptly furnish the Port Authority with all information concerning any patent or patent dispute, whether existing or potential, of which the Lessee may have knowledge, or which may come to its attention, relating to any idea, design, method, material, equipment, or other matter concerning the performance of the Port Authority design work, the Port Authority construction work, or the Port Authority construction management work.

FORM XLD—Ack., N.J. 51380

STATE OF NEW YORK }
COUNTY OF NEW YORK }

On this _____ day of _____, 19 88, before me, the subscriber, a notary public of New York, personally appeared _____

_____ of The Port Authority of New York and New Jersey, who I am satisfied is the person who has signed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Commissioners.

(notarial seal and stamp)

STATE OF New Jersey }
COUNTY OF Bergen }

On this 19th day of May, 19 88, before me, the subscriber, a ~~Notary~~
Hanson Notary, personally appeared Friedrich Hansen
Serial Vice President of _____

BMW OF NORTH AMERICA, INC., who I am satisfied is the person who has signed the within instrument; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Directors.

Ursula Staudigl
URSULA STAUDIGL
NOTARY PUBLIC, NEW JERSEY
MY COMMISSION EXPIRES JULY 19, 1988

STATE OF _____ }
COUNTY OF _____ }

Be it remembered that on this _____ day of _____, 19____, before me, the subscriber, a _____, personally appeared _____

_____ who I am satisfied is the person named in and who executed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as his voluntary act and deed for the uses and purposes therein expressed.

(notarial seal and stamp)

SUPPLEMENTAL AGREEMENT

118
THIS AGREEMENT, made as of May 18, 1988 by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and BMW OF NORTH AMERICA, INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, the Port Authority and the Lessee have heretofore entered into an agreement of lease made as of December 22, 1987, (which agreement of lease as the same has been heretofore amended, is hereinafter called "the Lease") covering the design, construction, and operation of a motor vehicle preparation center and an integrated multi-level garage for the storage incidental to distribution of motor vehicles on certain premises located at the Port Authority Auto Marine Terminal in the City of Jersey City, County of Hudson, and State of New Jersey (which facility is more particularly described in Section 30 (j) of the Lease as herein amended, and is sometimes hereinafter referred to as "the Facility"), all as more particularly described in the Lease; and

WHEREAS, pursuant to the provisions ~~of the Lease~~ the Port Authority is required to construct or cause to be constructed or installed at the Facility, off the premises, certain improvements as more particularly described in Section 6 of the Lease; and

WHEREAS, in order to facilitate the performance of this work, the Port Authority and the Lessee desire to amend the Lease to provide for the Lessee, through its employees, representatives, agents, contractors and subcontractors, to perform or cause to be performed certain items of the work, subject to certain terms and conditions;

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. (a) Prior to or concurrent with the performance of the Lessee's construction work, as defined in Section 5 of the Lease, and subject to all of the terms, provisions, and conditions of the Lease as herein amended, the Lessee, through its employees, representatives, agents, contractors and subcontractors shall perform or cause to be performed the following categories of work for the Port Authority in certain areas of the Facility not leased to the Lessee under the Lease as herein amended: (i) site preparation of the area shown in stipple

on the sketch annexed to this Agreement, hereby made a part hereof, and marked "Exhibit A-1" (which area is sometimes hereinafter referred to as "the Greenville Site"), including clearance of vegetation and disposal of debris; (ii) paving of the Greenville Site, (iii) the construction of a perimeter roadway connecting the Greenville Site to an existing roadway identified as Colony Road on Exhibit A-1; (iv) the construction of an extension of the existing roadway identified as Colony Road on Exhibit A-1 north along the perimeter of the premises leased to the Lessee under the Lease to the existing trackage of the Consolidated Rail Corporation as shown on Exhibit A-1; (v) the construction of an access roadway connecting the Greenville Site to the portion of the Port Authority Auto Marine Terminal located on the Port Jersey Peninsula as shown on Exhibit A-1; (vi) the installation of fencing and guard rails on the Greenville Site; (vii) the installation of lighting on the Greenville Site; (viii) striping of pavement on the Greenville Site; (ix) the installation of utilities on the Greenville Site, including water, sewer, and storm drainage systems; (x) the installation of utilities including water, sewer, and storm drainage connections to the perimeter of the premises leased to the Lessee under the Lease; and (xi) the construction of railroad crossings for utilities and vehicular traffic, as required (all of the work described in this paragraph being hereinafter collectively referred to as the "Port Authority construction work").

(b) In connection with the Port Authority construction work, and in addition thereto, the Lessee through its employees, representatives, agents, ~~contractors~~ and subcontractors shall perform or cause to be performed the planning and design services described on the Schedule annexed to this Agreement, hereby made a part of the Lease as herein amended, and marked "Schedule E" (such work being hereinafter referred to as the "Port Authority design work") and the construction management services described on the Schedule annexed to this Agreement, hereby made a part of the Lease as herein amended, and marked "Schedule F" (such work being hereinafter referred to as the "Port Authority construction management work"). The Port Authority design work and the Port Authority construction management work shall be performed subject to and in accordance with all of the terms and conditions of the Lease as herein amended, including, without limitation, the terms and conditions set forth in Schedules E and F, respectively.

(c) All of the Port Authority construction work shall be performed in accordance with the Construction Application and final plans and specifications covering such work prepared as part of the Port Authority design work and 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, or shall cause to be redone or replaced, at its own expense any work not done in accordance therewith. In the performance of the Port Authority design work, the Port Authority construction management work, and the Port

Authority construction work, the Lessee shall conform to all orders, directions and requirements of the person or persons hereinafter defined as "the Engineer". The Lessee shall perform, or cause to be performed, the Port Authority design work, the Port Authority construction management work, and the Port Authority construction work to the satisfaction of the Engineer, at such times and at such places, by such methods, and in such manner and sequence as the Engineer may require. The Engineer shall determine the amount, quality, acceptability, and fitness of all parts of the Port Authority construction work, and shall interpret all contract drawings, specifications, and orders for extra work. The Lessee shall not employ or permit to be employed any equipment, materials, methods, or personnel to which the Engineer shall object, and shall not remove or permit the removal of any equipment, materials, or other facilities from the work site without permission from the Engineer. Upon request, the Engineer shall confirm in writing any oral order, direction, requirement, or determination. The enumeration in this paragraph of particular instances in which the opinion, judgement, discretion, or determination of the Engineer shall control or in which the Port Authority design work, the Port Authority construction management work, and the Port Authority construction work shall be performed to the satisfaction of or subject to the inspection of the Engineer shall not imply that only matters of a similar nature shall be so governed and performed, but without exception all aspects of the Port Authority design work, the Port Authority construction management work, and the Port Authority construction work shall be so governed and so performed. Upon completion of the Port Authority construction work, the Lessee shall deliver to the Port Authority a certificate signed by an authorized officer of the Lessee certifying that the Port Authority construction work has been performed in accordance with the Construction Application and final plans and specifications covering such work prepared as part of the Port Authority design work and approved by the Port Authority and in accordance with the provisions of the Lease as herein amended, including, without limitation, the provisions of Schedules E and F annexed to this Agreement. In the event of any inconsistency between the provisions of the Lease as herein amended and those of the Construction Application referred to in this paragraph the provisions of the Lease as herein amended shall control.

(d) The Lessee recognizes that the public interest requires that the Port Authority design work, the Port Authority construction management work, and the Port Authority construction work shall be performed in a manner which the Port Authority deems satisfactory. Accordingly, the Lessee understands and agrees that the person or persons hereinafter defined as "the Director" shall have absolute authority to determine what is or is not necessary or proper for the performance of the Port Authority design work, the Port Authority construction management work, and the Port Authority construction work and that the final plans and specifications covering the Port Authority construction work prepared as part of the Port Authority design work and

approved by the Port Authority in accordance with the provisions of the Lease as herein amended, including, without limitation, the provisions of Schedule E annexed to this Agreement, shall be deemed merely his present intention on this point. In the exercise of his authority, the Director shall have the right to alter the final plans and specifications covering the Port Authority construction work prepared as part of the Port Authority design work and approved by the Port Authority; to require the performance of work not required by the final plans and specifications covering the Port Authority construction work prepared as part of the Port Authority design work and approved by the Port Authority in their present form; and to vary, increase, diminish, or countermand the character, quantity, and quality of any portion of the Port Authority design work, the Port Authority construction management work, and the Port Authority construction work based on necessity, convenience, or other factors which the Director shall deem appropriate. For purposes of this Agreement, it is understood and agreed that any design work in addition to the design work described in Schedule E, any construction management work in addition to the construction management work described in Schedule F, and any construction work in addition to the work shown on the final plans and specifications prepared as part of the Port Authority design work and approved by the Port Authority in accordance with the provisions of the Lease as herein amended, including, without limitation, the provisions of Schedule E annexed to this Agreement, which the Lessee is required to perform or cause to be performed shall be deemed extra work. The Lessee shall not perform or cause to be performed any extra work with respect to the Port Authority design work or the Port Authority construction work in the absence of an order signed by the Director which order shall constitute the Port Authority's agreement to pay the Lessee for such work an amount equal to the actual net cost in money of the labor and materials required for such work. The Lessee shall not perform or cause to be performed any extra work with respect to the Port Authority construction work, the cost of which, as defined in subparagraph (b) of paragraph 10 of this Agreement, is such as to cause the cost of all of the Port Authority construction work to exceed Five Million Dollars and No Cents (\$5,000,000.00) in the absence of an order signed by the Director which order shall constitute the Port Authority's agreement to pay the Lessee the amount of such excess in accordance with the provisions of subparagraph (b) of paragraph 10 of this Agreement. If in the absence of an order from the Director, the Engineer shall direct, order, or require the Lessee to perform or cause to be performed any work which the Lessee deems to be extra work, the Lessee shall notify the Director as well as the Engineer stating the reasons why the Lessee deems such work to be extra work. The Director shall then either verify the Lessee's claim and authorize the performance of the work as extra work or shall have the right to cancel the direction, order, or requirement relating to the performance of such work.

If at any time during the performance of the Port Authority design work, the Port Authority construction management work, or the Port Authority construction work the Director shall determine that it is impracticable or undesirable to proceed with or continue the performance of such work, for any reason whatsoever, the Director shall have the right to suspend the performance of such work until such time as he deems it practical or desirable to proceed, or to terminate the Lessee's obligation to perform or cause to be performed the balance of such work. Such cancellation shall be without prejudice to the rights of either the Port Authority or the Lessee with respect to those portions of the work already performed.

To resolve all disputes and to prevent litigation the Lessee and the Port Authority authorize the Assistant General Manager, Facilities Management Division of the Port Department of the Port Authority, for the time being, or his successor in duties for the purposes of this Agreement, acting personally (such persons being hereinafter collectively referred to as "the Assistant General Manager") to decide all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to the performance of the Port Authority design work, the Port Authority construction management work, and the Port Authority construction work pursuant to the Lease as herein amended, including claims in the nature of breach, fraud, or misrepresentation whether arising before or after the execution of this Agreement by the Lessee and the decision of the the Assistant General Manager shall be conclusive, final, and binding on the Port Authority and the Lessee. The decision of the Assistant General Manager shall not be affected by any termination of the letting under the Lease as herein amended, by cancellation of then Lessee's obligation to perform or cause to be performed any portion of the Port Authority design work, the Port Authority construction management work, or the Port Authority construction work, by negotiations or settlement offers made in connection with the question decided, whether or not the Assistant General Manager participated, or by any prior decision of the Engineer, which decisions shall be deemed subject to review by the Assistant General Manager. All questions which are subject to review by the Assistant General Manager shall be submitted by the Lessee to the Assistant General Manager in writing, together with all evidence and other pertinent information, in order that a fair and impartial decision may be made. Such submission shall be a condition precedent to any action against the Port Authority relating to any question which is subject to the review of the Assistant General Manager pursuant to the terms of the Lease as herein amended. In any such action, the Lessee must allege and prove such submission, and no evidence or information shall be introduced or relied on in any such action if such evidence or information has not been presented to the Assistant General Manager pursuant to the provisions of this paragraph. Neither the requirements of this paragraph, nor the time necessary to comply therewith, however, shall affect the time when the Lessee's cause of action shall be

deemed to have accrued for purposes of any statute controlling action against the Port Authority, and the time of such accrual shall be determined without reference to this paragraph.

(e) As used herein:

(i) the term "Engineer" shall mean the Assistant General Manager, Facilities Management Division of the Port Department of the Port Authority, for the time being, or his successor in duties for the purposes of this Agreement, acting either personally or through his duly designated representative for the purpose of this Agreement, who is at present the Resident Engineer at the Facility, acting within the scope of the particular authority vested in them, except that the Resident Engineer is not authorized to determine what constitutes Extra Work; and

(ii) the term "Director" shall mean the Director of the Port Department of the Port Authority for the time being, or his successor in duties for the purposes of this Agreement, acting either personally or through his duly designated representatives for the purpose of this Agreement, who are at present the Deputy Director of the Port Department of the Port Authority and the Assistant Director (Facilities Management, Planning and Properties) of the Port Department of the Port Authority.

No persons other than those specifically referred to in this paragraph shall be deemed a representative of the Director or the Engineer except to the extent specifically authorized by written notice to the Lessee signed by the Director or the Engineer, as the case may be. No person shall be considered a successor in duties to either the Director or the Engineer unless the Lessee is notified of that fact by the Executive Director, Deputy Executive Director, or an Assistant Executive Director of the Port Authority.

2. With respect to the Port Authority construction work, the Port Authority design work, and the Port Authority construction management work the Lessee shall be the insurer of the Port Authority, and its Commissioners, officers, agents and employees against the following distinct and several risks, whether they arise from acts or omissions of the Lessee, any contractors of the Lessee, the Port Authority, third persons, or from acts of God or the public enemy, or otherwise, excepting only risks which result solely from affirmative wilful acts done by the Port Authority subsequent to commencement of the work:

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

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

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

3. No portion of the Port Authority construction work or the Port Authority construction management work shall be commenced until the the Construction Application and plans and specifications covering such work, which the Lessee is required to prepare or cause to be prepared as part of the Port Authority design work, as more particularly described in Schedule E annexed to this Agreement, have been finally approved by the Port Authority.

4. Without limiting the generality of any of the provisions of the Lease as herein amended, the Port Authority construction work shall be performed in such a manner that there will be at all times during construction a minimum of air pollution, water pollution or any other type of pollution, and a minimum of noise emanating from, arising out of, or resulting from construction. Subject to the provisions of the Lease as herein amended, the Lessee shall construct or cause to be constructed 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 the Lease as herein amended.

5. Without limiting the generality of any of the provisions of this Agreement, or the provisions of Schedule E annexed hereto, the Lessee shall be solely responsible for the plans and specifications used by it and for the adequacy or sufficiency of such plans, 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 Port Authority 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 understands and agrees that if any portion of the Infrastructure, as defined in Section 6 of the Lease, is to be designed as part of the Port Authority design work and constructed as part of the Port Authority construction work, and such portion of the Infrastructure is unavailable for use by the Lessee on the Rental Payment Start Date established pursuant to the provisions of the Lease because that portion of the Port Authority design work or the Port Authority construction work, as the case may be, which includes the design or construction of such portion of the Infrastructure has not been completed by the Rental Payment Start Date established pursuant to the provisions of the Lease, the Lessee's obligation to pay all rentals provided for under the Lease shall nevertheless commence, and the rental postponement provisions of the Lease shall not apply. Notwithstanding the foregoing, the rental postponement provisions of the Lease shall apply if the failure to complete the work by such date results from (i) the Port Authority's failure to obtain property rights from third parties which are required to enable the work to be completed, (ii) the Port Authority's failure to obtain any municipal or other governmental approvals which may be required to enable the work to be completed, or (iii) the Port Authority's failure to approve, reject, or request revisions to the Construction Application and final plans and specifications covering such work, prepared as part of the Port Authority design work, within twenty-one (21) days' of the Port Authority's receipt thereof. Nothing contained herein shall or shall be deemed to affect the rental postponement provisions of the Lease in the event any portion of the Infrastructure the design and construction of which is not part of the Port Authority design work and the Port Authority construction work, respectively, is unavailable for the Lessee's use on the Rental Payment Start Date established pursuant to the provisions of the Lease.

6. 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 Port Authority construction work, the Port Authority design work, and the Port Authority construction management 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 Port Authority Auto Marine Terminal or any part thereof, nor to prevent the Lessee from contesting claims in good faith.

2

7. (a) In addition to all policies of insurance otherwise required by the Lease as herein amended, the Lessee shall procure and maintain or cause to be procured and maintained in effect during the performance of the Port Authority design work, the Port Authority construction management work, and the Port Authority construction work:

(i) Comprehensive General Liability Insurance including but not limited to Premises-Operations and Completed Operations coverage, with a contractual liability endorsement covering the obligations assumed by the Lessee under paragraph 2 of this Agreement and which are customarily insured under such a policy, with a minimum combined single limit coverage for bodily injury and property damage of \$2 million.

(ii) Comprehensive Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with said construction with a minimum combined single limit coverage of \$2 million.

(iii) Worker's Compensation Insurance in accordance with the requirements of law.

(b) With the exception of the Workers' Compensation Insurance policy each policy of insurance described in subparagraph (a) of this paragraph shall include the Port Authority as an additional insured, and no such policy shall contain any care, custody or control exclusions, or any exclusion for bodily injury to or sickness, disease or death of any employee of the Lessee or of any of its contractors which would conflict with or in any way impair the coverages resulting from the Port Authority's status as an additional insured or the coverage under the contractual liability endorsement described in subdivision (i) of subparagraph (a) of this paragraph. 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.

(c) Unless otherwise set forth herein, each policy of insurance described in this paragraph shall be subject to the applicable provisions of the Lease as herein amended.

8. In the performance of the Port Authority construction work the Lessee shall not permit any situation or condition to continue that may cause or be conducive to any labor troubles at the Facility which interfere with the progress of other construction work at the Facility. The determinations of the Port Authority shall be conclusive on the Lessee and, upon

notice from the Port Authority, the Lessee shall or shall cause its contractor to immediately rectify any condition specified in the notice. In the event of failure by the Lessee or any of its contractors to immediately comply with the requirements of this paragraph (whether or not such failure is due to the Lessee's fault) the Port Authority by notice shall have the right to suspend the Port Authority's permission to the Lessee to proceed with any portion of the Lessee's construction work being performed by or on behalf of the Lessee, and the Lessee shall thereupon immediately cease the same. When labor troubles shall be so settled that such interference or the danger thereof no longer exists, the Port Authority by notice to the Lessee, shall reinstate the permission to the Lessee to perform the work on all the same terms and conditions as before the suspension. "Labor troubles" shall mean and include strikes, boycotts, picketing, work-stoppages, slowdowns, complaints, disputes, controversies or any other type of labor trouble, regardless of the employer of the person involved or their employment status, if any.

9. As a matter of policy the Port Authority requires the Lessee and the Lessee shall require its contractor to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBE's) and Women Business Enterprises (WBE's) in the Port Authority construction work. "Meaningful participation" shall mean at least ten percent (10%) of the firms performing the Lessee's construction work are MBE's, and at least one percent (1%) of the firms performing the Lessee's Construction Work are WBE's. A Minority Business Enterprise shall mean a company or firm at least 51% of which is owned and controlled by a minority or minorities. A Women Business Enterprise shall mean a company or firm at least 51% of which is owned and controlled by a woman or women. For purposes of this paragraph minority is a member of one of the following groups:

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

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

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

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

Good faith efforts to include meaningful participation by MBE's and WBE's shall include at least the following:

(1) Making plans and specifications for prospective construction work available to MBE's and WBE's in sufficient time for review.

(2) Utilizing the list of eligible MBE's and WBE's maintained by the Port Authority or seeking minorities or women from other sources for the purpose of soliciting bids for contractors.

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

(4) Insuring that provision is made to provide progress payments to MBE's and WBE's on a timely basis.

(5) Not requiring bonds from and/or providing bonds and insurance for MBE's and WBE's, where appropriate.

10. (a) As full compensation for the performance of the Port Authority design work, the Port Authority shall pay the Lessee the sum of Two Hundred Thousand Dollars and No Cents, as follows: within thirty (30) days of the date the Lessee submits to the Port Authority for its review and approval the Construction Application and complete plans and specifications referred to in Schedule E with respect to any individual contract for the performance of any item of the Port Authority construction work together with a statement certified by the Lessee estimating the amount of the Port Authority design work performed by the Lessee with respect to such contract and the proportion such amount of the Port Authority design work bears to the total amount of the Port Authority design work to be performed by the Lessee pursuant to the terms of the Lease as herein amended, as set forth in Schedule E, the Port Authority shall pay to the Lessee a sum bearing the same proportion to the sum of Fifty Thousand Dollars and No Cents (\$50,000.00) as such amount of the Port Authority design work bears to the total amount of the Port Authority design work to be performed by the Lessee pursuant to the terms of the Lease as herein amended, as set forth in Schedule E, provided that in the opinion of the Engineer the value of the completed work to the Port Authority at least equals such sum; within thirty (30) days of the date the Port Authority finally approves the plans and specifications referred to in Schedule E with respect to any individual contract for the performance of any item of the Port Authority construction work, the Port Authority shall pay to the Lessee a sum bearing the same proportion to the sum of One Hundred Ten Thousand Dollars and No Cents (\$110,000.00) as the amount of the Port Authority design work performed by the Lessee with respect to such contract, in accordance with the certified statement submitted by the Lessee with respect to such contract, bears to the total amount of the Port Authority design work to be performed by the Lessee pursuant to the terms of the Lease as

herein amended, as set forth in Schedule E, provided that in the opinion of the Engineer the value of the completed work to the Port Authority at least equals such sum; and at the time that the Port Authority remits to the Lessee the final payment on account of the Port Authority construction work pursuant to the provisions of subparagraph (b) of this paragraph, the Port Authority shall remit to the Lessee the sum of Forty Thousand Dollars and No Cents (\$40,000.00).

(b) As full compensation for the performance of the the Port Authority construction management work, the Port Authority will pay to the Lessee a sum equal to One Hundred Thousand Dollars and No Cents (\$100,000.00), and as full compensation for the performance of the Port Authority construction work the Port Authority will pay to the Lessee a sum (which sum is hereinafter referred to as "the Qualifying Cost of the Port Authority construction work") equal to the lesser of: (i) the cost, as hereinafter defined, of the Port Authority construction work or (ii) Five Million Dollars (\$5,000,000.00). The Qualifying Cost of the Port Authority construction work and the amount payable to the Lessee for the performance of the the Port Authority construction management work pursuant to the provisions of this subparagraph shall be payable to the Lessee upon and during the performance by the Lessee of the Port Authority construction work and the Port Authority construction management work in accordance with the provisions of subparagraph (c) of this paragraph. To the extent permitted by sound accounting practice, the sum of the following items of cost incurred by the Lessee in performing the Port Authority construction work shall constitute the cost thereof for the purposes of this Agreement:

- (1) The Lessee's payments to contractors;
- (2) The Lessee's payments for supplies and materials;
- (3) The Lessee's payments to persons, firms or corporations other than construction contractors or suppliers of materials, for services rendered or rights granted in connection with construction, not including services required in connection with the performance of the Port Authority Design Work, or services required in connection with the Port Authority construction management work, and not including services of the types mentioned in item (4) of this subparagraph;
- (4) The Lessee's payments of premiums for such insurance coverage as the Lessee is required to maintain in effect during the period of the performance of the Port Authority construction work in accordance with the provisions of the Lease as herein amended, and such performance bonds as the Port Authority may specify in accordance with the provisions of the Lease as herein amended;

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

(c) On or about the tenth day of the first calendar month following the commencement of the Port Authority construction work the Lessee shall certify to the Port Authority by written certification subscribed by a responsible officer of the Lessee: (i) the amount of the Port Authority construction work performed by the Lessee in the preceding month showing separately the cost of each item of work described in the certificate, and the amount paid by the Lessee on account of such cost, if any; (ii) that except for the amount, if any, stated in such certificate to be due for services and materials, there is no outstanding indebtedness known to the persons signing such certificate, after due inquiry, then due on account of the purchase of any equipment or fixtures described in the certificate or for labor, wages, materials, supplies or services in connection with any work described therein which, if unpaid, might become the basis of a vendor's, mechanic's, laborer's or materialmen statutory or similar lien or alleged lien upon said work or upon the Facility, or any part thereof, nor are any of the equipment, or fixtures described in such certificate secured by any liens, mortgages, security interests or other encumbrances. Nothing contained herein shall be deemed or construed as a submission by the Port Authority to the application to itself of any such lien; and (iii) that the work for which the amount set forth in the certificate is due has been performed in accordance with the Lessee's approved plans and specifications and the provisions of this Agreement. Within thirty (30) days of its receipt of the Lessee's certificate, the Port Authority shall remit to the Lessee on account of the cost of the Port Authority construction work an amount equal to the cost of performing the portion of the Port Authority construction work described in the certificate less ten percent (10%) thereof and also less the amount of any claims made against the Port Authority by subcontractors, materialmen or workmen, if any, in connection with any of the work described in the certificate. In addition, the Port Authority shall remit to the Lessee on account of the performance of the Port Authority construction management work a sum bearing the same proportion to One Hundred Thousand Dollars and No Cents as the amount remitted to the Lessee on account of the cost of the Port Authority construction work bears to the sum of Five Million Dollars and No Cents, less ten percent (10%) thereof and also less the amount of any claims made against the Port Authority by subcontractors, materialmen or workmen, if any, in connection with any of the Port Authority construction management work, provided that in the opinion of the Engineer the value of the completed work to the Port Authority at least equals

2

such sum. On the tenth day of each month thereafter during the period of the performance of the Port Authority construction work the Lessee shall deliver a similar certificate to the Port Authority signed by a responsible officer of the Lessee which certificate shall certify the amount of the Port Authority construction work performed by the Lessee in the preceding month showing separately the cost of each item of work described in the certificate performed by the Lessee in the preceding month, the amount of such cost incurred by the Lessee during such month, and the payments made on account of such cost, and such certificate shall also contain the statements set forth in subdivisions (ii) and (iii) of this paragraph (c) with respect to the work. Within thirty (30) days of its receipt of such certificate the Port Authority shall remit to the Lessee an amount equal to the cost of the portion of the Lessee's construction work performed by the Lessee in the preceding month as shown in the certificate less ten percent (10%) thereof and less the amount of claims, if any, made against the Port Authority by subcontractors, materialmen or workmen on account of any of the work described in the certificate. In addition, the Port Authority shall remit to the Lessee on account of the performance of the Port Authority construction management work a sum bearing the same proportion to One Hundred Thousand Dollars and No Cents as the amount remitted to the Lessee on account of the cost of the Port Authority construction work bears to the sum of Five Million Dollars and No Cents, less ten percent (10%) thereof and also less the amount of any claims made against the Port Authority by subcontractors, materialmen or workmen, if any, in connection with any of the Port Authority construction management work; provided that in the opinion of the Engineer the value of the completed work to the Port Authority at least equals such sum. Upon final completion of all of the Port Authority construction work to be performed by the Lessee as set forth in the approved plans and specifications referred to in Schedule E, the Lessee shall submit to the Port Authority a final certification signed by a responsible officer thereof that all work has been completed, which certificate shall certify separately the final cost of all of the Port Authority construction work performed by the Lessee showing separately the cost of each item of the work, the cumulative payments made by the Lessee on account of such costs, and shall also certify the items set forth in subdivisions (ii) and (iii) of this paragraph (c) with respect to all of the work. Within ninety (90) days of its receipt of the Lessee's final certificate, the Port Authority shall finally inspect the Facility and the work and after such inspection the Port Authority shall notify the Lessee if all of the work has been performed in accordance with the approved plans and specifications and the provisions of this Agreement. The receipt of such notice by the Lessee shall not operate to release the Lessee from any of its obligations under the Lease as herein amended with respect to the performance of the Port Authority design work, the Port Authority construction work, or the Port Authority construction management work. If all of the Port Authority construction work has been completed in accordance with the approved plans and specifications, and the provisions of this

(EX. 4)

(EX. 4)

Lease No. AMT-004

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

AGREEMENT OF LEASE

Between

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

And

BMW OF NORTH AMERICA, LLC.

Dated as of March 8, 2009

TABLE OF CONTENTS

Section 1.	Letting	1
Section 2.	Term	1
Section 3.	Rental	1
Section 4.	Use of the Premises	7
Section 5.	Construction by the Lessee	8
Section 6.	Infrastructure	9
Section 7.	Quiet Enjoyment	11
Section 8.	Ingress and Egress	11
Section 9.	Governmental and Other Requirements	11
Section 10.	Rules and Regulations	12
Section 11.	Method of Operation	13
Section 12.	Signs	15
Section 13.	Indemnity and Liability Insurance	15
Section 14.	Maintenance and Repair	17
Section 15.	Casualty	20
Section 16.	Construction by the Lessee	20
Section 17.	Additional Rent and Charges	21
Section 18.	Rights of Entry Reserved	22
Section 19.	Limitation of Rights and Privileges Granted	23
Section 20.	Prohibited Acts	23
Section 21.	Termination	25
Section 21A.	Termination with Cause	27
Section 22.	Right of Re-entry	27
Section 23.	Waiver of Redemption	27
Section 24.	Survival of the Obligations of the Lessee	27
Section 25.	Reletting by the Port Authority	28
Section 26.	Remedies to Be Nonexclusive	29
Section 27.	Surrender	29
Section 28.	Acceptance of Surrender of Lease	30
Section 29.	Notices	30
Section 30.	General	30
Section 31.	Premises	33
Section 32.	Force Majeure	33
Section 33.	Brokerage	34
Section 34.	Non-Liability of Individuals	34
Section 35.	Services	34
Section 36.	Rental Credit	36
Section 37.	Records	37
Section 38.	Lessee's Right of Termination	38
Section 39.	Security Deposit	38
Section 40.	Additional Provisions Governing Pollution	39
Section 41.	Condemnation	40
Section 42.	Assignment	42

Section 43.	Subletting	42
Section 44.	Environmental Compliance	42
Section 45.	Late Charges	47
Section 46.	Claims and Counter Claims	48
Section 47.	Continued Use and Occupancy After Expiration or Termination	48
Section 48.	Surrender by the Lessee	48
Section 49.	Entire Agreement	49

Schedule A
Schedule B

Exhibit A
Exhibit A-1

Lease No. AMT-004

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

WITNESSETH, THAT:

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

Section 1. Letting

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

Section 2. Term

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

Section 3. Rental

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

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

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

(b) Basic Rental

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

(2) As used in this subparagraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Annual Throughput Rental

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

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

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

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

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

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

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

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

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

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

(d) Abatement

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

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

Section 4. Use of the Premises

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

Section 5. Construction by the Lessee

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

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

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

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

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

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

Section 6. Infrastructure

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

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

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

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

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

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

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

Section 7. Quiet Enjoyment

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

Section 8. Ingress and Egress

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

Section 9. Governmental and Other Requirements

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

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

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

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

Section 10. Rules and Regulations

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

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

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

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

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

Section 11. Method of Operation

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

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

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

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

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

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

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

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

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

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

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

Section 12. Signs

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

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

Section 13. Indemnity and Liability Insurance

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

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

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

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

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

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

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

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

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

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

Section 14. Maintenance and Repair

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

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

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

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

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

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

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

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

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

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

Section 15. Casualty

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

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

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

Section 16. Construction by the Lessee

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

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

Section 17. Additional Rent and Charges

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

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

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

Section 18. Rights of Entry Reserved

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

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

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

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

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

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

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

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

Section 19. Limitation of Rights and Privileges Granted

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

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

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

Section 20. Prohibited Acts

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

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

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

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

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

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

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

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

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

Section 21. Termination

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 21A. Termination with Cause

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

Section 22. Right of Re-entry

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

Section 23. Waiver of Redemption

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

Section 24. Survival of the Obligations of the Lessee

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

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

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

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

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

Section 25. Reletting by the Port Authority

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

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

Section 26. Remedies to Be Nonexclusive

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

Section 27. Surrender

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

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

Section 28. Acceptance of Surrender of Lease

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

Section 29. Notices

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

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

Section 30. General

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 31. Premises

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

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

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

Section 32. Force Majeure

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

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

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

Section 33. Brokerage

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

Section 34. Non-Liability of Individuals

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

Section 35. Services

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

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

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

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

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

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

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

Section 36 Rental Credit

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

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

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

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

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

Section 37. Records

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

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

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

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

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

Section 38. Lessee's Right of Termination

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

Section 39. Security Deposit

Upon the execution of this Agreement by the Lessee and delivery thereof to the Port Authority, the Lessee shall deliver to the Port Authority, as security for the full, faithful and prompt performance of and compliance with, on the part of the Lessee, all of the terms, provisions, covenants and conditions of this Agreement on its part to be fulfilled, kept, performed or observed, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York District and acceptable to the Port Authority, in favor of the Port Authority, and payable in the Port of New York District in the amount of One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00). The form and terms of such letter of credit, as well as the institution issuing it, shall be subject to the prior and continuing approval of the Port Authority. Such letter of credit shall provide that it shall continue throughout the term of this Agreement and for a period of not less than six (6) months thereafter; such continuance may be by provision for automatic renewal or by substitution of a subsequent clean and irrevocable satisfactory letter of credit. If requested by the Port Authority, said letter of credit shall be accompanied by a letter explaining the opinion of

counsel for the banking institution that the issuance of said clean, irrevocable letter of credit is an appropriate and valid exercise by the banking institution of the corporate power conferred upon it by law. Upon notice of cancellation of a letter of credit, the Lessee agrees that unless the letter of credit is replaced by another letter of credit satisfactory to the Port Authority by a date not later than twenty (20) days prior to the effective date of cancellation, the Port Authority may draw down the full amount thereof and thereafter the Port Authority will hold the same as security. Failure to provide such a letter of credit at any time during the term of this Agreement valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Lessee. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Lessee, upon demand by the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to its full amount. No action by the Port Authority pursuant to the terms of any letter of credit, or any receipt by the Port Authority of funds from any bank issuing such letter of credit, shall be or be deemed to be a waiver of any default by the Lessee under the terms of this Agreement, and all remedies under this Agreement and of the Port Authority consequent upon such default shall not be affected by the existence of a recourse to any such letter of credit.

Section 40. Additional Provisions Governing Pollution

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

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

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

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

Section 41. Condemnation

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

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

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

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

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

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

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

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

Section 42. Assignment

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

Section 43. Subletting

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

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

Section 44. Environmental Compliance

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 45. Late Charges

If the Lessee should fail to pay any amount required under this Agreement when due to the Port Authority, including without limitation any payment of *rental or any payment of utility fees or charges, or other charges or fees, or if any such amount is found to be due as the result of an audit*, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period hereinbelow described during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time there for by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this Section, with respect to such unpaid amount. Each late charge shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rentals as set forth in this Agreement. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section of this Agreement

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

Section 46. Claims and Counter Claims

The Lessee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of rents, fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed.

Section 47. Continued Use and Occupancy After Expiration or Termination

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

Section 48. Surrender by the Lessee

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

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

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

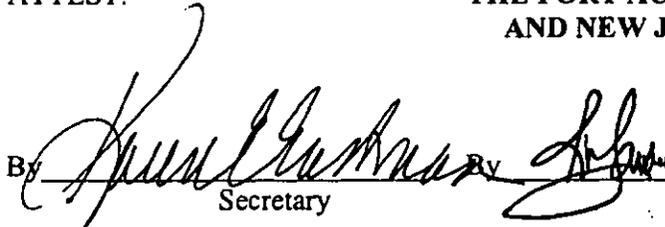
Section 49. Entire Agreement

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

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

ATTEST:

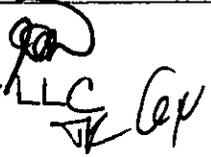
**THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY**

By  Secretary

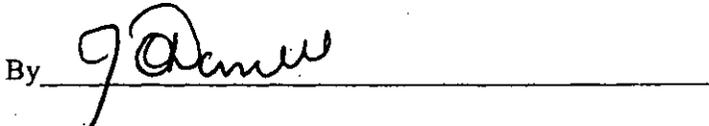
Name RICHARD M. LARRABEE
DIRECTOR, PORT COMMERCE DEPT. (Please Print Clearly)

(Title) _____ (Seal)

ATTEST:

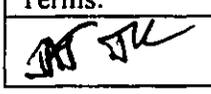
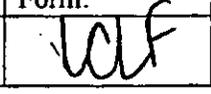
BMW OF NORTH AMERICA, INC. 

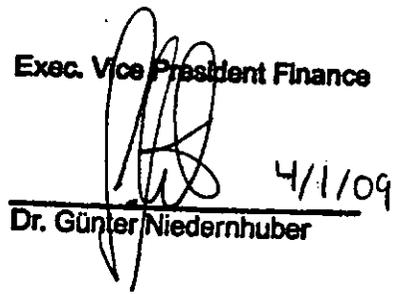
By  Secretary

By 

Name J. O. DONNELL
(Please Print Clearly)

(Title) President
(Corporate Seal)

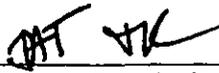
Port Authority Use Only	
Approval as to Terms:	Approval as to Form:
	

Exec. Vice President Finance
 4/1/09
Dr. Günter Niedernhuber

LCL/DMT

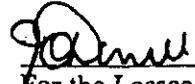
SCHEDULE A

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



For the Port Authority

Initialed:



For the Lessee

SCHEDULE B
Maximum Rental

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



For the Port Authority

Initialed:



For the Lessee

For the Port Authority

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

On the 12th day of June in the year 2009, before me, the undersigned, a Notary Public in and for said state, personally appeared RICHARD M. LARRABEE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

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

Lucy Ambrosino

(notarial seal and stamp)

For BMW of North America, Inc. LLC

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

On the 1st day of April in the year 2009, before me, the undersigned, a Notary Public in and for said state, personally appeared Dr. G. Niedernhuber & J. O'Donnell, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Renate Kulnik

(notarial seal and stamp)

RENATE KULNIK
ID # 2372528

NOTARY PUBLIC OF NEW JERSEY
Commission Expires 4/17/2013

(EX. 4)

(EX. 4)

MLPF-11551.1

Lease No. L-NS-900

AGREEMENT

between

THE PORT AUTHORITY

OF NEW YORK AND NEW JERSEY

and

TOYOTA MOTOR SALES, U.S.A., INC.

Dated as of **September 18, 1976.**

MLPF 4473

THIS AGREEMENT OF LEASE, made as of the 18th day of September, 1976, 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 York and New Jersey with the consent of the Congress of the United States of America, and having an office and place of business at One World Trade Center, New York, New York 10048, and

TOYOTA MOTOR SALES, U.S.A., INC.,

a California corporation (hereinafter called "the Lessee"), with an office and place of business at 2055 West 190th Street, Torrance, California 90509

whose representative is: Mr. Richard Gallio,

WITNESSETH, THAT:

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

ARTICLE I. The Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority, at Port Newark

(sometimes hereinafter called "the Facility") in the City of Newark,

County of Essex, State of New Jersey, the following described premises: the open areas shown in diagonal stipple, vertical stipple, horizontal stipple and plain stipple on a sketch hereto attached, hereby made a part hereof, and marked "Exhibit A"; the open area shown in stipple on the sketches hereto attached, hereby made a part hereof, and marked respectively "Exhibit A-4", "Exhibit A-5", and "Exhibit A-6"; and the building shown in diagonal crosshatching and the open areas shown in diagonal stipple, horizontal stipple and plain stipple on a sketch hereto attached, hereby made a part hereof, and marked "Exhibit A-7", together with the buildings, structures, fixtures, improvements, and other property, if any, of the Port Authority located or to be located therein or thereon, the said areas, buildings, structures, fixtures, improvements and other property of the Port Authority being hereinafter called "the premises".

ARTICLE II. The term of the letting shall commence at ~~12:01 o'clock A.M. on~~ and expire as set forth in Standard Endorsement No. 132.4 and, unless sooner terminated, shall expire at 11:59 o'clock P.M. on

ARTICLE III. The Lessee shall pay a basic rental at the rate of \$ _____ per annum, payable in equal as set forth in Special Endorsement No. 2. monthly installments in full in advance each in the sum of \$ _____

and in the sum of \$ _____ on _____ and on the first day of each calendar month thereafter during the term of the letting.

MLPF-10672

ARTICLE IV. The Lessee shall use and occupy the premises for the following purposes only, and for no other purpose whatsoever:

for the receipt, storage incidental to transportation, and distribution of imported vehicles for the account of the Lessee, and for the operation of a vehicle-preparation facility for such imported vehicles, and as an administrative office in connection with the foregoing.

ARTICLE V. The Port Authority and the Lessee agree that the letting shall be subject to and in accordance with, and the Lessee and the Port Authority each for itself agrees that it will perform all the obligations imposed upon it by, the Terms and Conditions (Sections 1 through 30) hereof and the following endorsements and attachments, all annexed hereto and made a part hereof, with the same effect as if the same were set forth herein in full:

TITLE	NUMBER	DATE
Services	Standard Endorsement No. L5.1	10/6/75
Construction by the Lessee	" "	
Port Newark	No. L15.1	10/6/64
Insurance	No. L19.4	10/6/73
Siding Rights	No. L21.1	4/4/70
Abatement	No. L24.4	4/4/65
Construction	No. L27.4	10/6/68
Sixteen special endorsements	No. L32.4	8/29/58
Space plans	Exhibits A, A-1, A-2, A-3, A-4, A-5, A-6 and A-7	
Schedule of Construction Work	Schedule C	
Schedule naming Rules, Regulations, Rates and Charges applying at Port Authority Marine Terminals - Exhibit R		
Schedule defining improvement work - Schedule W		

ARTICLE VI. The within, together with the said Terms and Conditions, endorsements and attachments, constitutes the entire agreement of the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by written instrument duly executed by the Port Authority and the Lessee. The Lessee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in this Agreement.

IN WITNESS WHEREOF, the Port Authority and the Lessee hereto have executed these presents as of the date first above written.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

ATTEST:

Catherine A. Zappacosta
ASSISTANT SECRETARY

By

Title

Anthony Lopez
Director, Marine Terminals
(Seal)

TOYOTA MOTOR SALES, U.S.A., INC.

ATTEST:

[Signature]

By

Title

J. Makino
President
(Corporate Seal)

APPROVED:	
FORM	TERMS
<u><i>[Signature]</i></u>	<u><i>[Signature]</i></u>

48

TERMS AND CONDITIONS

SECTION 1. *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. 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 all municipalities and other governmental authorities, and their respective successors and assigns, of and from any and all claims, demands, or causes of action which the Lessee may now or at any time hereafter have against any of the foregoing, arising or alleged to arise out of the closing of any way or other area, whether within or outside the Facility. The Lessee shall not do or permit anything to be done which will interfere with the free access and passage of others to space adjacent to the premises or in any streets, ways and walks near the premises.

SECTION 2. *Governmental and Other Requirements*

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

(b) The Lessee shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, rules, regulations, requirements, orders and directions which may pertain or apply to its operations or the use and occupancy of the premises hereunder, and in addition shall make all improvements, repairs and alterations which may be so required.

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

SECTION 3. *Rules and Regulations*

(a) The Lessee covenants and agrees to observe and obey (and to compel its officers, employees and others on the premises with its consent to observe and obey) the Rules and Regulations of the Port Authority as now supplemented and now in effect, and such further reasonable rules and regulations (including amendments and supplements thereto) for the government of the conduct and operations of the Lessee as may from time to time during the letting be promulgated by the Port Authority for reasons of safety, health, or preservation of property, or for the maintenance of the good and orderly appearance of the premises, or for the safe or efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it will give notice to the Lessee of every such further rule or regulation at least five (5) days before the Lessee shall be required to comply therewith.

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

(c) No statement or provision in the said 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 4. *Method of Operation*

(a) In the performance of its obligations hereunder and in the use of the premises the Lessee shall conduct its operations in an orderly and proper manner, so as not to annoy, disturb or be offensive to others near the premises or at the Facility and within twenty four hours 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 others on the premises with the consent of the Lessee.

(b) The Lessee shall not allow any garbage, debris or other waste materials (whether solid or liquid) to collect or accumulate on the premises and the Lessee shall remove from the premises and from the Facility all garbage, debris and other waste materials (whether solid or liquid) arising out of its operations hereunder. Any such material which may be temporarily stored shall be kept in suitable waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and in any case to be designed and constructed to contain safely the waste material placed by the Lessee therein. The 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 first approved by the Port Authority, and shall in no event make use of any facilities or equipment of the Port Authority except with the prior consent thereof.

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

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

(e) The Lessee shall take all reasonable measures to keep the sound level of its operations as low as possible and to eliminate vibrations tending to damage the premises or the Facility or any part thereof.

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

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

(h) The Lessee shall not overload any floor, roof, land surface, bulkhead, pavement, landing, pier or wharf at the Facility, and shall repair, replace or rebuild any such, including but not limited to supporting members, damaged by overloading. For the purpose of this paragraph (h), any placing on the premises of a load per square foot in excess of the number of pounds avoirdupois, if any, stated in any Special Endorsement hereto shall constitute overloading, but an overload may be created by a lesser weight. Nothing in this paragraph or elsewhere in this Agreement shall be or be construed to be a representation by the Port Authority of the weight capacity of any part of the Facility.

(i) The Lessee shall not do or permit to be done any act or thing upon the premises or at the Facility which (1) will invalidate or conflict with any fire insurance policies covering the premises or any part thereof, or the Facility, or any part thereof or (2) 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 (3) which will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or on the contents of any building thereon. The Lessee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the National Fire Protection Association and, if the premises are located in New York, of the Insurance Services Office of New York, or, if the premises are located in New Jersey, of the Insurance Services Office of New Jersey, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Lessee on

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the premises, and the Lessee shall, subject to and in accordance with the provisions of this Agreement relating to construction by the Lessee, make any and all structural and non-structural improvements, alterations or repairs of the premises that may be required at any time hereafter by any such present or future rule, regulation, requirement, order or direction. If by any reason of any failure on the part of the Lessee to comply with the provisions of this paragraph any fire insurance, extended coverage or rental insurance rate on the premises or any part thereof, or on the Facility or any part thereof, shall at any time be higher than it otherwise would be, then the Lessee shall pay to the Port Authority that part of all premiums paid by the Port Authority which shall have been charged because of such violation or failure by the Lessee.

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

SECTION 5. Signs

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

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

SECTION 6. Indemnity

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

SECTION 7. Maintenance and Repair

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

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

(c) With respect to all parts of the premises, including, but without limitation thereto, such of the following as are or may be during the term of the letting located in or on the premises: fences, the exterior and interior of the building walls, the exterior and interior and operating mechanisms of and attachments to windows and skylights, screens, roofs, foundations, steel work, columns, the exterior and interior and operating mechanisms of and attachments to doors, partitions, floors, ceilings, inside and outside paved and un-

paved areas, glass of every kind, and the utility, mechanical, electrical and other systems, the Lessee shall take the same good care of the premises that would be taken by a reasonably prudent owner who desired to keep and maintain the same so that at the expiration or termination of the letting and at all times during the letting, the same (or a reconstruction of all or any part thereof) will be in as good condition as at the commencement thereof (or, in the case of improvements made during the letting hereunder, in as good condition as at the time of the installation or construction thereof), except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the building or other structures on the premises or adversely affect the efficient or the proper utilization of any part of the premises. To that end, the Lessee shall make frequent periodic inspections and, from time to time as the necessity therefor arises and regardless of the cause of the condition requiring the same, the Lessee shall perform all necessary preventive maintenance including but not limited to painting (the exterior of the building, areas of joint or common use and areas visible to the general public to be painted in colors which have been approved by the Port Authority), and, except under circumstances as set forth in paragraph (a) of Section 8 of these Terms and Conditions, the Lessee shall make all necessary repairs and replacements and do all necessary rebuilding with respect to all parts of the premises, all of which shall be in quality equal to the original in materials and workmanship and regardless of whether such repairs and replacements are structural or non-structural, ordinary or extraordinary, foreseen or unforeseen. The Lessee shall commence to perform each of its obligations hereunder within twenty days after notice from the Port Authority and shall thereafter continue the same to completion with reasonable diligence.

(d) The obligation of the Lessee as set forth in paragraphs (b) and (c) of this Section, in the event of damage or destruction covered by any contract of insurance under which the Port Authority is the insured, is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that, if this release shall invalidate any such policy of insurance or reduce, limit or void the rights of the Port Authority thereunder, then the release shall be void and of no effect.

SECTION 8. Casualty

(a) In the event that, as a result of a casualty insured against in favor of the Port Authority under the standard form of fire insurance policy and extended coverage endorsement carried by it on any structure, building or portion of a building which is or is a part of the premises, the same is damaged (without the fault of the Lessee, its officers, employees, or others on or at the premises with its consent) so as to render it untenable in whole or substantial part, then

(1) if, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence, and the rental hereunder shall be abated as provided in this Agreement, for the period from the occurrence of the damage to the completion of the repairs or rebuilding, whether or not the work of repair or rebuilding is actually completed within the said ninety (90) days; or

(2) if, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if one or more of the structures or buildings which are a part of the premises or the entire premises require rebuilding, then the Port Authority shall have options: (i) to proceed with due diligence to repair or to rebuild as necessary or (ii) to terminate the letting as to the damaged structure or structures, building or buildings or portion thereof only; or (iii) to cancel this Agreement and terminate the letting as to the entire premises; and the rental payable under this Agreement shall be abated, as provided in this Agreement, either, as the case may require, for the period from the occurrence of the damage to the completion of repairs and rebuilding, or for the period from the occurrence of the damage to the effective date of termination, for the area or areas involved.

(b) "Substantial part" shall mean for the purpose of this Section at least twenty-

five per cent (25%) of the usable floor space in the structure or building or part thereof comprising the premises, or, if there is more than one structure or building on the premises, at least twenty-five per cent (25%) of the aggregate usable floor space comprising the premises in all of the structures and buildings covered by insurance.

(c) The parties hereby stipulate that if the premises are in New Jersey 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 and if the premises are in New York, neither the provisions of Section 227 of the Real Property Law of New York nor those of any other similar statute shall extend or apply to this Agreement.

(d) In the event of damage to or a partial or total destruction of the premises, the Lessee shall within five days of the occurrence commence to remove all of its damaged property and all debris thereof from the premises or from the portion thereof destroyed and thereafter shall diligently continue such removal and if the Lessee does not perform its obligation hereunder, the Port Authority may remove such debris and dispose of the same and may remove such property to a public warehouse for deposit or may retain the same in its own possession and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, 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 upon demand.

SECTION 9. *Assignment and Sublease*

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

(b) The Lessee shall not sublet the premises or any part thereof.

(c) If the Lessee assigns, sells, conveys, transfers, mortgages, pledges or sublets in violation of subdivisions (a) or (b) of this Section or if the premises are occupied by anybody other than the Lessee, the Port Authority may collect rent from any assignee, sublessee or anyone who claims a right to this Agreement or letting or who occupies the premises and shall apply the net amount collected to the rental herein reserved; and no such collection shall be deemed a waiver by the Port Authority of the covenants contained in subdivisions (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 herein.

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

SECTION 10. *Condemnation*

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

(b) In the event that all or any portion of the premises is required by the Port Authority to comply with any present or future governmental law, rule, regulation, requirement, order or direction, the Port Authority may by notice given to the Lessee terminate the letting with respect to all or such portion of the premises so required. Such termina-

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

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

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

(e) In the event that the taking or conveyance or the delivery by the Lessee or taking by the Port Authority pursuant to paragraph (b) of this Section covers fifty per cent (50%) or more of the total usable area of the premises including both open and enclosed space, 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 11. *Construction by the Lessee*

Except with the prior consent of the Port Authority, the Lessee shall not erect any structures, make any improvements or do any other construction work on the premises or alter, modify, or make additions, improvements or repairs to or replacements of, any structure now existing or built at any time during the letting, or install any fixtures, and in the event any construction, improvement, alteration, modification, addition, repair or replacement is made with or without such consent and unless the consent of the Port Authority shall expressly provide otherwise, the same shall immediately become the property of the Port Authority, and the Lessee shall have no right to remove the same either during the letting or at the expiration thereof unless the Port Authority, at any time prior to the expiration of the term of the letting, or any extension or renewal thereof, or within sixty (60) days after expiration or earlier termination of the term of the letting, shall give notice to the Lessee to remove the same, or to cause the same to be changed to the satisfaction of the Port Authority, in which case the Lessee agrees to remove the same, or change it in compliance with such notice. In case of any failure on the part of the Lessee to comply with such notice, the Port Authority may effect the removal or change, and the Lessee hereby agrees to pay the cost thereof to the Port Authority upon demand.

SECTION 12. *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 the basic rental as set forth in Article III hereof.

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

(c) The term "cost" in this Agreement 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 pay; (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 13. Rights of Entry Reserved

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

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

(c) 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 to so move such property after 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) Nothing in this Section shall 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 nor for any injury or damage to the premises nor to any property of the Lessee or of any other person located in or thereon (other than those occasioned by the acts 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 14. Limitation of Rights and Privileges Granted

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

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

(c) Nothing in this Agreement contained shall grant to the Lessee any rights whatsoever in the air space above the roof of the building or buildings or portion of a building or buildings, if any are included in the premises; (except to the extent required in either case for the performance of any of the obligations of the Lessee hereunder), or more than twenty (20) feet above the present ground level of any open area included in the premises.

SECTION 15. Prohibited Acts

(a) Unless otherwise expressly permitted so to do, 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, dispensing or sale of food, beverages tobacco, tobacco products or merchandise of any kind, whether or not included in the above categories, or of any equipment or device for the furnishing to the public of service of any kind, including therein, without limitation thereto, telephone pay-stations.

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

SECTION 16. Termination

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

(1) The Lessee shall become insolvent, or shall take the benefit of any present or future insolvency statute; or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement or its reorganization or the readjustment of its indebtedness

under the federal bankruptcy laws or under any other law or statute of the United States or of any State thereof, or consent to the appointment of a receiver, trustee, or liquidator of all or substantially all of its property; or

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

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

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

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

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

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

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

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

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

(11) The Lessee shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this agreement, on its part to be kept, performed or observed, within ten (10) days after its receipt of notice of default thereunder from the Port Authority (except where fulfillment of its obligation requires activity over a period of time, and the Lessee shall have commenced to perform whatever may be required for fulfillment within ten (10) days after receipt of notice and continues such performance without interruption except for causes beyond its control);

then upon the occurrence of any such event or at any time thereafter during the continuance thereof, the Port Authority may by five (5) days' notice terminate the letting and the Lessee's rights hereunder, such termination to be effective upon the date specified in such notice. Such right of termination and the exercise thereof shall be and operate as a conditional limitation.

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

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

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

SECTION 17. *Right of Re-entry*

The Port Authority shall, as an additional remedy upon the giving of a notice of termination as provided in Section 16 of these Terms and Conditions, 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 any other legal proceedings or otherwise. Such re-entry, or regaining or resumption of possession, however, shall not in any manner affect, alter or diminish any of the obligations of the Lessee under this Agreement, and shall in no event constitute an acceptance of surrender.

SECTION 18. *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 19. *Survival of the Obligations of the Lessee*

(a) In the event that the letting shall have been terminated in accordance with a notice of termination as provided in Section 16 of these Terms and Conditions, or the interest of the Lessee shall have been cancelled pursuant thereto, or in the event that the Port Authority has re-entered, regained or resumed possession of the premises in accordance with the provisions of Section 17 of these Terms and Conditions, all of the obligations of the Lessee under this Agreement shall survive such termination or cancellation, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of the letting, as originally fixed in Article II hereof, and the amount or amounts of damages or deficiency shall become due and payable to the Port Authority to the same extent, at the same time or times and in the same manner as if no termination, cancellation, re-entry, regaining or resumption of possession had taken place. The Port Authority may maintain separate actions each month to recover the damage or deficiency then due or at its option and at any time may sue to recover the full deficiency less the proper discount, for the entire unexpired term.

(b) The amount of damages for the period of time subsequent to termination or cancellation (or re-entry, regaining or resumption of possession) on account of the Lessee's rental obligations, shall be the sum of the following:

(1) The amount of the total of all annual rentals, less the installments thereof prior to the effective date of termination except that the credit to be allowed for the installment paid on the first day of the month in which the termination is effective shall be prorated for the part of the month the letting remains in effect on the basis of a 30-day month; and

(2) An amount equal to all expenses incurred by the Port Authority in connection with regaining possession and restoring and reletting the demised premises,

for legal expenses, boiler insurance premiums, if any, putting the premises in order including without limitation, cleaning, decorating and restoring (on failure of the Lessee to restore), maintenance and brokerage fees.

SECTION 20. *Reletting by the Port Authority*

The Port Authority, upon termination or cancellation pursuant to Section 16 of these Terms and Conditions, or upon any re-entry, regaining or resumption of possession pursuant to Section 17 of these Terms and Conditions, may occupy the premises or may relet the premises and shall have the right to permit any person, firm or corporation to enter upon the premises and use the same. Such reletting may be of part only of the premises or of the premises or a part thereof together with other space, and for a period of time the same as or different from the balance of the term hereunder remaining, and on terms and conditions the same as or different from those set forth in this Agreement. The Port Authority shall also, upon termination or cancellation pursuant to Section 16 of these Terms and Conditions, or upon re-entry, regaining or resumption of possession pursuant to Section 17 of these Terms and Conditions 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 said premises or portion thereof during the balance of the term of the letting as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the premises as the Port Authority may itself during such period actually use and occupy, all expenses, costs and disbursements incurred or paid by the Port Authority in connection therewith. No such reletting or such use and occupancy shall be or be construed to be an acceptance of a surrender.

SECTION 21. *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 the exercise of any remedy, or the existence herein of other remedies or indemnities shall not prevent the exercise of any other remedy.

SECTION 22. *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 same condition as at the commencement of the letting, reasonable wear arising from use of the premises to the extent permitted elsewhere in this Agreement, excepted.

(b) Unless the same are required for the performance by the Lessee of its obligations hereunder, the Lessee shall have the right at any time during the letting to remove from the premises, and, on or before the expiration or earlier termination of the letting, shall so remove its equipment, removable fixtures and other personal property, and all property of third persons for which it is responsible, repairing all damage caused by such removal. If the Lessee shall fail to remove such property on or before the termination or expiration of the letting, the Port Authority may remove such property to a public warehouse for deposit or may retain the same in its own possession and in either event may sell the same at public auction, the proceeds of which shall be applied: first, to the expenses of removal, including repair required thereby, and of storage and sale; second, to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if the expenses of such removal, repair, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority upon demand. The Lessee shall indemnify the Port Authority against all claims based on Port Authority action hereunder.

SECTION 23. *Acceptance of Surrender of Lease*

No agreement of surrender or to accept a surrender shall be valid unless and until the same shall have been reduced to writing and signed by the duly authorized representa-

tives 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, by any of the officers, agents or employees of the Port Authority, shall be deemed an acceptance of a surrender of the letting or of this Agreement.

SECTION 24. Notices

(a) All notices, permissions, requests, consents and approvals given or required to be given to or by either party shall be in writing (which shall include a telegram when delivered to the telegraph company), and all such notices and requests shall be telegraphed or personally delivered to the party or to the duly designated officer or representative of such party or delivered to an office or residence of such party, officer or representative during regular business hours, or delivered to the residence of such party, officer or representative or delivered to the premises, or forwarded to him or to the party at the office or residence address by registered mail. The Lessee shall designate an office within the Port of New York District and an officer or representative whose regular place of business is at such office. Until further notice, the Port Authority hereby designates its Executive Director, and the Lessee designates the person whose name appears on the first page of this Agreement as their respective officers or representatives upon whom notices and requests may be served, and the Port Authority designates its office at One World Trade Center, New York, New York 10048, and the Lessee designates its office, the address of which is set forth on 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. If any notice is sent by telegraph, the giving of such notice shall be complete upon receipt or, in the event of a refusal by the addressee, upon the first tender of the notice by the telegraph company to the addressee or at the address thereof.

SECTION 25. 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 obligation shall be performed by it and its rights shall be exercised only by its officers and employees or

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

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

(4) 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 Article IV on page 2 of this Agreement, the rights of user thereby granted to the Lessee with respect to the premises shall be exercised by the Lessee only for its own account and, without limiting the generality of the foregoing, shall not be exercised as agent, representative, factor, broker, forwarder, bailee, or consignee without legal title to the subject matter of the consignment.

(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 these Terms and Conditions and in the endorsements, if any, attached hereto 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 at the office of the Treasurer of the Port Authority, One World Trade Center, New York, New York 10048, or to such other officer or address as may be substituted therefor. If the commencement date of the letting under this Agreement is other than the first day of a calendar month, the basic rental for the portion of the month during which the letting is effective shall be the amount of the monthly installment prorated on a daily basis using the actual number of days in the month, and if the expiration or termination date of the letting is other than the last day of a calendar month, the basic rental for the portion of the month during which the letting is effective shall be the amount of the monthly installment similarly prorated.

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

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

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

SECTION 26. Premises

(a) The Lessee acknowledges that it has not relied upon any representation or statement of the Port Authority or its Commissioners, officers, employees or agents as to the condition of the premises or the suitability thereof for the operations permitted on the premises by this Agreement. The Lessee, prior to the execution of this Agreement, has thoroughly examined the premises and has found them to be in good order and repair and determined them to be suitable for the Lessee's operations hereunder. Without limiting any obligation of the Lessee to commence operations hereunder 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 Lessee's operations hereunder so that there is possibility of injury or damage to life or property and the Lessee further agrees that before any use it will immediately correct any such unsafe or improper condition.

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

(c) If permission is given to the Lessee to enter into the possession of the premises or to occupy space other than the premises prior to the date specified in Article II as the commencement of the term of the letting, the Lessee agrees that such possession or occupancy shall be deemed to be under all the terms, covenants, conditions and provisions of this Agreement except as to the covenant to pay rent and except as may be expressly provided otherwise by the written instrument, if any, giving such possession or occupancy; in either case, rent shall commence on the date specified in this Agreement, and in the event of possession of the premises, the date of such possession shall be the date of commencement of the term hereunder.

SECTION 27. Postponed

If the Port Authority shall not give possession of the premises on the date fixed in Article II for the commencement of the term, by reason of the fact that the premises or any part thereof are in the course of construction, repair, alteration or improvement or by reason of the fact that the occupant thereof failed or refused to deliver possession to the Port Authority, or by reason of any cause or condition beyond the control of the Port Authority, the Port Authority shall not be subject to any liability for the failure to give possession on said date. No such failure to give possession on the date of commencement of the term shall in any wise affect the validity of this Agreement or the obligations of the Lessee hereunder, nor shall the same be construed in any wise to extend the term beyond the date stated in Article II for expiration. However, the rent shall not commence until possession of the premises is tendered by the Port Authority to the Lessee; the tender shall be made by notice given at least five (5) days prior to the effective date of the tender and in the event that such notice of tender is not given for possession to commence on or before one hundred eighty-five (185) days after the date stated in Article II for commencement of the term then this Agreement shall be deemed cancelled, except that each party shall and does hereby release the other party of and from any and all claims or demands based on this Agreement, or a breach or alleged breach thereof.

SECTION 28. Force Majeure

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

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

(c) No abatement, diminution 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 laws, rules, requirements, orders, directions, ordinances or regulations of the United States of America, or of the state, county or city governments, 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 29. Brokerage

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

SECTION 30. Non-liability of Individuals

Neither the Commissioners of the Port Authority nor any of them shall be liable for any act or omission of any individual in the performance of his duties as an individual.

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

(a) The Port Authority agrees to grant (if requested so to do by the Lessee), to suppliers of water, gas, electricity and telephone service operating in the vicinity a right of way or rights of way under the Facility from the streets outside of the Facility to the premises for the sole purpose of supplying such service or services to the Lessee. No such right of way shall include the right to use any system, equipment or portion thereof constructed or owned by or leased to the Port Authority.

(b) The Lessee shall promptly pay all water bills covering its own consumption. Such payment shall include any factor which may have been included by the appropriate governmental authority as a sewer-rent or other charge for the use of a sewer system. In the event that any such water bill 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 at any time so made shall constitute an additional item of rental, payable to the Port Authority upon 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) Unless the Port Authority has expressly undertaken to heat the enclosed portions of the premises, if any, the Lessee agrees to heat the enclosed portions of the premises to a sufficient temperature so that the plumbing, fire-protection and sprinkler systems, if any, will not be damaged by reason of low temperatures.

(d) If any federal, state, municipal or other governmental body, authority or agency, or any public utility, assesses, levies, imposes, makes or increases any charge, fee, rent or assessment on the Port Authority, for any service, system or utility now or in the future supplied to or available at the premises or to any tenant, lessee, occupant or user thereof, or to the structures or buildings which, or a portion or portions of which, are included in the premises, (including but not limited to any sewer-rent or other charge for the use of a sewer system or systems), 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 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 directly to the Port Authority, as such notice may direct. All payments to be made by the Lessee hereunder shall constitute items of additional rental.

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

(f) In the event any one or more structures within or attached to the premises but not accessible directly from the enclosed portion of the premises is or are in use as a valve-room or valve-rooms for a sprinkler system, the same shall not be deemed a portion of the premises hereunder, and the Lessee shall afford access thereto through and across the premises at all times as required by the Port Authority for itself or its contractors, with or without tools, equipment, parts and supplies.

Standard Endorsement No. L 5.1

Services

All Facilities

10/6/75

48

(a) All work which the Lessee is required or permitted to do pursuant to the provisions of paragraph (b) of this Endorsement shall be done strictly in accordance with the following terms and conditions:

(1) The Lessee shall be the insurer of the Port Authority, its Commissioners, officers, agents, and employees, against the following distinct and several risks, arising from acts or omissions of the Lessee, its officers, agents, employees, contractors, or subcontractors, excepting only risks which result solely from acts done by the Port Authority subsequent to the commencement of the work of construction, repair, alteration, improvement, or addition.

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

(ii) The risk of death, injury or damage, direct or consequential, to the Port Authority, 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, its Commissioners, officers, agents and employees for all such injuries and damages, and for all loss suffered by reason thereof;

(iii) The risk of claims and demands, just or unjust, by third persons against the Port Authority, 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, 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.

(2) All work done pursuant to this Endorsement shall be done in accordance with drawings and specifications to be submitted to and approved by the Marine Terminals Construction Engineer of the Port Authority prior to the commencement of the work, shall be done to his satisfaction and shall be subject to his inspection; and the Lessee shall re-do or replace at its own expense any work not approved by the said Engineer.

Standard Endorsement No. L. 15.1

(3 pages) -1-

Construction by the Lessee

All Marine Terminal Facilities 10/6/64

(3) 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.

(4) The Lessee shall procure and maintain comprehensive public liability insurance, including automotive, and covering bodily-injury (including death) and property-damage liability, which shall be in addition to all policies of insurance otherwise required by this Agreement, or, if the work is to be done by an independent contractor, the Lessee shall require such contractor to procure and maintain such insurance in the name of the contractor, in either case, in limits not lower than those set forth for such categories of insurance in the following schedule:

(1) Bodily injury liability:

For injury or wrongful death to one person: \$500,000.00

For injury or wrongful death to more than one person from any one accident: \$500,000.00

(11) Property damage liability:

For all damages arising out of injury to or destruction of property in any one accident: \$500,000.00

(5) As to any insurance required by this Endorsement, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall

Standard Endorsement No. L 15.1

(3 pages)

- 2 -

Construction by the Lessee

All Marine Terminal Facilities 10/6/64

be delivered to the Port Authority prior to the commencement of work. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written advance notice thereof to the Port Authority. A renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy. If at any time any policy shall be or become unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new and satisfactory policy in replacement.

(6) The Port Authority shall not be named as an insured in any policy of liability insurance required by this Endorsement, unless the Port Authority shall, at any time, during the term of the letting under this Agreement direct otherwise in writing, in which case the Lessee shall cause the Port Authority to be so named.

(7) As soon as the construction, repair, alteration, improvement or addition shall have been completed to the satisfaction of the Marine Terminals Construction Engineer of the Port Authority, then title shall immediately and without execution of any further instrument, vest in the Port Authority, and every structure and all such repairs, alterations, improvements or additions, shall thereupon become and thereafter be part of the premises.

(8) The Port Authority shall have the right to require contracts and contractors, for all the construction work, to be subject to its approval.

(b) The Lessee may construct and equip a building suitable for the performance of preparation work on highway vehicles which have been manufactured outside of the United States of America and brought to the Facility by seagoing vessels and which may under the provisions of Article IV of this Agreement be received and handled on the premises, which work shall be ancillary to the distribution of such vehicles in the United States.

(c) Notwithstanding any term or provision of this Agreement, the Port Authority shall have no obligation whatsoever to maintain or repair the building described in paragraph (b), whether repairs required are structural or nonstructural, and without regard to the cause of the condition requiring repair. All such work shall be performed by or for the account of the Lessee.

Standard Endorsement No. L 15.1

(3 pages)

- 3 -

Construction by the Lessee
All Marine Terminal Facilities 10/6/64

(a) As used in this Agreement:

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

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

(3) "Letting" shall include any extension of the letting under this Agreement, whether made by agreement or by operation of law.

(4) "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) of the Port Authority Marine Terminals - New Jersey for the time being, or his duly designated representative or representatives.

(b) The letting shall in any event terminate simultaneously with the termination or expiration of the Basic Lease. The rights of the Port Authority in the premises are those granted to it by the Basic Lease and no greater rights are granted or intended to be granted to the Lessee than the Port Authority has power thereunder to grant.

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

(d) Since the Port Authority has agreed by a provision in the Basic Lease to conform to the enactments, ordinances, resolutions and regulations of the City and its various departments, boards and bureaus in regard to the construction and maintenance of buildings and structures and in regard to health and fire protection which would be applicable if the Port Authority were a private corporation, to the extent that the Port Authority finds it practicable so to do, the Lessee agrees except in cases where the Port Authority either notifies the Lessee that it need not comply therewith or directs it not to comply therewith, to comply with all such enactments, ordinances, resolutions and regulations which would be applicable to its operations at the marine terminal or to any of the premises leased to it for its exclusive use if the Port Authority were a private corporation, and, subject to the provisions of this Agreement concerning construction by the Lessee, to make all non-structural improvements and alterations of or to the premises required at any time hereafter by any such enactment, ordinance, resolution or regulation, and all structural improvements or alterations of or to the premises that may be required at any time hereafter by any such enactment, ordinance, resolution or regulation because of the operations of the Lessee on the premises or its use and occupancy thereof. The Lessee

Standard Endorsement No. L 19.4 (2 pages)

Port Newark
Port Newark
10/6/73

(a) As used in this Agreement:

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

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

(3) "Letting" shall include any extension of the letting under this Agreement, whether made by agreement or by operation of law.

(4) "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) of the Port Authority Marine Terminals - New Jersey for the time being, or his duly designated representative or representatives.

(b) The letting shall in any event terminate simultaneously with the termination or expiration of the Basic Lease. The rights of the Port Authority in the premises are those granted to it by the Basic Lease and no greater rights are granted or intended to be granted to the Lessee than the Port Authority has power thereunder to grant.

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

(d) Since the Port Authority has agreed by a provision in the Basic Lease to conform to the enactments, ordinances, resolutions and regulations of the City and its various departments, boards and bureaus in regard to the construction and maintenance of buildings and structures and in regard to health and fire protection which would be applicable if the Port Authority were a private corporation, to the extent that the Port Authority finds it practicable so to do, the Lessee agrees except in cases where the Port Authority either notifies the Lessee that it need not comply therewith or directs it not to comply therewith, to comply with all such enactments, ordinances, resolutions and regulations which would be applicable to its operations at the marine terminal or to any of the premises leased to it for its exclusive use if the Port Authority were a private corporation, and, subject to the provisions of this Agreement concerning construction by the Lessee, to make all non-structural improvements and alterations of or to the premises required at any time hereafter by any such enactment, ordinance, resolution or regulation, and all structural improvements or alterations of or to the premises that may be required at any time hereafter by any such enactment, ordinance, resolution or regulation because of the operations of the Lessee on the premises or its use and occupancy thereof. The Lessee

Standard Endorsement No. L 19.4 (2 pages)

Port Newark
Port Newark
10/6/73

shall for the information of the Port Authority, deliver to the Port Authority within three (3) days (Saturdays, Sundays, and holidays included) after receipt of any notice, warning, summons or other legal process for the enforcement of any such enactment, ordinance, resolution or regulation, a true copy of the same. In the event of compliance with any such enactment, ordinance, resolution or regulation on the part of the Lessee, acting in good faith, commenced after such delivery to the Port Authority but prior to the receipt by the Lessee of a written direction from the Port Authority not to comply, (and thereafter discontinued) such compliance shall not constitute a breach of this Agreement, although the Port Authority thereafter directs the Lessee not to comply. Nothing herein contained shall release or discharge the Lessee from compliance with any other provision of this Agreement respecting governmental requirements.

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

(f) If by the provisions of Article IV or by other express provision in this Agreement the Lessee is authorized to use the premises to store for distribution items of merchandise or other materials (whether for the account of the Lessee or of others, as may be specifically provided elsewhere in this Agreement) such storage shall be substantially for merchandise and materials waterborne to the Facility or intended to be waterborne from the Facility, except that as specifically authorized from time to time by the Port Authority, the Lessee may store non-waterborne items, the handling of which is necessary as an incident to its business at the premises. "Waterborne to (or from) the Facility" shall mean and include all shipments consigned to or from the Facility which reach or leave the Port of New York by water carrier.

Standard Endorsement No. L 19.4 (2 pages)

Port Newark
Port Newark
10/6/73

123

(a) The Lessee in its own name as assured shall secure and pay the premium or premiums for such of the following policies of insurance affording those coverages as to which minimum limits are fixed in the schedule, set forth below. Each such policy shall be maintained in at least the limit fixed with respect thereto, shall cover the operations of the Lessee under this Agreement, and shall be effective throughout the term of the letting.

SCHEDULE

Policy	Minimum Limit
(1) Comprehensive public liability insurance.	
(i) Bodily-injury liability:	
For injury or wrongful death to one person:	\$ 500,000.00
For injury or wrongful death to more than one person in any one occurrence:	\$ 500,000.00
(ii) Property-damage liability:	
For all damages arising out of injury to or destruction of property in any one occurrence:	\$ 500,000.00
(iii) Products liability:	\$
(2) Automobile liability insurance.	
(i) Bodily-injury liability:	
For injury or wrongful death to one person:	\$ 500,000.00
For injury or wrongful death to more than one person in any one occurrence:	\$ 500,000.00
(ii) Property-damage liability:	
For all damages arising out of injury to or destruction of property in any one occurrence:	\$ 500,000.00
(3) Plate and mirror glass insurance, covering all plate and mirror glass in the premises, and the lettering, signs, or decorations, if any, on such plate and mirror glass.	\$
(4) Boiler and machinery insurance, covering all boilers, pressure vessels and machines operated by the Lessee in the premises:	\$
(5) "Additional-Interest" policy of boiler and machinery insurance, covering all boilers, pressure vessels and machines operated by the Lessee in the premises:	\$
(6) Garagekeepers' legal liability:	\$

Standard Endorsement No. L 21.1
(2 pages)

Insurance

All Facilities

4/4/70

4

(b) The Port Authority shall not be named as an insured in any policy of liability insurance required by this Endorsement, unless the Port Authority shall, at any time during the term of the letting under this Agreement, direct otherwise in writing, in which case the Lessee shall cause the Port Authority to be so named.

(c) In any policy of insurance on property other than that of the Lessee required by this Endorsement, the Port Authority shall be named as the owner except that as to property as to which the Port Authority is itself a lessee, the Port Authority shall be named as the lessee and the owner shall be named as the owner. Each shall be endorsed substantially as follows:

"Loss, if any, under this policy, as to the interest of the owner and as to the interest of The Port of New York Authority, shall be adjusted solely with the Port Authority and all proceeds under this policy shall be paid solely to the Port Authority."

(d) Any "Additional Interest" policy of boiler and machinery insurance required by this Endorsement shall provide protection under Section 1 and 2 only of the Insuring Agreements of the form of policy approved for use as of the date hereof by the Insurance Rating Board, New York, New York.

(e) As to any insurance required by this Endorsement, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written advance notice thereof to the Port Authority. 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 term of the letting under this Agreement, as the same may be from time to time extended. If at any time any of the policies shall be or become unsatisfactory to the Port Authority as to form or substance, or if any of the carriers issuing such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new and satisfactory policy in replacement.

Standard Endorsement No. L 21.1
(2 pages)

Insurance
All Facilities
4/4/70

(a) The Lessee shall have the right (to be exercised in common with others now or in the future having rights of passage by rail) to the non-exclusive use of such of the existing railroad tracks located on the Facility (and which shall not be leased for exclusive use to others) as may be necessary for ingress and egress of railroad cars to and from the premises, subject to the following limitations and conditions:

(1) the foregoing right of use shall be subject at all times to the prior right of use by or on behalf of the United States;

(2) the foregoing right of use shall be exercised in a manner which will not hamper, interfere with or prevent the reasonable use of the tracks by others for the passage of railroad cars and locomotives;

(3) the Lessee shall not cause or permit the tracks to be obstructed, (except for the portion of track on or adjacent to the premises and that portion only for reasonable loading and unloading periods) and shall comply with all rules and regulations of the Port Authority relating to the use of railroad tracks which are now in effect or which may hereafter be promulgated for the safe and efficient use of the Facility, and shall comply further with the directions of the Manager of the Facility relating to the use of railroad tracks;

(4) the Port Authority shall have the right to remove or to relocate any track or tracks so long as means of ingress and egress for railroad cars as above described remains available;

(5) the Port Authority shall not be liable for any inconvenience, delay or loss to the Lessee by reason of interruption of use by the Lessee of any or all such railroad tracks occasioned by causes or circumstances over which the Port Authority shall not have control;

(6) the Port Authority shall not be responsible for maintenance of the switches and track used exclusively for serving the Lessee;

(7) the Lessee shall bear and promptly pay all charges made by railroads for switching or other services required for such use of railroad tracks by or for the Lessee; and

(8) the rights of user granted hereby shall be subject to any existing or future agreements between the Port Authority and railroads relating to the furnishing of service by railroads at the Facility as the said agreements may from time to time be modified or amended. In the event that the Lessee requires service from any railroad the Lessee hereby agrees to enter into such agreement or agreements covering the furnishing of such service as may be prescribed by the railroad or railroads furnishing the same.

(b) The Port Authority for its benefit and the benefit of others reserves the full and free right to use any railroad tracks located on the premises for the passage and re-passage of railroad cars and locomotives and reserves the right to enter upon the premises to maintain and repair such tracks.

(c) If this is part of a lease of premises at either Port Newark or the Elizabeth-Port Authority Marine Terminal, "Facility" as used in this Standard Endorsement shall mean and include both.

Standard Endorsement No. L 24.4
Siding Rights
All Marine Facilities
4/4/65

(a) If at any time the Lessee shall become entitled to an abatement of basic rental under the provisions of this Agreement or otherwise, such abatement shall be computed as follows:

(1) For each square foot of usable open area the use of which is denied to the Lessee, at the annual rate of \$ 0.25*

(2) For each square foot of usable covered area the use of which is denied to the Lessee, at the annual rate of \$ 1.17**

(b) If no rates are filled in above then the abatement of basic rental shall be made on an equitable basis, giving effect to the amount and character of the area the use of which is denied the Lessee, as compared with the entire area of such character included in the premises.

(c) If an exemption amount is fixed in this Agreement, it shall be reduced in the same proportion as the total basic rental is abated.

(d) For the purposes of this Endorsement, the number of square feet of covered area shall be computed as follows: by measuring from the inside surface of outer building walls to the surface of the public area side, or of the non-exclusive area side, as the case may require, of all partitions separating the area measured from adjoining areas designated for the use of the public or for use by the Lessee in common with others; and to the center of partitions separating the area measured from adjoining area exclusively used by others; no deduction will be made for columns, partitions, pilasters or projections necessary to the building and contained within the area measured. Permanent partitions enclosing elevator shafts, stairs, fire towers, vents, pipe shafts, meter closets, flues, stacks and any vertical shafts have the same relation to the area measured as do outer building walls.

(e) In the event that during the term of the letting under this Agreement the Lessee shall be partially evicted (actually or constructively) and shall remain in possession of the premises or the balance thereof, the Lessee agrees that notwithstanding it might have the right to suspend payment of the rent in the absence of this provision, it will pay at the times and in the manner herein provided, the full basic rental less only an abatement thereof computed in accordance with the above.

* as to areas shown on Exhibits A, A-4, A-5 and A-6; as to areas shown in diagonal stipple and horizontal stipple on Exhibit A-7 at the annual rate respectively of \$0.23 and \$0.21.

** as to the building only shown on Exhibit A-7.

Standard Endorsement No. L 27.4

Abatement

All Marine Terminals

10/6/68

(a) The Port Authority shall do or cause to be done certain work (hereinafter sometimes referred to as "the construction") all of the fencing, paving, and bumpers as described and set forth in plans and specifications hereto attached, hereby made a part hereof, and marked "Exhibit C"; in addition, four (4) chain link gates of a size not more than 30 feet will be constructed into the fencing shown on Exhibit C, the location of each subject to mutual agreement between the parties.

(b) It has been estimated that the construction will be ~~completed on or before the completion date stated in subdivision (h)(1)~~ of this Standard Endorsement (hereinafter sometimes referred to as "the estimated completion date"). If nevertheless the performance of any part or all of the construction is delayed, interrupted or rendered impossible due to strikes, boycotts, picketing, slowdowns, work stoppages or labor trouble of any other type, or weather conditions, casualties, acts of God or the expenditure of unusual or other than ordinary sums of money as planned by the Port Authority, so that in the opinion of the Marine Terminals Construction Engineer of the Port Authority (hereinafter referred to as "the Engineer"), the construction will not be completed by the estimated completion date, the Port Authority shall have the right to postpone the commencement of the letting in accordance with such notice or notices as the Port Authority may give to the Lessee from time to time either before or after the estimated completion date, and the commencement of the letting shall be postponed to the date stated in such notice or notices, provided, however, that each notice to the Lessee shall be at least a thirty-day notice and shall be effective only on the first day of a calendar month. The Lessee shall have no right or claim for damages against the Port Authority, or any of its contractors or subcontractors, based upon delay in construction or postponement of the commencement date of the letting, and no such delay or postponement shall in any way affect the validity of this Agreement. However, in the event that the construction has not been substantially completed by the ultimate date set forth in subdivision (h)(2) of this Standard Endorsement (hereinafter sometimes referred to as "the ultimate date"), then either the Port Authority or the Lessee may terminate this Agreement by notice, provided, however, that any such notice by the Lessee must be given prior to the date on which the Engineer certifies to the Lessee that the construction has been substantially completed. Termination hereunder shall have the same force and effect as expiration, and in such event, each party hereby releases and discharges the other of and from all liability for damages arising out of delay in the construction or out of non-performance of obligations under this Agreement.

Standard Endorsement No. L 32.4
(3 pages)

Construction
Marine Terminal Facilities
82958

(c) In order to expedite the construction and the possession and use thereof by the Lessee, the Port Authority and the Lessee have agreed to enter into this binding agreement before the construction plans and specifications have been fully developed, and at a time when the availability of materials and labor cannot be determined. The Port Authority, acting through the Engineer, shall have the right to effect changes in the design and construction and to substitute materials and methods other than as set forth in Exhibit C, and otherwise to take all steps which in his opinion are necessary or desirable in order to complete an improvement having substantially the same utility as the improvement described. Considerations of utility shall be deemed satisfied if the improvement, as constructed, conforms substantially with the description as contained in Exhibit C.

(d) References in Exhibit C to any building code or other requirements of any municipality are made solely for the purpose of conveniently establishing engineering standards for construction and shall not be or be deemed to be an admission by the Port Authority that any such code or other requirement applies to the Port Authority or the construction.

(e) Any contracts of the Port Authority for construction may be made by negotiation or may be awarded after competitive bidding (including awards to other than the lowest bidder) or may be entered into on the basis of a combination of the foregoing or on some other basis.

(f) The commencement date of the letting for the respective portions of the premises let under this Agreement shall be the earliest of the following:

(1) A date prior to the estimated completion date, if such earlier date shall be agreed upon by the parties, or shall have been noticed in accordance with this Agreement; or

(2) The estimated completion date, if on or before such date the construction shall have been substantially completed; or

(3) In the event that the Port Authority postpones the commencement of the letting, then on the first day of the calendar month as set forth in the notice, provided, that on such date the Engineer has certified to the Lessee that the construction has been substantially completed, and provided, further, that in the case of substantial completion after the ultimate date, neither party has exercised its right, if any, to terminate this Agreement as provided in subdivision (b) of this Standard Endorsement.

Standard Endorsement No. L32.4 (3 pages)
Construction
Marine Terminal Facilities
82958

(g) Unless sooner terminated, the letting shall expire at 11:59 o'clock P.M. on October 31, 1986.

(h) (1) Estimated completion date:

(i) For the portions of the premises shown on Exhibit A-4, A-5, A-6 and A-7, November 1, 1976;

(ii) For the portion of the premises shown on Exhibit A in diagonal stipple, November 1, 1976;

(iii) For the portion of the premises shown on Exhibit A in horizontal stipple, December 1, 1976;

(iv) For the portion of the premises shown on Exhibit A in vertical stipple, December 1, 1977;

(v) For the portion of the premises shown on Exhibit A in plain stipple, December 1, 1977.

(2) Ultimate date: For each portion of the premises, and for railroad track adjoining the premises, as shown on Schedule C, December 31, 1977, except that such date shall be extended by any period or periods of time which are the basis for the postponement of the letting by the Port Authority under subdivision (b) above.

(i) Within twelve (12) months prior to the expiration of the letting the Port Authority, at the request of the Lessee, will discuss terms and conditions for a possible extension of the letting.

Standard Endorsement No. L32.4
(3 pages)

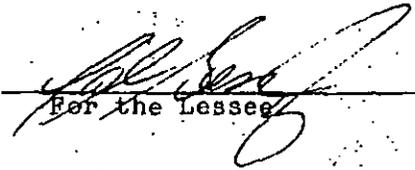
Construction
Marine Terminal Facilities
82958

SPECIAL ENDORSEMENTS

1. Notwithstanding the provisions of paragraph (c) of Section 7 of the Terms and Conditions of this Agreement, the Lessee shall not be obligated, except as provided in paragraph (b) of Section 7 and except as provided hereinafter in this Special Endorsement, to make any repairs to the sprinkler system on or serving the premises, or any structural repairs or replacements to the following parts of the premises: the roof, floors, exterior walls, exterior pavement, foundation and supporting members. After receipt by the Port Authority of notice from the Lessee that repair or replacement of any of the foregoing parts of the premises is needed (stating precisely the items of work required), the Port Authority shall make the same to the extent necessary to keep such part of the premises in a reasonably good condition for the operations of the Lessee under this Agreement; but the Port Authority shall not be obligated to make repairs or replacements to bring the premises to a better condition than that existing at the commencement of the letting. The Port Authority shall have no obligation whatsoever under this Special Endorsement to make repairs or replacements of any structure, building, installation or fixture, or any part of any of them, which have been brought to or built or installed on the premises by the Lessee or its contractor, whether or not with the prior consent of the Port Authority, whether or not the same has become part of the premises under this Agreement and whether or not title thereto has vested in the Port Authority. The responsibility of the Port Authority under this Special Endorsement shall be limited to bearing the expense of the repair or replacement and, without limitation of the foregoing, the Port Authority shall have no obligation whatsoever with respect to any repairs or replacements which are the obligation of the Lessee under other provisions of this Agreement. The Port Authority shall have no obligation with respect to any repairs or replacements required because of a casualty, whether or not insured or insurable, except as expressly provided in Section 8 of the said Terms and Conditions. If the Port Authority shall fail after a reasonable time to perform its obligations hereunder, the Lessee, as its sole remedy, shall perform the work, and the Port Authority shall on demand pay to the Lessee its actual certified cash expenditures therefor or, at the option of the Port Authority, shall extend to the Lessee

For the Port Authority

Initialed:



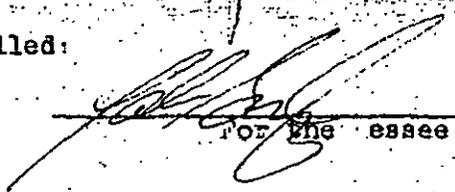
For the Lessee

in an amount equal to such expenditures a credit against its rental obligations under this Agreement. Furthermore, prior to commencement by the Port Authority of any work set forth in the Lessee's notice to the Port Authority, the Lessee shall take all precautions necessary to protect persons or property at the Facility, including the immediate performance by the Lessee of such work as may be required to correct conditions which involve danger to persons or property, and the Port Authority will reimburse the Lessee for such work as hereinabove provided. Without limiting any obligation of the Lessee under this Agreement, the Port Authority, at any time and from time to time during the letting, may enter the premises for the purpose of making repairs or replacements, or for the purpose of performing maintenance, whether or not the Port Authority is obligated hereunder to do the same and whether or not the Port Authority has received a notice, request or other communication from the Lessee concerning any such repair or replacement, provided that this right of the Port Authority shall not constitute or be deemed to constitute any obligation or duty on the Port Authority either to the Lessee or others to make any repairs or replacements, do any maintenance or do anything else in connection therewith. The Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, employees and representatives from and against all claims and demands of any and all third persons whatsoever, including without limitation thereto the Lessee's employees, officers, agents and representatives, for personal injuries (including death) or property damage, which may arise from the condition of the premises or any part thereof or from failure of the Lessee to notify the Port Authority of conditions requiring repair or replacement, or from failure of the Lessee to make timely corrections of dangerous or potentially dangerous conditions in or on the premises. The Lessee hereby releases and discharges the Port Authority, its Commissioners, officers, agents and employees, from all liability for damage to the Lessee, consequential or otherwise, in connection with any provision of this Special Endorsement concerning repair or replacement of any portion of the premises, including without limitation thereto any failure on the part of the Port Authority for any reason whatsoever to make any repair or replacement, and including without limitation thereto any act or omission of the Port Authority, its officers, agents and employees, connected with the performance of such repairs or replacements.



For the Port Authority

Initialed:



For the Lessee

SPECIAL ENDORSEMENTS

2. (a) From and after the commencement date of the letting of the portion of the premises shown in diagonal stipple on Exhibit A the Lessee shall pay a basic rental for said portion of the premises at the annual rate of Eighty-five Thousand Nine Hundred Twenty-two Dollars and No Cents (\$85,922.00) payable in advance in equal monthly installments of Seven Thousand One Hundred Sixty Dollars and Seventeen Cents (\$7,160.17) each, on the commencement date of the letting and on the first day of each calendar month thereafter throughout the term of the letting thereof.

(b) From and after the commencement date of the letting of the portion of the premises shown in horizontal stipple on Exhibit A the Lessee shall pay a basic rental for said portion of the premises at the annual rate of One Hundred Fourteen Thousand One Hundred Twenty-seven Dollars and Twenty-five Cents (\$14,127.25) payable in advance in equal monthly installments of Nine Thousand Five Hundred Ten Dollars and Sixty Cents (\$9,510.60) each, on the commencement date of the letting and on the first day of each calendar month thereafter throughout the term of the letting thereof.

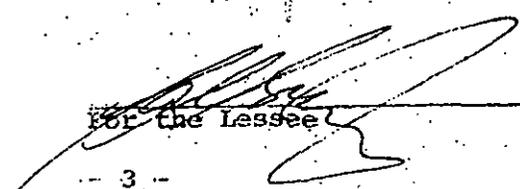
(c) From and after the commencement date of the letting of the portion of the premises shown in vertical stipple on Exhibit A the Lessee shall pay a basic rental for said portion of the premises at the annual rate of Eighty-seven Thousand One Hundred Twenty Dollars and No Cents (\$87,120.00) payable in advance in equal monthly installments of Seven Thousand Two Hundred Sixty Dollars and No Cents (\$7,260.00) each, on the commencement date of the letting and on the first day of each calendar month thereafter throughout the term of the letting thereof.

(d) From and after the commencement date of the letting of the portion of the premises shown in plain stipple on Exhibit A the Lessee shall pay a basic rental for said portion of the premises at the annual rate of Forty-three Thousand Eight Hundred Eighty-six Dollars and Seventy-five Cents (\$43,886.75) payable in advance in equal monthly installments of Three Thousand Six Hundred Fifty-seven Dollars and Twenty-four Cents (\$3,657.24) each, on the commencement date of the letting and on the first day of each calendar month thereafter throughout the term of the letting thereof.



For the Port Authority

Initialed:



For the Lessee

SPECIAL ENDORSEMENTS

(e) From and after the commencement date of the letting of the portion of the premises shown on Exhibit A-4 the Lessee shall pay a basic rental for said portion of the premises at the annual rate of One Hundred Ninety-two Thousand Eight Hundred Seven Dollars and Fifty Cents (\$192,807.50) payable in advance in equal monthly installments of Sixteen Thousand Sixty-seven Dollars and Twenty-nine Cents (\$16,067.29) each, on the commencement date of the letting and on the first day of each calendar month thereafter throughout the term of the letting thereof.

(f) From and after the commencement date of the letting of the portion of the premises shown on Exhibit A-5 the Lessee shall pay a basic rental for said portion of the premises at the annual rate of Fifty-nine Thousand Six Hundred Twenty-five Dollars and No Cents (\$59,625.00) payable in advance in equal monthly installments of Four Thousand Nine Hundred Sixty-eight Dollars and Seventy-five Cents (\$4,968.75) each, on the commencement date of the letting and on the first day of each calendar month thereafter throughout the term of the letting thereof.

(g) From and after the commencement date of the letting of the portion of the premises shown on Exhibit A-6 the Lessee shall pay a basic rental for said portion of the premises at the annual rate of Seventy Thousand Two Hundred Forty Dollars and Fifty Cents (\$70,240.50) payable in advance in equal monthly installments of Five Thousand Eight Hundred Fifty-three Dollars and Thirty-eight Cents (\$5,853.38) each, on the commencement date of the letting and on the first day of each calendar month thereafter throughout the term of the letting thereof.

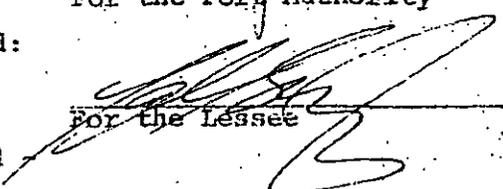
(h) From and after the commencement date of the letting of the portion of the premises shown on Exhibit A-7 the Lessee shall pay a basic rental for said portion of the premises at the annual rate of Eighty Thousand Eight Hundred Twenty-six Dollars and Forty-eight Cents (\$80,826.48) payable in advance in equal monthly installments of Six Thousand Seven Hundred Thirty-five Dollars and Fifty-four Cents (\$6,735.54) each, on the commencement date of the letting and on the first day of each calendar month thereafter throughout the term of the letting thereof.

(i) In the event that the area shown in stipple on Exhibits A-1 and A-2 is added to the premises, then the Lessee shall pay a basic rental for said portion of the premises at the annual rate of One Hundred Twenty-eight Thousand Nine Hundred Thirty-seven Dollars and Fifty Cents (\$128,937.50) payable in advance in equal monthly installments of Ten Thousand Seven Hundred Forty-four Dollars and Seventy-nine Cents (\$10,744.79) each, on the commencement date of the letting and on the first day of each calendar month thereafter throughout the term of the letting thereof.



For the Port Authority

Initialed:



For the Lessee

SPECIAL ENDORSEMENTS

(j) In the event that the area shown in stipple on Exhibit A-2 is added to the premises, then the Lessee shall pay a basic rental for said portion of the premises at the annual rate of Seventy-four Thousand Four Hundred Eighty-seven Dollars and Fifty Cents (\$74,487.50) payable in advance in equal monthly installments of Six Thousand Two Hundred Seven Dollars and Twenty-nine Cents (\$6,207.29) each, on the commencement date of the letting and on the first day of each calendar month thereafter throughout the term of the letting thereof.

(k) In the event that the area shown in stipple on Exhibit A-3 is added to the premises, then the Lessee shall pay a basic rental for said portion of the premises at the annual rate of One Hundred Seven Thousand Four Hundred Eight Dollars and No Cents (\$107,408.00) payable in advance in equal monthly installments of Eight Thousand Nine Hundred Fifty Dollars and Sixty-seven Cents (\$8,950.67) each, on the commencement date of the letting and on the first day of each calendar month thereafter throughout the term of the letting thereof.

(l) Upon completion of the work, the Port Authority will deliver drawings showing actual dimensions, and the above rental rates shall be adjusted as required, using the square foot rate set forth in Standard Endorsement No. L27.4.

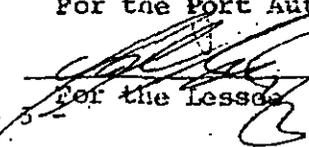
3. (a) Anything in this Agreement to the contrary notwithstanding, the letting under this Agreement of the portion of the premises shown on Exhibit A-4, unless sooner terminated, shall expire, without further or separate notice from or to either the Port Authority or the Lessee at 11:59 o'clock P.M. on the day immediately preceding the commencement of the letting of (i) the portion of the premises shown in horizontal stipple on Exhibit A or (ii) the portion of the premises shown in diagonal stipple on Exhibit A, whichever is later.

(b) Anything in this Agreement to the contrary notwithstanding, the letting of the portions of the premises shown on Exhibit A-5 and Exhibit A-6, unless sooner terminated, shall expire, without further or separate notice from or to either the Port Authority or the Lessee, at 11:59 o'clock P.M. on the first day the letting shall have commenced with respect to all portions of the premises shown on Exhibit A. With respect to the portion of the premises shown on Exhibit A-6 only, the Lessee shall have the right exercisable by notice to the Port Authority to terminate the letting of said portion of the premises upon fifteen (15) days prior written notice to the Port Authority effective as of the day immediately preceding the commencement date of the letting of the portion of the premises shown in vertical stipple on Exhibit A, provided, that, the termination shall not be effective if the

Initialed:



For the Port Authority



For the Lessee

SPECIAL ENDORSEMENTS

Lessee is in default in the performance or observance of any of the terms, covenants or conditions of this Agreement or under any notice of termination from the Port Authority either on the day of the giving of the notice or on the intended effective date thereof. Such termination shall not relieve the Lessee of any liabilities or obligations which have accrued on or prior to the intended effective date of termination or which shall mature on such date.

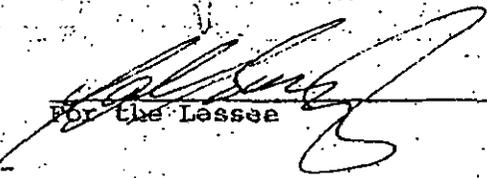
4. Without altering or amending the provisions of Section 1 of the Terms and Conditions of this Agreement, the Port Authority agrees that the Lessee will have appropriate temporary means of access to the premises through the Facility as shown on Schedule C.

5. Hereto attached, hereby made a part hereof and marked "Exhibit A-1", "Exhibit A-2" and "Exhibit A-3" respectively, are space plans showing in stipple open area at the Facility. In the event that the Port Authority shall determine to offer to let (i) the open area shown in stipple on Exhibit A-1 and Exhibit A-2 or (ii) the open area shown in stipple on Exhibit A-2 or (iii) the open area shown in stipple on Exhibit A-3, the Port Authority agrees to offer to let the said area or areas first to the Lessee by notice received by the Lessee no later than August 31, 1977; provided, that at the time the Lessee is not in default in the performance or observance of any of the terms, covenants or conditions of this Agreement. The Lessee shall have the right to accept the said offer or offers by notice to the Port Authority provided such notice is given to the Port Authority within thirty (30) days' of the Lessee's receipt of this offer. Failure of the Lessee to give notice within the permitted time shall have the effect of rejection of the offer. In the event that the Lessee accepts the said offer, the said area or areas shall become part of the premises let under all the terms, provisions, covenants and conditions of this Agreement from a date to be notified to the Lessee by the Port Authority or January 1, 1978, whichever is later.



For the Port Authority

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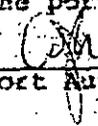
For the Lessee

SPECIAL ENDORSEMENTS

6. (a) The Lessee shall have a single right to terminate the letting under this Agreement with respect only to the entire premises, effective as of 11:59 o'clock P.M. on the day preceding the fifth anniversary of the commencement date of the letting of the first portion of the premises let hereunder, upon one hundred eighty (180) days' prior notice to the Port Authority; provided, that, the termination shall not be effective if the Lessee is in default in the performance or observance of any of the terms, covenants or conditions of this Agreement or under notice of termination from the Port Authority either on the day of giving of the notice or on the intended effective date thereof. Such termination shall not relieve the Lessee of any liabilities or obligations which shall have accrued on or prior to the effective date of termination or which shall mature on such date. In the event of termination pursuant to this paragraph, this Agreement and the letting hereunder shall cease and expire as if the effective date of termination stated in the notice were the date originally stated herein for the expiration of the letting under this Agreement. In the event that the Lessee fails to exercise the above-described right to terminate in accordance with the provisions of this paragraph, this paragraph shall be deemed null and void and of no further force and effect.

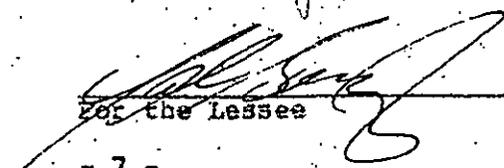
(b) The Lessee shall have the right to terminate the letting of the entire portion of the premises only shown on Exhibit A-7 effective at any time upon ninety (90) days' prior notice to the Port Authority provided, that, the termination shall not be effective if the Lessee is in default in the performance or observance of any of the terms, covenants or conditions of this Agreement or under notice of termination from the Port Authority either on the day of giving of the notice or on the intended effective date thereof. Such termination shall not relieve the Lessee of any liabilities or obligations with respect to the said portion of the premises which shall have accrued on or prior to the effective date of termination of which shall mature on such date.

(c) In the event that the areas shown on Exhibits A-1, A-2 and A-3, or any of them, become part of the premises then in such event the Lessee shall have a right to terminate the letting of (i) the portion of the



For the Port Authority

Initialed:



For the Lessee

SPECIAL ENDORSEMENTS

premises shown on Exhibit A-1 and/or (ii) the portion of the premises shown on Exhibit A-3 and/or (iii) the portions of the premises shown on Exhibit A-1 and Exhibit A-2, the said termination in each case to be effective as of 11:59 o'clock P.M. on the day preceding the next anniversary of the commencement date of the letting of the said portion or portions of the premises, upon one hundred eighty (180) days' prior notice to the Port Authority provided, that, the termination shall not be effective if the Lessee is in default in the performance or observance of any of the terms, covenants or conditions of this Agreement or under notice of termination from the Port Authority either on the day of giving of the notice or on the intended effective date thereof. Such termination shall not relieve the Lessee of any liabilities or obligations which shall have accrued on or prior to the effective date of termination or which shall mature on such date. In the event that the Lessee fails to exercise any of the above-described rights to terminate in accordance with the provisions of this paragraph, then any of said rights not so exercised shall be deemed null and void and of no further force and effect. In no event shall the Lessee have the right to terminate separately the letting as to the area shown on Exhibit A-1.

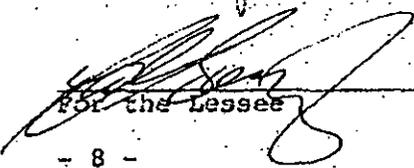
7. The number of pounds avoirdupois contemplated in paragraph (h) of Section 4 of the Terms and Conditions of this Agreement shall be two hundred fifty (250).

8. With respect to each portion of the premises, if prior to the commencement date of the letting stated in Standard Endorsement No. L32.4 to this Agreement for said portion of the premises, the Port Authority shall have completed construction being performed by it on the said portion of the premises, then the Port Authority shall have the right by ten (10) days' notice from the Marine Terminals Construction Engineer to the Lessee, to advance the commencement date of the letting, and the letting shall commence for all purposes on the date stated in such notice, and the Lessee shall pay the basic rental set forth in this Agreement for said portion of the premises, from such date.



For the Port Authority

Initialed:



For the Lessee

SPECIAL ENDORSEMENTS

9. The Lessee has selected the sites shown on Exhibit C on which to construct the buildings contemplated in paragraph (b) of Standard Endorsement No. L 15.1 to this Agreement. The Port Authority agrees to make the sites selected by the Lessee available for commencement of work by the Lessee on December 31, 1976, notwithstanding Standard Endorsement No. L 32.4, except for delay by reason of causes or conditions beyond the control of the Port Authority including without limitation thereto strikes, boycotts, and other labor troubles, acts of God, or shortages of materials.

10. The Lessee, upon the expiration of the letting of the portions of the premises shown on "Exhibit A-4", "Exhibit A-5" and "Exhibit A-6" shall be entitled to remain in each said portion of the premises for a period of thirty (30) days after expiration, without payment of additional basic rental, using the said portions solely for the purpose of effecting the removal of its operations from said portions of the premises.

11. The Lessee, upon expiration of the letting or upon termination by the Lessee in accordance with Special Endorsement 6(a) hereof, shall have the option, exercisable by notice, delivered to the Port Authority on or before a date sixty (60) days prior to the said expiration or termination, to remove the following:

1. Dewaxing Equipment
2. Rinse Equipment
3. Boiler Equipment
4. Blower
5. Above ground Storage and Clarifier Equipment
6. Conveyor
7. Air Compressor
8. Overhead Hoist
9. Dynamometer Equipment

the removal to be completed by the date of expiration or earlier termination of the letting. The Lessee shall restore the area created by such removal to the condition and appearance existing at the time of the commencement of the letting of said area under this Agreement.

12. In the event that the Port Authority or the Lessee exercises its rights of termination provided for in paragraph (b) of Standard Endorsement No. L 32.4 with respect to a portion of the premises, such termination shall only be effective as to such portion and in no event shall such termination affect the letting of any portion of the premises for which the letting shall have commenced prior to the effective date of such termination.

For the Port Authority

Initialed:

For the Lessee

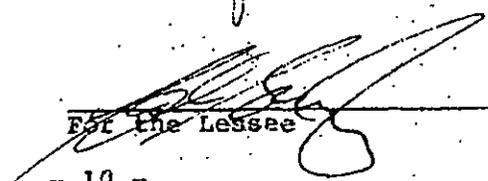
SPECIAL ENDORSEMENTS

13. By agreement of lease dated as of April 6, 1975, Port Authority Lease No. L-NS-886 (said agreement of lease as supplemented and amended, being hereinafter called "the April Lease") the Port Authority leased to the Lessee certain premises at the Facility, including a building shown in crosshatching on Exhibit A-2 attached to the April Lease in which the Lessee has performed or may hereinafter perform certain capital improvement work (hereinafter called "the improvement work") with the permission of the Port Authority, as set forth in Schedule W attached hereto and hereby made a part hereof. The building has been made a part of the premises under this Agreement and is shown in diagonal crosshatching on Exhibit A-7. In the event only that the Lessee completes the work described in paragraph (b) of Standard Endorsement No. L15.1 hereto and terminates the letting of the portion of the premises shown on Exhibit A-7 pursuant to paragraph (b) of Special Endorsement 6 hereof, the Port Authority will reimburse the Lessee for the improvement work in an amount equal to fifty percent (50%) of the reasonable costs of the improvement work, as reasonable costs are herein defined, up to a maximum reimbursement of \$100,000.00. "Reasonable costs" shall mean and include only actual payments to contractors and suppliers for work performed in connection with the improvement work and shall not include any wages or salaries paid to employees of the Lessee or any factor for overhead, financing, engineering or other administrative costs whether or not allocated to the improvement work in the Lessee's own accounting, nor any payments whatsoever to firms or corporations owned wholly or partially by, or wholly or partially in common ownership with, the Lessee, nor any payments for machinery or other equipment of any kind. The Lessee shall certify the reasonable costs to the Port Authority on or before the completion of the work described in paragraph (b) of Standard Endorsement No. L15.1 and the Port Authority shall have the right to require statements of contractors and suppliers; support of the certificate by sworn statements of responsible officers of the Lessee, inspection of the records and books of account of the Lessee relating to the improvement work and such other evidence as it may deem necessary. Reimbursement to the Lessee after approval by the Port Authority of the certified costs, subject to the



For the Port Authority

Initialed:



For the Lessee

SPECIAL ENDORSEMENTS

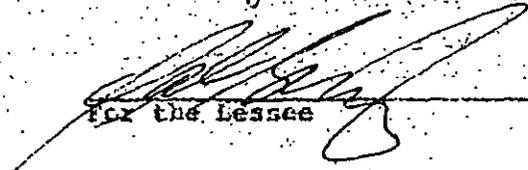
conditions hereinabove set forth, shall be made (i) within twenty days after the Lessee has completed the work described in paragraph (b) of Standard Endorsement No. L15.1 or (ii) the effective date of termination of the letting of the portion of the premises shown on Exhibit A-7 pursuant to paragraph (b) of Special Endorsement No. 6, whichever is later, and shall be in the amount of the reasonable costs so certified and approved multiplied by a fraction the numerator of which shall be the number of whole calendar months between April 1, 1976 and the termination of the letting of the premises shown on Exhibit A-7 subtracted from one hundred twenty (120), and the denominator of which shall be one hundred twenty (120).

14. The Lessee has informed the Port Authority that a corporation organized and existing under the laws of the State of Delaware, the name of which is IMPORT PROCESSORS, INC., having an address at 3400 Columbia Pike, Arlington, Virginia 22204, whose local representative is Mr. Norman Thompson, having an address at Building 303, Dolphin Street, Port Newark, New Jersey 07114, has been designated by the Lessee as operator of various functions of the Lessee to be carried out on the premises, under a contract between the Lessee and the designated corporation. The said Import Processors, Inc., its officers and employees shall be permitted to enter upon any portion of the premises for which the letting has commenced, and to conduct thereon such operations as may be authorized under the provisions of this Agreement to be conducted by the Lessee on the premises and as are in accordance with any existing contract between the said Import Processors, Inc. and the Port Authority, but only so long as the Lessee shall desire the continuance of such activity, and only so long as the said Import Processors, Inc. conforms to all legal requirements and is fully licensed to operate. The Lessee shall fully and completely indemnify the Port Authority, its Commissioners, officers, agents, employees, contractors, subcontractors and their employees against any and all claims and demands, including claims and demands of third persons, including without limitation thereto claims and demands of officers, employees, customers, contractors and business visitors of Import Processors, Inc., arising out of



For the Port Authority

Initialed:



for the Lessee

SPECIAL ENDORSEMENTS

any activities or operations of the said Import Processors, Inc. on the premises or elsewhere at the Facility, and the Lessee shall be fully liable and responsible to the Port Authority at all times for all acts and all omissions of Import Processors, Inc., its officers, employees, agents, contractors, subcontractors, and business visitors on the premises or elsewhere at the Facility, as if Import Processors, Inc. and Toyota Motor Sales, U.S.A., Inc. were one and the same.

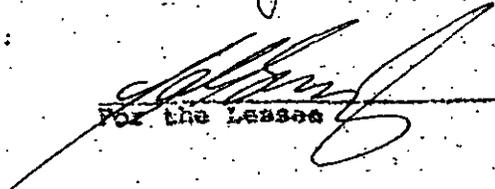
15. The Port Authority presently intends that the property which will be a public berth known as Berth 25 will continue in this status through the term of the letting under this Agreement.

16. The clause: "and to execute on the Lessee's behalf any amendments or supplements to this Agreement or any extension thereof" shall be deemed to have been deleted from paragraph (3) of Section 25 of the Terms and Conditions of this Agreement prior to the execution thereof.



For the Port Authority

Initialed:



For the Lessee

SCHEDULE W

I. Completed Work

- 1) installation of an automobile wash rack.
- 2) installation of water and sanitary lines connecting the two office trailers.
- 3) installation of approximately eleven thousand (11,000) square feet of paving to the west of the building.

II. Work not yet completed

- 1) installation of no more than sixteen (16) exhaust fans and a heating system capable of heating the inside of the building to a temperature of 55° Farenheit when the temperature is 10° Farenheit immediately outside the building, all such work to be done strictly in accordance with the provisions of this Agreement, including without limitation Standard Endorsement No. L15.1.
- 2) within the spray painting room annex only, epoxy coating of the walls and columns and installation of two exhaust fans; a heating system, explosion-proof lighting, a drop ceiling (including appropriate dropping of sprinklers in connection therewith), all such work to be done strictly in accordance with the provisions of this Agreement, including without limitation Standard Endorsement No. L15.1

MLPF-10672 Ach., N.J.

STATE OF NEW YORK

COUNTY OF NEW YORK

On this 15th day of December, 1976, before me, the subscriber, a notary public of New York, personally appeared Anthony J. TORZOLI, Director of Marine Terminals of The Port Authority of New York and New Jersey, who I am satisfied is the person who has signed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Commissioners.

Eleanor B. Murphy
(notarial seal and stamp)
ELEANORE B. MURPHY
Notary Public, State of New York
No. 21-4622837
Qualified in New York County
Commission Expires March 30, 1978

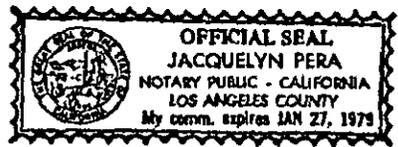
STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On this 15TH day of OCTOBER, 1976, before me, the subscriber, a notary public of California, personally appeared I. Makino

the President of
Toyota Motor Sales, U.S.A., Inc.,

who I am satisfied is the person who has signed the within instrument; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Directors.



Jacquelyn Pera
(notarial seal and stamp)

~~STATE OF~~

~~COUNTY OF~~

~~Be it remembered that on this day of , 197 , before me, the subscriber, a notary public of , personally appeared~~

~~who I am satisfied is the person named in and who executed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as his voluntary act and deed for the uses and purposes therein expressed.~~

~~(notarial seal and stamp)~~

Lease No. L-NS-900
Supplement No. 1

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of December 13, 1976, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, hereinafter called "the Port Authority" and TOYOTA MOTOR SALES, U.S.A., INC., hereinafter called "the Lessee",

WITNESSETH, That:

WHEREAS, heretofore and as of September 18, 1976, the Port Authority and the Lessee entered into an agreement of lease covering premises at Port Newark, in the City of Newark, in the County of Essex and State of New Jersey, and hereinafter, as the said agreement of lease may have been heretofore amended, modified and supplemented called "the Lease"; and

WHEREAS, the Port Authority and the Lessee desire to amend the Lease;

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

1. The date: "December 31, 1976" appearing in Special Endorsement No. 9 to the Lease shall be deemed to have been deleted, and the date: "February 15, 1977" shall be deemed to have been substituted therefor.

2. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

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

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

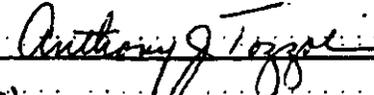
5. This Supplemental Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of 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 the Lease or in this Supplemental Agreement.

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

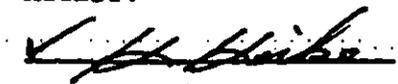
ATTEST:


SECRETARY

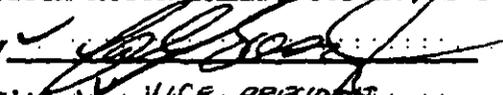
THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

BY 
(Title) _____
(Seal)

ATTEST:



TOYOTA MOTOR SALES, U.S.A., INC.

BY 
(Title) VICE PRESIDENT
(Corporate Seal)

APPROVED:	
FORM	TERMS
	

FCL 10600.1 (Ack., Corp., N.J.)

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.

On this 17th day of January, 1977
before me, the subscriber, a notary public of New York, personally
appeared Anthony J. Tozzoli
the Director of Marine Terminals of The
Port Authority of New York and New Jersey, who I am satisfied is
the person who has signed the within instrument; and I having
first made known to him the contents thereof, he did acknowledge
that he signed, sealed with the corporate seal and delivered the
same as such officer aforesaid and that the within instrument is
the voluntary act and deed of such corporation, made by virtue
of the authority of its Board of Commissioners.

Eleanor B. Murphy
(notarial seal and stamp)
ELEANORE B. MURPHY
Notary Public, State of New York
No. 31-4622837
Qualified in New York County
Commission Expires March 30, 1978

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

On this ✓ 23rd day of December, 1976,
before me, the subscriber, a notary public of California
personally appeared Yale L. Gieszi
the ✓ Vice President of
Toyota Motor Sales, U.S.A., Inc.,

who I am satisfied is the person who has signed the within instrument; and I
having first made known to him the contents thereof, he did
acknowledge that he signed, sealed with the corporate seal and
delivered the same as such officer aforesaid, and that the within
instrument is the voluntary act and deed of such corporation,
made by virtue of the authority of its Board of Directors.



Jacquelyn Pera
(notarial seal and stamp)

L.S.

(EX. 4)

Lease No. L-NS-900
Supplement No. 2

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of December 27, 1976, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, hereinafter called "the Port Authority", and TOYOTA MOTOR SALES, U.S.A., INC., hereinafter called "the Lessee",

WITNESSETH, That:

WHEREAS, heretofore and as of September 18, 1976, the Port Authority and the Lessee entered into an agreement of lease covering premises at Port Newark, in the City of Newark, in the County of Essex and State of New Jersey, and hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease"; and

WHEREAS, the Port Authority and the Lessee desire further to amend the Lease;

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

1. In addition to the premises heretofore let to the Lessee under the Lease, the letting under which shall continue in full force and effect, subject to and in accordance with all the terms, provisions, covenants and conditions of the Lease as amended by this Supplemental Agreement, the Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority, at Port Newark aforesaid, the open area shown in stipple on a sketch hereto attached, hereby made a part hereof and marked "Exhibit A-8", together with the buildings, structures, fixtures, improvements and other property, if any, of the Port Authority located or to be located therein or thereon, the said open area, buildings, structures, fixtures, improvements and other property to become a part of the premises under the Lease, let to the Lessee subject to and in accordance with all the terms,

sup 2-LNS-900

10

provisions, covenants and conditions of the Lease as amended by this Supplemental Agreement, at 12:01 o'clock A.M., on December 29, 1976 and the letting thereof to expire, unless sooner terminated in accordance with the provisions of the Lease as amended by this Supplemental Agreement, or otherwise, at 11:59 o'clock P.M. on December 31, 1976, and to continue from month to month thereafter as a periodical tenancy, provided; however, that the Port Authority shall have the right to terminate the letting of the premises shown on Exhibit A-8 at any time without cause by thirty (30) days' notice to the Lessee; and provided further, that the letting of the portion of the premises shown on Exhibit A-8, unless sooner terminated, in accordance with the provisions of the Lease as amended by this Supplemental Agreement, or otherwise, shall expire, without other, separate or further notice from or to either the Port Authority or the Lessee, at 11:59 o'clock P.M. on February 28, 1977.

2. In addition to all other payments to be made by the Lessee to the Port Authority under the Lease as amended by this Supplemental Agreement, whether on account of basic rental or on other accounts, the Lessee shall pay the Port Authority a basic rental for the portion of the premises shown on Exhibit A-8 at the monthly rate of Eight Thousand Three Hundred Fourteen Dollars and Eighty-three Cents (\$8,314.83) payable in that amount in full in advance on January 1, 1977 and on the first day of each and every calendar month thereafter during the continuance under the Lease of the letting of the portion of the premises shown on Exhibit A-8, and payable in the amount of Eight Hundred Four Dollars and Sixty-six Cents (\$804.66) on December 29, 1976.

3. The provisions of Standard Endorsement No. L27.5, attached hereto and hereby made a part hereof, shall apply to the portion of the premises shown on Exhibit A-8.

4. With respect to the portion of the premises shown on Exhibit A-8, the Lessee recognizes that there is no fence along the westerly side of the perimeter of the premises and the Lessee further recognizes that the Port Authority has no present intention of erecting such a fence or other structure during the term of the letting hereunder. Without altering or limiting any other provision of the Lease, the Lessee shall indemnify and hold the Port Authority harmless from all claims, awards, damages and costs including counsel fees and all other expenses of any kind whatsoever ~~growing out of any accident or injury to any person or persons~~ and damage to property occasioned wholly or in part by any acts or omissions on the part of the Lessee, its agents, servants, employees, invitees, licensees and permittees occurring off the premises in the open area immediately adjoining the premises shown on Exhibit A-8, or elsewhere at the Facility.

5. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

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

Initial
* rendered
to the
lessee
llh

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

8. This Supplemental Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing 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 the Lease or in this Supplemental Agreement.

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

ATTEST:

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

Madeline A. Ziegenfuss
ASSISTANT SECRETARY

By

Anthony J. Tozzol
(Title) Director of Marine Terminals
(Seal)

ATTEST:

J. H. Kuba

TOYOTA MOTOR SALES, U.S.A., INC.

By

[Signature]
(Title) Vice President
(Corporate Seal)

- 3 -

APPROVED:	
FORM	TERMS
<u>[Signature]</u>	<u>[Signature]</u>

llh 4/8

(a) If at any time the Lessee shall become entitled to an abatement of basic rental under the provisions of this Agreement or otherwise, such abatement shall be computed as follows:

(1) For each square foot of usable open area the use of which is denied to the Lessee, at the monthly rate of
\$ 0.0233

(2) For each square foot of usable covered area the use of which is denied to the Lessee, at the monthly rate of
\$ no abatement

(b) If no rates are filled in above then the abatement of basic rental shall be made on an equitable basis, giving effect to the amount and character of the area the use of which is denied the Lessee, as compared with the entire area of such character included in the premises.

(c) If an exemption amount is fixed in this Agreement, it shall be reduced in the same proportion as the total basic rental is abated.

(d) For the purposes of this Endorsement, the number of square feet of covered area shall be computed as follows: by measuring from the inside surface of outer building walls to the surface of the public area side, or of the non-exclusive area side, as the case may require, of all partitions separating the area measured from adjoining areas designated for the use of the public or for use by the Lessee in common with others, and to the center of partitions separating the area measured from adjoining area exclusively used by others; no deduction will be made for columns, partitions, pilasters or projections necessary to the building and contained within the area measured. Permanent partitions enclosing elevator shafts, stairs, fire towers, vents, pipe shafts, meter closets, flues, stacks and any vertical shafts have the same relation to the area measured as do outer building walls.

(e) In the event that during the term of the letting under this Agreement the Lessee shall be partially evicted (actually or constructively) and shall remain in possession of the premises or the balance thereof, the Lessee agrees that notwithstanding it might have the right to suspend payment of the rent in the absence of this provision, it will pay at the times and in the manner herein provided, the full basic rental less only an abatement thereof computed in accordance with the above.

Standard Endorsement No. L27.5

Abatement

All Marine Terminals

8/29/69



PCL 10600.1 (Ack., Corp., N.J.)

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.

On this 10th day of March, 1977,
before me, the subscriber, a notary public of New York, personally
appeared Anthony J. Tozzoli
the Director of Marine Terminals of The
Port Authority of New York and New Jersey, who I am satisfied is
the person who has signed the within instrument; and I having
first made known to him the contents thereof, he did acknowledge
that he signed, sealed with the corporate seal and delivered the
same as such officer aforesaid and that the within instrument is
the voluntary act and deed of such corporation, made by virtue
of the authority of its Board of Commissioners.

Eleanor B. Murphy
(notarial seal and stamp)
ELEANORE B. MURPHY
Notary Public, State of New York
No. 31-4622837
Qualified in New York County
Commission Expires March 30, 1978

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

On this 9th day of February, 1977,
before me, the subscriber, a notary public of California
personally appeared
Yale L. Gieszi the Vice President of

Toyota Motor Sales, U.S.A., Inc., who I am satis-
fied is the person who has signed the within instrument; and I
having first made known to him the contents thereof, he did
acknowledge that he signed, sealed with the corporate seal and
delivered the same as such officer aforesaid, and that the within
instrument is the voluntary act and deed of such corporation,
made by virtue of the authority of its Board of Directors.

Karen L. Hamilton
(notarial seal and stamp)

L.S.

OFFICIAL SEAL
KAREN L. HAMILTON
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My comm. expires OCT 26, 1980

(EX. 4)

Lease No. 1-MS-908
Supplement No. 3

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of February 10, 1977, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, hereinafter called "the Port Authority" and TOYOTA MOTOR SALES, U.S.A., INC., hereinafter called "the Lessee",

WITNESSETH, That:

WHEREAS, heretofore and as of September 18, 1976, the Port Authority and the Lessee entered into an agreement of lease covering premises at Port Newark, in the City of Newark, in the County of Essex and State of New Jersey, and hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease"; and

WHEREAS, the Port Authority and the Lessee desire further to amend the Lease;

1. The date: "February 28, 1977" appearing at the close of Section 1 of Supplement No. 2 to the Lease shall be deemed to have been deleted, and the date: "December 31, 1977" shall be deemed to have been substituted therefor.

2. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

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

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

5. This Supplemental Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing 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 the Lease or in this Supplemental Agreement.

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

ATTEST:

C. Zoffarano

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By Anthony J. Tozzoli
(Title) Director, Marine Terminals
(Seal)

ATTEST:

H. Harkse

TOYOTA MOTOR SALES, U.S.A., INC.

By J. Gieryl
(Title) (Corporate Seal)

FCL 10600.1 (Ack., Corp., N.J.)

STATE OF NEW YORK

COUNTY OF NEW YORK

ss.

On this 22 day of June, 1977, before me, the subscriber, a notary public of New York, personally appeared Anthony J. Farnell the Director of Marine Terminal of The Port Authority of New York and New Jersey, who I am satisfied is the person who has signed the within instrument; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Commissioners.

E. Murphy
(notarial seal and stamp)

STATE OF ~~CALIFORNIA~~

COUNTY OF ~~LOS ANGELES~~

ss.

On this 19 day of May, 1977, before me, the subscriber, a notary public of ~~California~~, personally appeared Y. Giesz the President of ~~Toyota Motor Sales, U.S.A., Inc.~~

~~who I am satisfied is the person who has signed the within instrument; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid, and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Directors.~~

P. J. McCall
(notarial seal and stamp)

(EX. 4)

Lease No. L-NS-900
Supplement No. 5

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of February 14, 1977, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, hereinafter called "the Port Authority" and TOYOTA MOTOR SALES, U.S.A., INC., hereinafter called "the Lessee",

WITNESSETH, That:

WHEREAS, heretofore and as of September 18, 1976, the Port Authority and the Lessee entered into an agreement of lease covering premises at Port Newark, in the City of Newark, in the County of Essex and State of New Jersey, and hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease"; and

WHEREAS, the Port Authority and the Lessee desire further to amend the Lease;

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

1. The date: "December 31, 1976" appearing in Special Endorsement No. 9 to the Lease, heretofore changed to read: "February 15, 1977", shall be deemed to have been deleted, and the date: "May 1, 1977" shall be deemed to have been substituted therefor.

2. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

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

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

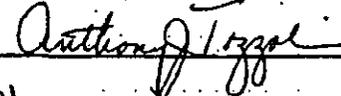
5. This Supplemental Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of 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 the Lease or in this Supplemental Agreement.

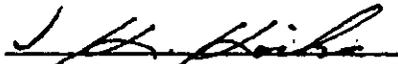
IN WITNESS WHEREOF, the Port Authority and the Lessee have executed these presents as of the date first above written.

ATTEST:

SECRETARY

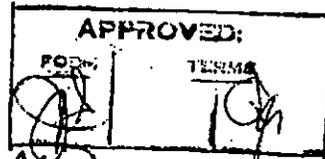
THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By 
(Title) _____
(Seal)

ATTEST:


TOYOTA MOTOR SALES, U.S.A., INC.

By 
(Title) Vice President
(Corporate Seal)



J.R.

FGL 10600.1 (Ack., Corp., N.J.)

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.

On this 22 day of June, 1977,
before me, the subscriber, a notary public of New York, personally
appeared Anthony J. Tozzoli
the Director of Marine Terminals of The
Port Authority of New York and New Jersey, who I am satisfied is
the person who has signed the within instrument; and I having
first made known to him the contents thereof, he did acknowledge
that he signed, sealed with the corporate seal and delivered the
same as such officer aforesaid and that the within instrument is
the voluntary act and deed of such corporation, made by virtue
of the authority of its Board of Commissioners.

Eleanore B. Murphy
(notarial seal and stamp)

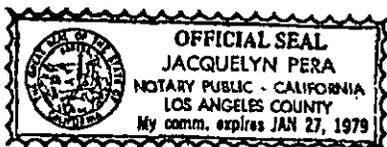
ELEANORE B. MURPHY
Notary Public, State of New York
No. 31-4622837
Qualified in New York County
Commission Expires March 30, 1978

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

On this 12th day of MAY, 1977,
before me, the subscriber, a notary public of California
personally appeared Vale L. Giesz
the Vice President of
Toyota Motor Sales, U.S.A., Inc.,

who I am satisfied is the person who has signed the within instrument; and I
having first made known to him the contents thereof, he did
acknowledge that he signed, sealed with the corporate seal and
delivered the same as such officer aforesaid, and that the within
instrument is the voluntary act and deed of such corporation,
made by virtue of the authority of its Board of Directors.

L.S.



Jacquelyn Pera
(notarial seal and stamp)

(EX. 4)

Lease No. L-NS-900
Supplement No. 6

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of April 28, 1977, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, herein-after called "the Port Authority", and TOYOTA MOTOR SALES, U.S.A., INC., hereinafter called "the Lessee",

WITNESSETH, That:

WHEREAS, heretofore and as of September 18, 1976, the Port Authority and the Lessee entered into an agreement of lease covering premises at Port Newark, in the City of Newark, in the County of Essex and State of New Jersey, and hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease"; and

WHEREAS, the Port Authority and the Lessee desire further to amend the Lease;

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

1. In addition to the premises heretofore let to the Lessee under the Lease, the letting under which shall continue in full force and effect, subject to and in accordance with all the terms, provisions, covenants and conditions of the Lease as amended by this Supplemental Agreement, the Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority, at Port Newark aforesaid, the open area shown in stipple on the sketch hereto attached, hereby made a part hereof and marked "Exhibit A-9", together with the buildings, structures, fixtures, improvements and other property, if any, of the Port Authority located or to be located therein or thereon, the said open area, buildings, structures, fixtures, improvements and other property to become a part of the premises under the Lease, let to the Lessee subject to and in accordance with all the terms, provisions, covenants and conditions of the Lease as amended by this Supplemental Agreement, for a period commencing at 12:01 o'clock A.M., on May 16, 1977, expiring, unless sooner terminated in accordance with the provisions of the Lease as amended by this Supplemental Agreement, or otherwise, at 11:59 o'clock P.M. on May 31, 1977, and continuing from month to month thereafter as a periodical tenancy,

445-LNS-900

provided, however, that the Port Authority shall have the right to terminate the letting of the premises shown on Exhibit A-9 at any time without cause by thirty (30) days' notice to the Lessee; and provided further, that the Letting of the portion of the premises shown on Exhibit A-9, unless sooner terminated, in accordance with the provisions of the Lease as amended by this Supplemental Agreement, or otherwise, shall expire, without other, separate or further notice from or to either the Port Authority or the Lessee, at 11:59 o'clock P.M. on December 31, 1977.

2. In addition to all other payments to be made by the Lessee to the Port Authority under the Lease as amended by this Supplemental Agreement, whether on account of basic rental or on other accounts, the Lessee shall pay the Port Authority a basic rental for the portion of the premises shown on Exhibit A-9 at the monthly rate of Nine Thousand Seven Hundred Sixty-five Dollars and Fifty-eight Cents (\$9,765.58) payable in that amount in full in advance on June 1, 1977 and on the first day of each and every calendar month thereafter during the continuance under the Lease of the letting of the portion of the premises shown on Exhibit A-9, and in the amount of Five Thousand Forty Dollars and Twenty-nine Cents (\$5,040.29) payable on May 16, 1977.

3. The provisions of Standard Endorsement L27.5 attached hereto and hereby made a part hereof, shall apply to the portion of the premises shown on Exhibit A-9.

4. Notwithstanding any term or provision of the Lease, letting of the portion of the premises shown on Exhibit A-8 shall expire at 11:59 o'clock P.M. on May 15, 1977.

5. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

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

* rendered to the Lessee

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

8. This Supplemental Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing 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 the Lease or in this Supplemental Agreement.

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

ATTEST:

Jess E. Egan
SECRETARY

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By *Anthony J. Tuzol*
(Title) _____
(Seal)

ATTEST:

V. H. Hamba

TOYOTA MOTOR SALES, U.S.A., INC.

By *[Signature]*
(Title) *Vice President*
(Corporate Seal)

APPROVED:	
FORM	TERMS
<i>[Signature]</i>	<i>[Signature]</i>

ADD

(a) If at any time the Lessee shall become entitled to an abatement of basic rental under the provisions of this Agreement or otherwise, such abatement shall be computed as follows:

(1) For each square foot of usable open area the use of which is denied to the Lessee, at the monthly rate of \$ 0.0233

(2) For each square foot of usable covered area the use of which is denied to the Lessee, at the monthly rate of \$ no abatement

(b) If no rates are filled in above then the abatement of basic rental shall be made on an equitable basis, giving effect to the amount and character of the area the use of which is denied the Lessee, as compared with the entire area of such character included in the premises.

(c) If an exemption amount is fixed in this Agreement, it shall be reduced in the same proportion as the total basic rental is abated.

(d) For the purposes of this Endorsement, the number of square feet of covered area shall be computed as follows: by measuring from the inside surface of outer building walls to the surface of the public area side, or of the non-exclusive area side, as the case may require, of all partitions separating the area measured from adjoining areas designated for the use of the public or for use by the Lessee in common with others, and to the center of partitions separating the area measured from adjoining area exclusively used by others; no deduction will be made for columns, partitions, pilasters or projections necessary to the building and contained within the area measured. Permanent partitions enclosing elevator shafts, stairs, fire towers, vents, pipe shafts, meter closets, flues, stacks and any vertical shafts have the same relation to the area measured as do outer building walls.

(e) In the event that during the term of the letting under this Agreement the Lessee shall be partially evicted (actually or constructively) and shall remain in possession of the premises or the balance thereof, the Lessee agrees that notwithstanding it might have the right to suspend payment of the rent in the absence of this provision, it will pay at the times and in the manner herein provided, the full basic rental less only an abatement thereof computed in accordance with the above.

Standard Endorsement No. L27.5

Abatement

All Marine Terminals

8/29/69

PCL 10600.1 (Ack., Corp., N.J.)

STATE OF NEW YORK

COUNTY OF NEW YORK

ss.

On this 22 day of June, 1977,
 before me, the subscriber, a notary public of New York, personally
 appeared Anthony J. Tozzoli
 the Director of Marine Terminals of The
 Port Authority of New York and New Jersey, who I am satisfied is
 the person who has signed the within instrument; and I having
 first made known to him the contents thereof, he did acknowledge
 that he signed, sealed with the corporate seal and delivered the
 same as such officer aforesaid and that the within instrument is
 the voluntary act and deed of such corporation, made by virtue
 of the authority of its Board of Commissioners.

Eleanore B. Murphy
 (notarial seal and stamp)

ELEANORE B. MURPHY
 Notary Public, State of New York
 No. 31-4622837
 Qualified in New York County
 Commission Expires March 30, 1978

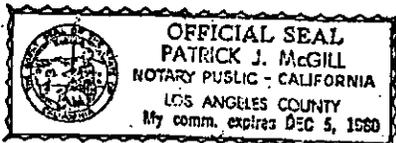
STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ss.

On this 19th day of MAY, 1977,
 before me, the subscriber, a notary public of California
 personally appeared YALE GIESZL
 the Vice-President of
Toyota Motor Sales, U.S.A., Inc.,

who I am satis-
 fied is the person who has signed the within instrument; and I
 having first made known to him the contents thereof, he did
 acknowledge that he signed, sealed with the corporate seal and
 delivered the same as such officer aforesaid, and that the within
 instrument is the voluntary act and deed of such corporation,
 made by virtue of the authority of its Board of Directors.



Patrick J. McGill
 (notarial seal and stamp)

L.S.

(EX. 4)

Lease No. L-NS-900
Supplement No. 7

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of May 20, 1977, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, hereinafter called "the Port Authority" and TOYOTA MOTOR SALES, U.S.A., INC., hereinafter called "the Lessee",

WITNESSETH, That:

WHEREAS, heretofore and as of September 18, 1976, the Port Authority and the Lessee entered into an agreement of lease covering premises at Port Newark, in the City of Newark, in the County of Essex and State of New Jersey, and hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease"; and

WHEREAS, in order to improve traffic flow to and in the vicinity of the premises under the Lease, the Port Authority and the Lessee desire to discontinue the letting as to a small portion of the area of the premises shown on Exhibit A-6 as heretofore attached to the Lease; and

WHEREAS, the Port Authority and the Lessee therefore desire further to amend the Lease;

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

1. The Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority, at Port Newark aforesaid, the open area shown in stipple on a sketch hereto attached, hereby made a part hereof, and marked "Exhibit A-6", the said Exhibit A-6 being distinguished from an earlier Exhibit so labeled which earlier Exhibit carried the date August 10, 1976, the present Exhibit A-6 carrying the date May 23, 1977. The area shown on Exhibit A-6 (5/23/77) and the structures, fixtures, improvements and other property, if any, of the Port Authority located or to be located or constructed thereon shall become and thereafter be part

[Handwritten signature]
Sup 7-LNS-900

of the premises under the Lease, as of 12:01 o'clock A.M. on May 23, 1977, subject to and in accordance with all the terms, provisions, covenants and conditions of the Lease as amended by this Supplemental Agreement. In the event there is any area shown as a portion of the premises on Exhibit A-6 (8/10/76) not shown as a portion of the premises on Exhibit A-6 (5/23/77) the Lessee shall be deemed to have surrendered the letting as to the said portion of such premises as of 11:59 o'clock P.M. on May 23, 1977.

2. Notwithstanding the provisions of paragraph (g) of Standard Endorsement No. 2 to the Lease, for the period commencing May 23, 1977, the Lessee shall pay a basic rental for the portion of the premises shown on Exhibit A-6 at the annual rate of Sixty-nine Thousand Four Hundred Forty Dollars and Fifty Cents (\$69,440.50) payable in equal monthly installments each in the amount of Five Thousand Seven Hundred Eighty-six Dollars and Seventy-one Cents. (\$5,786.71) and payable in that amount in full in advance on June 1, 1977 and on the first day of each and every calendar month thereafter during the continuance of the letting of the portion of the premises shown on Exhibit A-6. Notwithstanding any term or provision of the Lease as amended by this Supplemental Agreement, the basic rental for all premises shown on both forms of Exhibit A-6 for the month of May 1977 shall be the sum of Five Thousand Eight Hundred Thirty-six Dollars and Seventeen Cents (\$5,836.17).

3. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

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

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

6. This Supplemental Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing 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 the Lease or in this Supplemental Agreement.

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

ATTEST:

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Madeline A. Ziegler
ASSISTANT SECRETARY

BY *Anthony J. Tzogl*
(Title) Director of Marine Terminals
(Seal)

ATTEST:

TOYOTA MOTOR SALES, U.S.A., INC.

K. Koike
K. Koike, Assistant Secretary and Treasurer

BY *Yale Gieszi*
(Title) Vice President
(Corporate Seal)

L.S.

APPROVED	
FORM	TERMS
<i>[Signature]</i>	<i>[Signature]</i>

[Handwritten initials]

PCL 10600.1 (Ack., Corp., N.J.)

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.

On this 26 day of Oct, 1977
before me, the subscriber, a notary public of New York, personally
appeared Anthony J. Tozzoli
the Director of Marine Terminals of The
Port Authority of New York and New Jersey, who I am satisfied is
the person who has signed the within instrument; and I having
first made known to him the contents thereof, he did acknowledge
that he signed, sealed with the corporate seal and delivered the
same as such officer aforesaid and that the within instrument is
the voluntary act and deed of such corporation, made by virtue
of the authority of its Board of Commissioners.

Eleanor B. Murphy
(notarial seal and stamp)

ELEANORE B. MURPHY
Notary Public, State of New York
No. 31-4622837
Qualified in New York County
Commission Expires March 30, 1978

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

On this 7th day of September, 1977,
before me, the subscriber, a notary public of California
personally appeared
YALE L. GIESZL the Vice President of

Toyota Motor Sales, U.S.A., Inc., who I am satis-
fied is the person who has signed the within instrument; and I
having first made known to him the contents thereof, he did
acknowledge that he signed, sealed with the corporate seal and
delivered the same as such officer aforesaid, and that the within
instrument is the voluntary act and deed of such corporation,
made by virtue of the authority of its Board of Directors.



Jacquelyn Pera
(notarial seal and stamp)

(EX. 4)

Lease No. L-NS-900
Supplement No. 8

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of December 20, 1977, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, hereinafter called "the Port Authority" and TOYOTA MOTOR SALES, U.S.A., INC., hereinafter called "the Lessee",

WITNESSETH, That:

WHEREAS, heretofore and as of September 18, 1976, the Port Authority and the Lessee entered into an agreement of lease covering premises at Port Newark, in the City of Newark, in the County of Essex and State of New Jersey, and hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease"; and

WHEREAS, the Port Authority and the Lessee desire further to amend the Lease;

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

1. The Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority, at Port Newark aforesaid, the open area shown in stipple on a sketch hereto attached, hereby made a part hereof, and marked "Exhibit A-10", together with the structures, fixtures, improvements and other property, if any, of the Port Authority located or to be located therein or thereon. The area shown on Exhibit A-10 and the structures, fixtures, improvements and other property, if any, of the Port Authority located or to be located or constructed thereon shall become and thereafter be part of the premises under the Lease, as of 12:01 o'clock A.M. on February 1, 1978, let to the Lessee subject to and in accordance with all the terms, provisions, covenants and conditions of the Lease as amended by this Supplemental Agreement for a period then commencing, expiring, unless sooner terminated in accordance with the Lease or amended by this Supplemental Agreement or otherwise, at 11:59 o'clock P.M. on February 28, 1978, and continuing from month to month thereafter as a periodical tenancy; provided, however, that the letting as

to the portion of the premises shown on Exhibit A-10 shall expire, unless sooner terminated in accordance with the provisions of the Lease as amended by this Supplemental Agreement or otherwise, at 11:59 o'clock P.M. on October 31, 1978, without other, further or separate notice from or to either the Port Authority or the Lessee.

2. (a) Notwithstanding any term or provision of the Lease, the letting of the portion of the premises shown on Exhibit A-6 shall expire, without notice from or to either the Port Authority or the Lessee, at 11:59 o'clock P.M. on January 31, 1978. The Lessee shall not be required to pay basic rental for the said portion of the premises for the calendar month of January 1978, provided that during the said month the Lessee uses the said portion of the premises solely for the storage of goods belonging to the Lessee delivered to the said portion of the premises prior to January 1, 1978, makes no new delivery to the said portion of the premises and fully clears and vacates the said portion of the premises on or before January 31, 1978.

(b) Notwithstanding any term or provision of the Lease, the letting as to that portion of the premises shown on Exhibit A-5 shall expire, without notice from or to either the Port Authority or the Lessee, at 11:59 o'clock P.M. on April 30, 1978. The Lessee shall not be required to pay basic rental for the said portion of the premises for the calendar month of April, 1978, provided that during the said month the Lessee uses the said portion of the premises solely for the storage of goods belonging to the Lessee delivered to the said portion of the premises prior to April 1, 1978, makes no new delivery to the said portion of the premises and fully clears and vacates the said portion of the premises on or before April 30, 1978.

(c) Notwithstanding any term or provision of the Lease, the letting as to all portions of the premises shown on Exhibit A-7 shall expire at 11:59 o'clock P.M. on May 31, 1978.

3. The letting of the portion of the premises shown on Exhibit A-9 is hereby extended so that it will expire, unless sooner terminated in accordance with the Lease as amended by this Supplemental Agreement, or otherwise, at 11:59 o'clock P.M. on January 31, 1978 and the letting of the said portion of the premises shall continue thereafter as a periodical tenancy from month to month, expiring however, unless sooner terminated in accordance with the Lease as amended by this Supplemental Agreement, or otherwise, at 11:59 o'clock P.M. on October 31, 1978, without other, further or separate notice to or from either the Port Authority or the Lessee.

4. (a) For the period commencing January 1, 1978, the Lessee shall pay a basic rental for the portion of the premises shown on Exhibit A-9 at the monthly rate of Eight Thousand Seven Hundred Nineteen Dollars and Twenty-seven Cents (\$8,719.27) payable in that amount in full in advance on January 3, 1978, on February 1, 1978, and on the first day of each and every calendar month thereafter during the continuance of the letting of the portions of the premises shown on Exhibit A-9.

(b) For the period commencing February 1, 1978, the Lessee shall pay a basic rental for the portion of the premises shown on Exhibit A-10 at the monthly rate of Two Thousand Three Hundred Four Dollars and Seventeen Cents (\$2,304.17) payable in that amount in full in advance on February 1, 1978 and on the first day of each and every calendar month thereafter during the continuance of the letting of the portion of the premises shown on Exhibit A-10.

(c) Payments to be made under the provisions of this Section 4 shall be in addition to all payments otherwise to be made by the Lessee to the Port Authority under the Lease as amended by this Supplemental Agreement, whether on account of basic rental or on other accounts.

5. The date: "December 31, 1977" appearing in paragraph (h)(2) of Standard Endorsement No. L32.4 to the Lease shall be deemed to have been changed to read: "March 31, 1978".

6. The Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority the areas shown on Exhibit A-1 and on Exhibit A-2, together with the fixtures, improvements and other property of the Port Authority, if any thereon, all as contemplated in Special Endorsement No. 5 to the Lease, and subject to the terms, provisions, covenants and conditions of the Lease as amended by this Supplemental Agreement, except that the said letting shall commence at 12:01 o'clock A.M. on August 1, 1978. With regard to the area shown on Exhibit A-3, the provisions of the said Special Endorsement No. 5 shall continue in full force and effect, except that the date: "August 31, 1977" shall be deemed to have been deleted and replaced with the date: "May 31, 1979".

7. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

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

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

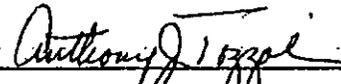
10. This Supplemental Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of 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 the Lease or in this Supplemental Agreement.

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

ATTEST:

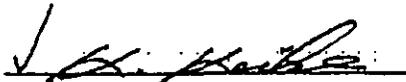
THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

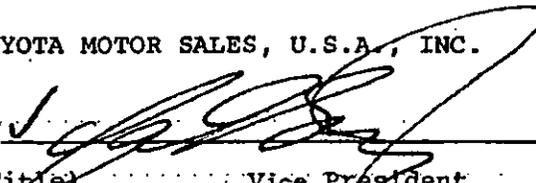

ASSISTANT SECRETARY

By 
(Title) Director of Marine Terminals
(Seal)

ATTEST:

TOYOTA MOTOR SALES, U.S.A., INC.


Assistant Secretary

By 
(Title) Vice President
(Corporate Seal)

APPROVED:	
FORM	TERMS
JAS D.H.A.D.	RAY

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.

On this 20 day of July, 1978,
before me, the subscriber, a notary public of New York, personally
appeared Anthony J. Tozzoli
the Director of Marine Terminals of The
Port Authority of New York and New Jersey, who I am satisfied is
the person who has signed the within instrument; and I having
first made known to him the contents thereof, he did acknowledge
that he signed, sealed with the corporate seal and delivered the
same as such officer aforesaid and that the within instrument is
the voluntary act and deed of such corporation, made by virtue
of the authority of its Board of Commissioners.

Eleanore B. Murphy
(notarial seal and stamp)
ELEANORE B. MURPHY
Notary Public, State of New York
No. 31-4822037
Qualified in New York County
Commission Expires March 30, 1980

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

On this 2nd day of June, 1978,
before me, the subscriber, a notary public of CALIFORNIA
personally appeared Yale Gieszl,
the Vice President of
Toyota Motor Sales, U.S.A., Inc.,
who I am satis-
fied is the person who has signed the within instrument; and I
having first made known to him the contents thereof, he did
acknowledge that he signed, sealed with the corporate seal and
delivered the same as such officer aforesaid, and that the within
instrument is the voluntary act and deed of such corporation,
made by virtue of the authority of its Board of Directors.

Jacquelyn Pera
(notarial seal and stamp)

L.S.



(EX. 4)

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

(SUPPLEMENT NO. 9)

(Lease No. L-NS-900)
(Partial Surrender)

THIS AGREEMENT, dated as of April 25, 1978, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority"), and TOYOTA MOTOR SALES, U.S.A., INC.

(hereinafter called "the Tenant"),

WITNESSETH, That:

WHEREAS, by lease dated as of September 18, 1976, (which lease, as the same may have been supplemented and amended, is hereinafter called "the Lease") the Port Authority let to the Tenant and the Tenant hired and took from the Port Authority, ~~for a term ending~~ on a month-to-month basis, premises at Port Newark, Newark, New Jersey as more particularly described in the Lease; and

WHEREAS, the Tenant being presently in possession under the Lease, desires to terminate its occupancy of the premises or of that part thereof ~~shown in color on the Exhibit, if any, hereto attached, * hereby made a part hereof and marked "Exhibit"~~ (the said premises or part thereof, as the case may be, being hereinafter called "the premises"), and to surrender the same to the Port Authority effective April 30, 1978 at 11:59 o'clock P.M., which date and hour are hereinafter collectively called "the effective date"; and

WHEREAS, the Port Authority is willing to accept such surrender on the terms and conditions hereinafter set forth;

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

1. The Tenant has granted, bargained, sold, surrendered and yielded up and does by these presents grant, bargain, sell, surrender and yield up unto the Port Authority, its successors and assigns, forever, the premises and the term of years with respect thereto under the Lease yet to come and has given, granted and surrendered and by these presents does give, grant and surrender to the Port Authority, its successors and assigns, all the rights, rights of renewal, licenses, privileges and options of the Tenant granted by the Lease with respect to the premises, all to the intent

and purpose that the said term under the Lease and the said rights of renewal, licenses, privileges and options may be wholly merged, extinguished and determined on the effective date, with the same force and effect as if the said term were in and by the provisions of the Lease originally fixed to expire on the effective date;

TO HAVE AND TO HOLD the same unto the Port Authority, its successors and assigns forever.

2. The Tenant hereby covenants on behalf of itself, its successors and assigns that (a) it has not done or suffered and will not do or suffer anything whereby the premises, or the Tenant's leasehold therein, has been or shall be encumbered as of the effective date in any way whatsoever; (b) the Tenant is and will remain until the effective date the sole and absolute owner of the leasehold estate in the premises and of the rights, rights of renewal, licenses, privileges and options granted by the Lease with respect thereto and that the same are and will remain until the effective date free and clear of all liens and encumbrances of whatsoever nature; and (c) the Tenant has full right and power to make this Agreement.

3. All promises, covenants, agreements and obligations of the Tenant with respect to the premises, under the Lease or otherwise, which under the provisions thereof would have matured upon the date originally fixed in the Lease for the expiration of the term thereof, or upon the termination of the Lease prior to the said date, or within a stated period after expiration or termination, shall notwithstanding such provisions, mature upon the effective date and shall survive the execution and delivery of this Agreement.

4. The Tenant has released and discharged and does by these presents release and discharge the Port Authority from any and all obligations of every kind, past, present or future on the part of the Port Authority to be performed under the Lease with respect to the premises, except the Port Authority's obligation to refund the cash security or balance thereof, if any, remaining on deposit with the Port Authority. The Port Authority does by these presents release and discharge the Tenant from any and all obligations on the part of the Tenant to be performed under the Lease with respect to the premises for that portion of the term subsequent to the effective date; it being understood that nothing herein contained shall release, relieve or discharge the Tenant from any liability for rentals or for other charges that may be due or become due to the Port Authority for any period or periods prior to the effective date, or for breach of any other obligation on the Tenant's part to be performed under the Lease for or during such period or periods or maturing pursuant to paragraph 3 above.

5. In consideration of the making of this Agreement by the Port Authority and the above described release, the Tenant hereby agrees to terminate its occupancy of the premises and to deliver actual, physical possession of the premises to the Port Authority, on or before the effective date, in the condition required by the Lease upon surrender. The Tenant further agrees that it shall remove from the premises, prior to the effective date, all equipment, inventories, removable fixtures and other personal property of the Tenant or for which the Tenant is responsible. With respect to any such property not so removed, the Port Authority may at its option, as agent for the Tenant and at the risk and expense of the Tenant, remove such property to a

public warehouse or may retain the same in its own possession and in either event, after the expiration of thirty (30) days, may sell or consent to the sale of the same at a public auction; the proceeds of any such sale shall be applied first to the expenses of removal, sale and storage, and second to any sums owed by the Tenant to the Port Authority; any balance remaining shall be paid to the Tenant. The Tenant shall pay to the Port Authority any excess of the total cost of removal, storage and sale over the proceeds of sale.

6. Other Provisions:

The basic rental payable under the provisions of Section 4(b) of Supplement No. 8 to the Lease shall not accrue after April 30, 1978.

7. Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Tenant with any liability or held liable to it under any term or condition of this Agreement, or because of its execution or attempted execution or because of any breach or attempted or alleged breach thereof. The Tenant agrees that no representations or warranties with respect to this Agreement shall be binding upon the Port Authority unless expressed in writing herein.

IN WITNESS WHEREOF, the Port Authority and the Tenant have executed these presents as of the date first above written.

ATTEST:

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Madeline A. Zuppan
ASSISTANT SECRETARY

By *Anthony J. Tapp*
(Title) Director of Marine Terminals
(seal)

ATTEST BY WITNESS:

TOYOTA MOTOR SALES - U.S.A., INC.

H. H. H. H.
Assistant Secretary

By *[Signature]*
(Title) Vice President
(seal)

APPROVED:
FORM TERMS
[Signatures]

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

On this 29 day of Sept., 1978, before me, the subscriber, a notary public of New York, personally appeared Anthony J. TOKSOLI the Director of Marine Terminals of The Port Authority of New York and New Jersey, who I am satisfied is the person who has signed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid, and that the within instrument is the voluntary act and deed of such corporation made by virtue of the authority of its Board of Commissioners.

Eleanore B. Murphy
(notarial seal and stamp)

ELEANORE B. MURPHY
Notary Public, State of New York
No. 31-442237
Qualified in New York County
Commission Expires March 30, 1980.

STATE OF CALIFORNIA)
) ss. ✓
COUNTY OF LOS ANGELES)

On this 2nd day of JUNE, 1978, before me, the subscriber, a notary public of California, personally appeared Yale Gieszl Vice President of Toyota Motor Sales, U.S.A., Inc., the person who has signed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid, and that the within instrument is the voluntary act and deed of such corporation made by virtue of the authority of its Board of Directors.

L.S.



Jacquelyn Pera
(notarial seal and stamp)

STATE OF _____)
) ss.
COUNTY OF _____)

Be it remembered that on this _____ day of _____ 197, before me, the subscriber, a notary public of _____ personally appeared _____ who I am satisfied is the person named in and who executed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as his voluntary act and deed, for the uses and purposes therein expressed.

(notarial seal and stamp)

(EX. 4)

Lease No. L-NS-900
Supplement No. 11

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of August 8, 1978, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, hereinafter called "the Port Authority" and TOYOTA MOTOR SALES, U.S.A., INC., hereinafter called "the Lessee",

WITNESSETH, That:

WHEREAS, heretofore and as of September 18, 1976, the Port Authority and the Lessee entered into an agreement of lease covering premises at Port Newark, in the City of Newark, in the County of Essex and State of New Jersey, and hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease"; and

WHEREAS, the Port Authority and the Lessee desire further to amend the Lease;

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

1. Notwithstanding any term or provision of the Lease, the letting of the portion of the premises shown on Exhibit A-1, and the letting of the portion of the premises shown on Exhibit A-2, shall commence at 12:01 o'clock A.M. on August 15, 1978, and shall continue thereafter in accordance with the provisions of the Lease.

2. Notwithstanding any term or provision of the Lease the letting of the portion of the premises shown in stipple on Exhibit A-3 shall commence as follows:

(i) the letting of the easternmost half of the premises as shown on Exhibit A-3 (214,816 square feet) shall commence at 12:01 o'clock A.M. on February 20, 1979, shall expire, unless sooner terminated in accordance with the Lease as amended by this Supplemental Agreement, or otherwise, at 11:59 o'clock P.M. on February 28, 1979 and shall continue from month to month thereafter as a periodical tenancy; and

(ii) the letting of the balance of the premises shown on Exhibit A-3 shall commence at 12:01 o'clock A.M. on March 21, 1979, shall expire, unless sooner terminated in accordance with the Lease as amended by this Supplemental Agreement, or otherwise, at 11:59 o'clock P.M. on March 31, 1979 and shall continue from month to month thereafter as a periodical tenancy;

(iii) provided, however, that (aa) the Port Authority shall have the right to terminate the letting as to the portion of the premises shown on Exhibit A-3 at any time without cause and with the effect of expiration, by thirty (30) days' notice to the Lessee; and (bb) that the letting of all the premises shown on Exhibit A-3 shall expire, unless sooner terminated in accordance with the Lease as amended by this Supplemental Agreement, or otherwise, at 11:59 o'clock P.M. on May 31, 1979.

3. The letting of the portion of the premises shown on Exhibit A-9 shall expire at 11:59 o'clock P.M. on August 14, 1978. No basic rental shall accrue with regard to the said portion of the premises for the period subsequent to August 11, 1978.

4. The letting of that portion of the premises shown in stipple on a sketch hereto attached, hereby made a part hereof and marked "Exhibit PS-1" shall expire at 11:59 o'clock P.M. on March 13, 1979. On account thereof, the basic rental payable under the Lease for the month of March 1979 on account of the portions of the premises shown on Exhibits A-1 and A-2 shall be diminished by the amount of Twenty-nine Dollars and Fifty-three Cents (\$29.53) and the monthly payment of rental for April, 1979 and for each calendar month thereafter on account of the said portions of the premises shall be, notwithstanding the provisions of paragraph (i) of Special Endorsement No. 2 to the Lease, in the amount of Ten Thousand Six Hundred Seventy-four Dollars and Thirty-seven Cents (\$10,674.37).

5. For the period that the portion of the premises shown on Exhibit A-3 remains let to the Lessee under this Supplemental Agreement, the Lessee shall pay the Port Authority basic rental therefor in the monthly amount of Eleven Thousand Ninety-eight Dollars and Eighty-three Cents (\$11,098.83) payable in that amount in full in advance on April 1, 1979 and on the first day of each and every calendar month thereafter during the continuance of the letting of the said portion of the premises as set forth in Section 2 of this Supplemental Agreement; the basic rental for the period commencing February 20, 1979 and ending March 31, 1979 shall be Nine Thousand Two Hundred Ninety-two Dollars and

Thirty Cents (\$9,292.30) payable in full within ten (10) days after the receipt by the Lessee of a copy of this Supplemental Agreement executed and acknowledged on behalf of the Port Authority. Abatement of rental with regard to the said portion of the premises for the period ending May 31, 1979 shall be at the monthly rate of \$0.02583 per square foot the use of which is denied to the Lessee.

6. The Lessee recognizes that during the period ending March 20, 1978 the western half of the portion of the premises shown on Exhibit A-3, at that time not let to the Lessee, will be occupied by another, for the purpose of storage of automobiles. The Lessee shall have no claim or demand whatsoever against the Port Authority on account of damage to property of the Lessee or property of others for which it is responsible arising out of the occupancy or use of the western half of the said portion of the premises during the said period, and the Lessee hereby releases the Port Authority from all claims and demands whatsoever arising out of such use or occupancy, and shall indemnify and hold the Port Authority harmless against and from all such claims and demands on the part of third persons.

7. The Lessee will afford to the Port Authority, its officers, employees, agents and contractors and their employees reasonable access through the premises to perform the work of installation of an access gate in the fencing.

8. The Lessee acknowledges that all rights of first refusal granted to the Lessee under the provisions of the Lease with regard to the leasing of additional premises at Port Newark shall be null and void unless notice exercising the rights of the Lessee is received by the Port Authority on or before April 30, 1979, and hereby releases the Port Authority from all obligations thereunder.

9. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

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

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

12. This Supplemental Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing 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 the Lease or in this Supplemental Agreement.

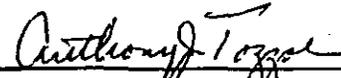
IN WITNESS WHEREOF, the Port Authority and the Lessee have executed these presents as of the date first above written.

ATTEST:



SECRETARY

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By 

(Title) Director of Marine Terminals
(Seal)

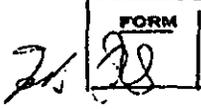
ATTEST:



TOYOTA MOTOR SALES, U.S.A., INC.

By 

(Title) Vice President
(Corporate Seal)

APPROVED:	
FORM	TERMS
	

(EX. 4)

Lease No. L-NS-900
Supplement No. 12

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of June 11, 1979, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, hereinafter called "the Port Authority" and TOYOTA MOTOR SALES, U.S.A., INC., hereinafter called "the Lessee",

WITNESSETH, That:

WHEREAS, heretofore and as of September 18, 1976, the Port Authority and the Lessee entered into an agreement of lease covering premises at Port Newark, in the City of Newark, in the County of Essex and State of New Jersey, and hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease"; and

WHEREAS, the Port Authority and the Lessee desire further to amend the Lease;

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

1. The words and figure "eleven thousand (11,000) square feet of paving to the west of the building" appearing in subdivision (3) of Section I of Schedule W attached to the Lease shall be deemed deleted therefrom and the words and figure "Twenty-one thousand (21,000) square feet of paving including eleven thousand (11,000) square feet of paving to the west of the building." shall be deemed inserted in lieu thereof.
2. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.
3. The Lessee represents and warrants that no broker ~~has been concerned in the negotiation of this Supplemental Agreement~~ and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Lessee shall indemnify and save harmless the Port Authority of and from all claims for commission or brokerage made by any and all persons, firms or corporations whatsoever for services rendered to the Lessee in connection with the negotiation and execution of this Supplemental Agreement.

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

5. This Supplemental Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing 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 the Lease or in this Supplemental Agreement.

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

ATTEST:

Denis E. Lynch
SECRETARY

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By *Anthony T. Toppo*
(Title) Director of Marine Terminals
(Seal)

ATTEST:

[Signature]

TOYOTA MOTOR SALES, U.S.A., INC.

By *[Signature]*
(Title) Vice President
(Corporate Seal)

APPROVED:

<u><i>[Signature]</i></u> FORM	<u><i>[Signature]</i></u> TERMS
-----------------------------------	------------------------------------

PCL 10600.1 (Ack., Corp., N.J.)

STATE OF NEW YORK)
) SS.
COUNTY OF NEW YORK)

On this 24 day of Aug., 1979,
before me, the subscriber, a notary public of New York, personally
appeared Anthony Tozzoli
the Director of Marine Terminals of The
Port Authority of New York and New Jersey, who I am satisfied is
the person who has signed the within instrument; and I having
first made known to him the contents thereof, he did acknowledge
that he signed, sealed with the corporate seal and delivered the
same as such officer aforesaid and that the within instrument is
the voluntary act and deed of such corporation, made by virtue
of the authority of its Board of Commissioners.

Eleanor B. Murphy
(notarial seal and stamp)

ELEANORE B. MURPHY
Notary Public, State of New York
No. 31-452237
Qualified in New York County
Commission Expires March 30, 1980

STATE OF CALIFORNIA)
) SS.
COUNTY OF LOS ANGELES

On this 10th day of July, 1979,
before me, the subscriber, a notary public of California
personally appeared Yale Gieszl,
the Vice President of
Toyota Motor Sales, U.S.A., Inc. who I am satis-
fied is the person who has signed the within instrument; and I
having first made known to him the contents thereof, he did
acknowledge that he signed, sealed with the corporate seal and
delivered the same as such officer aforesaid, and that the within
instrument is the voluntary act and deed of such corporation,
made by virtue of the authority of its Board of Directors.



Jeanine Ann Hamada
(notarial seal and stamp)

Lease No. L-NS-900
Supplement No. 13

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of September 29, 1960, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, hereinafter called "the Port Authority" and TOYOTA MOTOR SALES, U.S.A., INC., hereinafter called "the Lessee",

WITNESSETH, That:

WHEREAS, heretofore and as of September 18, 1976, the Port Authority and the Lessee entered into an agreement of lease covering premises at Port Newark, in the City of Newark, in the County of Essex and State of New Jersey, and hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease"; and

WHEREAS, the Port Authority and the Lessee desire further to amend the Lease:

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

1. The letting of that portion of the premises shown in stipple on a sketch hereto attached, hereby made a part hereof and marked "Exhibit PS-2" shall expire at 11:59 o'clock P.M. on September 30, 1980. On account thereof, the annual basic rental rate payable under the Lease for the period commencing October 1, 1980 on account of the portion of the premises shown in diagonal stipple on Exhibit A shall be diminished by the amount of Five Hundred Fourteen Dollars and Twenty-five Cents (\$514.25) and the monthly installments of rental for October, 1980 and for each calendar month thereafter on account of the said portion of the premises shall be, notwithstanding the provisions of paragraph (a) of Special Endorsement No. 2 to the Lease, in the amount of Seven Thousand One Hundred Seventeen Dollars and Thirty-two Cents (\$7,117.32).

2. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

PORT DEPARTMENT
CONFORMED COPY

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

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

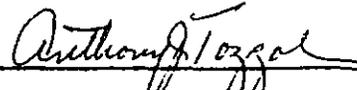
5. This Supplemental Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of 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 the Lease or in this Supplemental Agreement.

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

ATTEST:

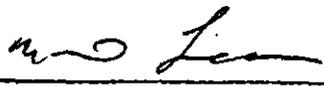
THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY


SECRETARY

By 
(Title) Director of Port Department
(Seal)

ATTEST:

TOYOTA MOTOR SALES, U.S.A., INC.



By 
(Title) Vice President
(Corporate Seal)

APPROVED:
FORM TERMS


(EX. 4)

Lease No. L-NS-900
Supplement No. 14
Port Authority Facility - Port Newark

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of October 31, 1986, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, (hereinafter called "the Port Authority") and TOYOTA MOTOR SALES, U.S.A., INC., (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of September 18, 1976, the Port Authority and the Lessee entered into an agreement of lease (hereinafter, as the said agreement of lease may have been heretofore amended, modified and supplemented, called "the Lease"), covering premises at Port Newark located in the City of Newark, County of Essex and State of New Jersey; and

WHEREAS, the Port Authority and the Lessee desire to extend the term of the letting under the Lease and to amend the Lease in certain other respects;

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

1. The term of the letting under the Lease is hereby extended for the period ending on the 31st day of October, 1996, unless sooner terminated, at an annual rental at the rate of One Million Two Hundred Forty-five Thousand Eight Hundred Sixteen Dollars and No Cents (\$1,245,816.00) per annum for the period commencing November 1, 1986 and continuing through October 31, 1988, both dates inclusive, payable in advance in equal monthly installments of One Hundred Three Thousand Eight Hundred Eighteen Dollars and No Cents (\$103,818.00) on November 1, 1986 and on the first day of each calendar month thereafter occurring during such period, at the annual rate of One Million Three Hundred Forty-seven Thousand Four Hundred Seventy-five Dollars and No Cents (\$1,347,475.00) per annum for the period commencing November, 1 1988 and continuing through October 31, 1990, both dates inclusive, payable in advance in equal monthly installments of One Hundred Twelve Thousand Two Hundred Eighty-nine Dollars and Fifty-eight Cents (\$112,289.58) on November 1, 1988 and on the first day of each calendar month thereafter occurring during such period, at the annual rate of One Million Four Hundred Fifty-seven Thousand Four Hundred Twenty-eight Dollars and No Cents (\$1,457,428.00) per annum for the period commencing November, 1 1990 and continuing through October 31, 1992, both dates

inclusive, payable in advance in equal monthly installments of One Hundred Twenty-one Thousand Four Hundred Fifty-two Dollars and Thirty-three Cents (\$121,452.33) on November 1, 1990 and on the first day of each calendar month thereafter occurring during such period, at the annual rate of One Million Five Hundred Seventy-six Thousand Three Hundred Fifty-four Dollars and No Cents (\$1,576,354.00) per annum for the period commencing November 1, 1992 and continuing through October 31, 1994, both dates inclusive, payable in advance in equal monthly installments of One Hundred Thirty-one Thousand Three Hundred Sixty-two Dollars and Eighty-three Cents (\$131,362.83) on November 1, 1992 and on the first day of each calendar month thereafter occurring during such period, and at the annual rate of One Million Seven Hundred Four Thousand Nine Hundred Eighty-five Dollars and No Cents (\$1,704,985.00) per annum for the period commencing November 1, 1994 and continuing through the expiration date of the extended term of the letting under the Lease as herein amended, both dates inclusive, payable in advance in equal monthly installments of One Hundred Forty-two Thousand Eighty-two Dollars and Eight Cents (\$142,082.08) on November 1, 1994 and on the first day of each calendar month thereafter occurring during such period.

2. Abatement of rental, if any, during the extension shall be computed in accordance with Standard Endorsement No. L27.4 attached hereto.

3. (a) The liability insurance requirements set forth in Standard Endorsement No. L21.1 of the Lease shall be amended to include a contractual liability endorsement covering the Lessee's indemnity obligations under the Lease, with the Port Authority named as an additional insured on each policy. 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, 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. Such policies shall not exclude or except from their coverage damages arising out of injury to or destruction of property occupied or used by or rented to the Lessee. 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 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.

(b) The insurance limits set forth in Standard Endorsement No. L21.1 of the Lease shall be increased and expanded to provide coverage as follows:

Comprehensive general liability insurance covering bodily injury, including wrongful death, premises operations and products and completed operations liability in the minimum amount of \$2,000,000 combined single limit for each occurrence; comprehensive automobile liability for bodily injury, including wrongful death, and property damage (covering owned, non-owned and hired vehicles) in the minimum amount of \$2,000,000 combined single limit per accident; and property damage insurance for real property at 100% of replacement cost covering all risk of physical loss or damage including loss by flood.

(c) Notwithstanding anything to the contrary in the Lease, in lieu of providing coverage for products and completed operations liability, in accordance with the provisions of subparagraph (b) of this paragraph, the Lessee may elect to provide by self insurance, for itself and the Port Authority, insurance coverage for products liability and completed operations liability upon the same terms and conditions as would be provided by the insurance carrier, with the Port Authority named as an additional insured, and in the event the Lessee so elects the Lessee shall act as an insurer of the Port Authority and shall defend and answer actions with respect to products and completed operations liability, and shall protect the Port Authority against all claims and demands of third persons and liability therefor to the same extent as under the policies described in the Lease as herein amended, including without limitation thereto any claim or demand of any third person arising solely out of any negligent act or omission of the Port Authority, its Commissioners, officers, agents or employees. The Lessee agrees to provide a letter, signed by a duly authorized corporate officer, attesting to the existence of its self-insurance program. The Lessee agrees that in the event of a loss it shall make available out of its own funds such amounts as would be paid by an insurance carrier providing coverage as described in the Lease as herein amended for products liability and completed operations liability and its obligation to pay any loss under the Lease as herein amended shall not be limited other than by limitations on coverages that would have been made available from such insurance carrier. Nothing contained herein shall affect the Lessee's obligations to obtain policies of insurance to provide the other coverages described in the Lease as herein amended.

4. (a) In addition to the basic rental set forth in the Lease as herein amended, the Lessee shall pay to the Port Authority an additional basic rental under the Lease as herein amended in accordance with the provisions of this paragraph, at the time and in the manner hereinafter set forth: If during any annual period (as hereinafter defined) occurring during the extended term of the letting under the Lease as herein amended, the Port Authority shall not receive dockage and wharfage charges pursuant to the Port Authority's tariff, as incorporated in Federal Maritime Commission Schedule PA-9 (which charges are hereinafter called "dockage and wharfage charges") on at least

seventy thousand (70,000) vehicles (as hereinafter defined) discharged to the Facility for the account of the Lessee, then the Lessee shall pay to the Port Authority an amount equal to the product obtained by multiplying (i) the difference between seventy thousand (70,000) and the number of vehicles discharged to the Facility for the account of the Lessee during that annual period by (ii) Seven Dollars and Twenty Cents (\$7.20). The computation of additional basic rental for each annual period, or a portion of an annual period as hereinafter provided, shall be individual to such annual period and without relation to any other annual period, or any other portion of any annual period. The time and manner of payment of the additional basic rental described in this paragraph shall be as set forth in subparagraph (b) of this paragraph.

(b) The Lessee shall pay the additional basic rental described in subparagraph (a) of this paragraph as follows: on the fifteenth day of the month following the end of each annual period occurring during the extended term of the letting under the Lease as herein amended the Lessee shall render to the Port Authority a statement sworn to by its chief financial officer setting forth the cumulative number of vehicles discharged to the Facility for the account of the Lessee during the annual period for which the report is made with respect to which dockage and wharfage charges have been paid, the destinations to which such vehicles are being shipped, and the number of such vehicles being shipped to each destination. Whenever any such statement shall show that the cumulative number of vehicles discharged to the Facility for the account of the Lessee during that annual period with respect to which dockage and wharfage charges have been paid is less than seventy thousand (70,000) the Lessee shall pay at the time of rendering the statement an amount equal to Seven Dollars and Twenty Cents (\$7.20) multiplied by the difference between the cumulative number of vehicles discharged to the Facility for the account of the Lessee during that annual period with respect to which dockage and wharfage charges have been paid and seventy thousand (70,000).

(c) Upon any termination of the extended term of the letting under the Lease as herein amended (even if stated to have the same effect as expiration), the Lessee shall: First render to the Port Authority within twenty (20) days after the effective date of termination a statement sworn to by its chief financial officer setting forth the cumulative number of vehicles discharged to the Facility for the account of the Lessee during the annual period in which the effective date of termination happens to fall with respect to which dockage and wharfage charges have been paid, the destinations to which such vehicles are being shipped, and the number of such vehicles being shipped to each destination; and Second, make a payment of additional basic rental computed as follows: the Lessee shall divide the cumulative number of vehicles discharged to the Facility for the account of the Lessee during that annual period with respect to which dockage and wharfage charges have been paid by the number

of days from the commencement of that annual period through the effective date of termination, both dates inclusive, and shall multiply the quotient so obtained by 365 (the product of such calculation being hereinafter called "the Projected Number of Discharged Vehicles"). If the Projected Number of Discharged Vehicles shall be less than seventy thousand (70,000), then the Lessee shall pay to the Port Authority at the time of rendering the statement an amount equal to Seven Dollars and Twenty Cents (\$7.20) multiplied by the difference between the Projected Number of Discharged Vehicles and seventy thousand (70,000).

5. (a) Notwithstanding the provisions of paragraph No. 1 of this Agreement, and without otherwise limiting the generality thereof, in the event that any sworn statement which the Lessee is required to submit to the Port Authority pursuant to the provisions of subparagraph (b) of paragraph No. 4 of this Agreement shall show that the cumulative number of vehicles discharged to the Facility for the account of the Lessee during the annual period for which the report is made with respect to which dockage and wharfage charges have been paid exceeds seventy thousand (70,000) the Lessee shall be entitled to a credit against its basic rental obligations under the Lease as herein amended and extended during the next succeeding annual period in an amount (which amount is hereinafter called "the annual credit amount") equal to the product obtained by multiplying (i) the number of such vehicles which are in excess of seventy thousand and which are being transported to customers of the Lessee located outside the boundaries of the States of New York, New Jersey, and Connecticut by (ii) Five Dollars and No Cents (\$5.00). The annual credit amount shall be applied in equal monthly installments against monthly installments of basic rental payable by the Lessee during the next succeeding annual period until exhausted. Any such credit arising as a result of vehicles discharged to the facility for the account of the Lessee during the last annual period occurring during the extended term of the letting under the Lease as herein amended shall be paid to the Lessee within thirty (30) days after receipt by the Port Authority of the sworn statement which the Lessee is required to submit for such annual period pursuant to the provisions of subparagraph 4(b) hereof.

(b) If the sworn statement which the Lessee is required to submit to the Port Authority upon any termination of the extended term of the letting under the Lease as herein amended (even if stated to have the same effect as expiration), shall show that the Projected Number of Discharged Vehicles for the annual period in which the effective date of termination occurs shall be in excess of seventy thousand (70,000) the Lessee shall divide the cumulative number of vehicles discharged to the Facility for the account of the Lessee during that annual period with respect to which dockage and wharfage charges have been paid and which are being transported to customers of the Lessee located outside the boundaries of the States of New York, New Jersey, and Connecticut by the number of days from the

commencement of that annual period through the effective date of termination, both dates inclusive, and shall multiply the quotient so obtained by 365 (the product of such calculation being hereinafter called "the Projected Number of Discharged Vehicles to be Shipped Outside of the Lessee's New York Regional Sales Area"). If the Projected Number of Discharged Vehicles to be Shipped Outside of the Lessee's New York Regional Sales Area shall exceed seventy thousand (70,000), then the Lessee shall be entitled to a credit against its basic rental obligations for such annual period in an amount equal to the product obtained by multiplying (i) the amount of the Projected Number of Discharged Vehicles to be Shipped Outside of the Lessee's New York Regional Sales Area for that annual period which exceeds seventy thousand (70,000) by (ii) Five Dollars and No Cents (\$5.00). Any credit due the Lessee under this subparagraph shall be paid to the Lessee within thirty (30) days after receipt by the Port Authority of the sworn statement referred to herein.

(c) In addition to the credit described in subparagraphs (a) and (b) of this paragraph from and after the effective date of any increase in the dockage and wharfage charges applicable to Port Newark as established from time to time by the Port Authority pursuant to the Port Authority's tariff as incorporated Federal Maritime Commission Schedule PA-9 as the same may be hereafter amended during the extended term of the letting under the Lease as herein amended, if the Lessee shall become entitled to the credit described in subparagraphs (a) and (b) of this paragraph the Lessee shall be entitled to an additional credit in an amount equivalent to the product obtained by multiplying the amount of the credit to which the Lessee is entitled pursuant to the provisions of subparagraphs (a) or (b), as the case may be by the percentage increase in the dockage and wharfage charges on the effective date of the increase over the dockage and wharfage charges in effect on November 1, 1986. The additional credit provided for in this subparagraph shall be payable at the same time and in the same manner as the credit described in subparagraphs (a) and (b) of this paragraph.

6. The Lessee shall maintain in accordance with accepted accounting practice during the extended term of the letting under the Lease as herein amended and for three years thereafter records and books of account recording all transactions involving the discharge to the Facility of vehicles for the account of the Lessee, which records and books of account shall be kept at all times within the Port of New York District, and shall permit, in ordinary business hours, during such time, the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account and also any records and books of account of any company which is owned or controlled by the Lessee, if said company performs services, similar to those performed hereunder by the Lessee anywhere in the Port of New York District.

7. (a) If the cumulative number of vehicles discharged to the Facility for the account of the Lessee with respect to which dockage and wharfage charges have been paid over any two consecutive annual periods occurring during the extended term of the letting under the Lease as herein amended shall not equal at least one hundred thousand (100,000) vehicles the Port Authority shall have the right to terminate the extended term of the letting under the Lease as herein amended as to the portions of the premises shown on Exhibits A-1, A-2, and A-3 attached to the Lease on thirty (30) days' prior written notice to the Lessee. Termination of the extended term of the letting under the Lease as herein amended as to the portions of the premises shown on Exhibits A-1, A-2, and A-3 pursuant to the provisions of this subparagraph shall have the same effect as if the effective date of termination stated in the notice were the date of expiration of the extended term of the letting of said portions of the premises under the Lease as herein amended. Termination of the extended term of the letting of the portions of the premises shown on Exhibits A-1, A-2, and A-3 pursuant to the provisions of this subparagraph shall not affect the continuation of the extended term of the letting under the Lease as herein amended of the remaining portion of the premises heretofore let to the Lessee under the Lease as herein amended and the extended term of the letting of the remaining portion of the premises under the Lease as herein amended shall continue in full force and effect, subject to and in accordance with all the terms, provisions, covenants and conditions of the Lease as herein amended notwithstanding such termination.

(b) Upon any termination of the extended term of the letting as to the portions of the premises shown on Exhibits A-1, A-2, and A-3 pursuant to the provisions of this subparagraph the Lessee shall be entitled to an abatement of the basic rental provided for under the Lease as herein amended and extended computed in accordance with Standard Endorsement No. L27.4 attached hereto.

8. As used in the Lease as herein amended and extended:

(a) "annual period" shall mean the twelve-month period commencing November 1, 1986 and each of the twelve-month periods thereafter occurring during the extended term of the letting under the Lease as herein amended commencing on each anniversary of such date occurring during the extended term of the letting under the Lease as herein amended.

(b) "vehicle" shall mean automobiles or trucks, including without limitation, vans, four wheel drive vehicles, and light utility trucks.

9. (a) The Lessee shall have a single right to terminate the extended term of the letting under the Lease as herein amended effective as of October 31, 1991 provided, however, that the Lessee shall give unconditional written notice

to the Port Authority of its election so to do subscribed by an executive officer thereof on or before November 1, 1990 and at the time of the giving of such notice to the Port Authority the Lessee shall pay to the Port Authority the sum of Three Hundred Sixty-four Thousand Three Hundred Fifty-seven Dollars and No Cents (\$364,357.00), and provided, further, however, that any notice given in accordance with the provisions of this subparagraph shall not be effective if the Lessee is in default of any term or provision of the Lease as herein amended and extended or has been served with a notice of termination by the Port Authority either on the date of the giving of said notice or on the intended effective date thereof . Such termination shall not relieve the Lessee of any liabilities or obligations which shall have accrued on or prior to the effective date of termination or which shall mature on such date. In the event of termination pursuant to this subparagraph and upon payment to the Port Authority of the sum described in this subparagraph the extended term of the letting under the Lease as herein amended shall cease and expire as if the effective date of termination stated in the Lessee's notice were the date originally set forth herein for the expiration of the extended term of the letting under the Lease as herein amended. In the event that the Lessee fails to exercise its right to terminate the extended term of the letting under the Lease as herein amended in accordance with the provisions of this subparagraph this subparagraph shall be null and void and of no further force and effect.

(b) Notwithstanding the provisions of Section 8 of the Terms and Conditions of the Lease as herein amended and extended, and without otherwise limiting the generality thereof, in the event that as a result of a casualty the public berths known as Berths 21, 23, and 25 in the vicinity of the premises are simultaneously damaged or destroyed in whole or in part without the fault of the Lessee, its officers, employees, or others at the premises with the consent of the Lessee so as to render them all entirely unusable for a period of thirty (30) consecutive days following the occurrence of the damage the Lessee shall have the right to terminate the extended term of the letting under the Lease as herein amended upon thirty (30) days written notice to the Port Authority given within thirty (30) days of the end of the thirty day period of unusability provided, however, that any notice given in accordance with the provisions of this subparagraph shall not be effective if the Lessee is in default of any term or provision of the Lease as herein amended and extended or has been served with a notice of termination by the Port Authority either on the date of the giving of said notice or on the intended effective date thereof . Such termination shall not relieve the Lessee of any liabilities or obligations which shall have accrued on or prior to the effective date of termination or which shall mature on such date. In the event of termination pursuant to this paragraph the extended term of the letting under the Lease as herein amended shall cease and expire as if the effective date of termination stated in the Lessee's notice were the date originally set forth herein for the

expiration of the extended term of the letting under the Lease as herein amended.

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

(b) In addition to and without limiting the foregoing, and without limiting the provisions of this paragraph, it is hereby agreed that the Lessee, in connection with its continuing operation, maintenance and repair of the premises, or any portion thereof, and in connection with every award or agreement for concessions or consumer services at Port Newark, shall throughout the extended term of the letting under the Lease as herein amended commit itself to and use good faith efforts to implement an extensive program of Affirmative Action, including specific affirmative action steps to be taken by the Lessee, to ensure maximum opportunities for employment and contracting by minorities and women. In meeting the said commitment the Lessee agrees to submit to the Port Authority for its review and approval the Lessee's Affirmative Action program for its operations in the premises, including the specific affirmative action steps to be taken by the Lessee to meet its aforesaid commitment, within sixty (60) days after the execution of this Agreement by the Port Authority and the Lessee and the delivery of a fully executed copy of this Agreement to the Lessee. The Lessee shall incorporate in its said program such revisions and changes which the Port Authority, acting in a non-arbitrary and non-capricious manner, initially or from time to time may require. The Lessee throughout the extended term of the letting under the Lease as herein amended shall document its efforts in implementing the said program, shall keep the Port Authority fully advised of the Lessee's progress in implementing the said program and shall supply to the Port Authority such information, data and documentation with respect thereto as the Port Authority, acting in a non-arbitrary and non-capricious manner, may from time to time and at any time request, including but not limited to annual reports.

(c) "Minority" as used herein shall include the following:

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

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

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

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

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

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

(f) Without limiting in any way the provisions of paragraph 14 of the Special Endorsements annexed to the Lease as herein amended and extended the Lessee understands that its non-discrimination obligations and its Affirmative Action commitment under this paragraph shall extend to and include Import Processors, Inc. and that all reference in this paragraph to the Lessee shall be deemed to include a reference to Import Processors, Inc. The Lessee hereby undertakes to cause Import Processors, Inc. to comply with the provisions of this paragraph and the Lessee shall be fully responsible for the implementation of the provisions of this paragraph by Import Processors, Inc. as if Import Processors, Inc. and the Lessee were one and the same. Without limiting the generality of the foregoing provisions of this paragraph, the Port Authority agrees that to the extent that the various functions and operations which the Lessee is authorized to conduct on the premises are performed by Import Processors, Inc., compliance by Import Processors, Inc. with the provisions of this paragraph shall be deemed compliance by the Lessee. Nothing contained herein shall be deemed to release the Lessee from its non-discrimination obligations under

this paragraph nor shall anything herein be deemed to release the Lessee from its Affirmative Action commitment under this paragraph to the extent that the Lessee itself performs any of the various functions and operations which the Lessee is authorized to conduct on the premises.

(g) Nothing in this paragraph shall grant or be deemed to grant to the Lessee the right to make any agreement or award for concessions or consumer services at the Port Newark.

11. Notwithstanding the provisions of Section 9 of the Lease as herein amended, and without otherwise limiting the generality thereof, the Lessee shall have the right to assign the Lease as herein amended and the extended term of the letting thereunder in its entirety to a corporation which is and continues to be wholly owned and controlled by the Lessee, or which wholly owns and controls the Lessee, or which is under common control with the Lessee, or which is wholly owned and controlled by a corporation which wholly owns and controls the Lessee or which the Lessee wholly owns and controls, provided, however, that any such assignee shall use the premises solely the purposes set forth in Article IV of the Lease as herein amended and extended and for no other purpose or purposes whatsoever and provided, further, however, that no such assignment shall be effective until an agreement in the form annexed hereto as "Exhibit X" and hereby made a part of the Lease as herein amended and extended has been executed by the Lessee, the proposed assignee, and the Port Authority, and the Port Authority's consent as herein stated shall be effective as long as the proposed assignee maintains one of the relationships described in this paragraph to the Lessee. "Control" as used herein shall mean ownership by one person, firm or corporation of all of the issued and outstanding shares of the capital stock and voting rights of another corporation.

12. (a) Without limiting the Lessee's obligations as stated elsewhere in the Lease as herein amended and extended to comply with all laws, ordinances, governmental rules, regulations and orders which or at any time are in effect during the term of the letting under the Lease as herein amended and extended, but subject nevertheless to the provisions of subparagraphs (c) and (d) of this paragraph, the Lessee understands and agrees that it shall be obligated at its sole cost and expense to comply with the requirements of all environmental laws, rules, regulations, requirements, orders and directives applicable to the premises, or the Lessee's operations therein or use thereof, including but not limited to the provisions of the Environmental Cleanup Responsibility Act, N.J.S.A. 13:1K-6 et seq. and the regulations promulgated thereunder (hereinafter in this Agreement called "ECRA"). Nothing in the foregoing shall be construed as a submission by the Port Authority to the application to itself of such requirements or any of them; provided, however, that no immunity or exemption of the Port Authority from any of the foregoing requirements shall excuse compliance or be grounds for noncompliance on the part of the Lessee. Without limiting the

generality of any provision contained herein, the Lessee shall be responsible at its cost and expense, and subject to the direction of the Port Authority, for (i) the preparation of and submission to the New Jersey Department of Environmental Protection (hereinafter in this Agreement called the "NJDEP") of any notice, negative declaration, cleanup plan, non-applicability affidavit, or communication, or any other documentation or information, (ii) the obtaining of any surety bond or the giving of any other financial assurances, and (iii) the obtaining from the NJDEP of any approval of a negative declaration or non-applicability letter or other form of release or mitigation, all as may be required or permitted under ECRA. If so directed by the Port Authority at any time during the extended term of the letting under the Lease as herein amended or subsequent to the expiration of the extended term of the letting under the Lease as herein amended, the Lessee at its sole cost and expense shall promptly provide all information requested by the Port Authority as may be necessary for the preparation of any notice, non-applicability affidavit or communication, negative declaration, or cleanup plan, all as may be required or permitted under ECRA, and shall promptly swear to, sign or otherwise fully execute such notice, non-applicability affidavit or communication, negative declaration or cleanup plan when and as directed by the Port Authority, and the Lessee agrees that any such document may be filed by the Port Authority with the NJDEP on behalf of the Lessee and at the Lessee's sole cost and expense. In the event that NJDEP, or any other environmental agency or regulating authority having jurisdiction, requires that a cleanup plan be prepared, or that a cleanup be undertaken because of any spill or discharge of hazardous waste or substances at any portion of the premises then, subject to the provisions of subparagraphs (c) and (d) of this paragraph, it shall be the Lessee's responsibility at its sole cost and expense to prepare and submit the required plans, to submit the required financial assurance, and to carry out the cleanup and take all other actions required by the approved plans and the regulating authorities. The Lessee understands and agrees that should the provisions of any environmental laws, or regulatory requirements or directives, become effective on termination or expiration of the extended term of the letting under the Lease as herein amended, or on the closure or transfer of the Lessee's operations as defined by NJDEP, then, subject to the provisions of subparagraphs (c) and (d) of this paragraph, the Lessee shall be required to comply therewith at its sole cost and expense including those laws, requirements and directives relating to the cleanup of hazardous waste or substances discharged or spilled at any portion of the premises during the term of the letting under the Lease as herein amended and extended whether prior or subsequent to the date of this Agreement. The Port Authority shall also have the right to direct the Lessee at its sole cost and expense to clean up any spills or discharges of hazardous waste or substances at the premises at any time during the extended term of the letting under the Lease as herein amended regardless of whether any applicable environmental law, regulation or directive would require cleanup at that time or during the extended term of such

letting, provided, that the standard applicable to such a clean-up shall not exceed the strictest standards then applicable to the clean-up of such hazardous waste and substances imposed by any environmental law, regulation or directive of the United States or of the State of New Jersey, except that if no such standard is then applicable to the clean-up of such hazardous waste or substances the Port Authority, acting in a non-arbitrary and non-capricious manner, shall determine the standard of clean-up. Without limiting the Port Authority's remedies that it may have under the Lease as herein amended or at law or in equity, the Port Authority shall have the right during and subsequent to the expiration of the extended term of the letting under the Lease as herein amended to such equitable relief, including restraining injunctions and declaratory judgments, as may be required to enforce compliance by the Lessee with its environmental obligations under this paragraph. In the event the Lessee fails to comply with or perform any of its obligations hereunder, the Port Authority at any time during or subsequent to termination or expiration of the extended term of the letting under the lease as herein amended may elect (but shall not be required) to perform such obligations and the Lessee shall pay to the Port Authority upon demand its costs thereof, including all overhead costs as determined by the Port Authority.

(b) Without limiting the generality of the provisions of subparagraph (a) of this paragraph the Lessee agrees, unless directed otherwise by the Port Authority, to provide the Port Authority with copies of all documentation, records, correspondence, notices and submissions relating to the premises, or the Lessee's operations therein or use thereof, provided by the Lessee to the NJDEP, the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration or any other Federal, State, or local authority which requires submission of any information concerning environmental matters or hazardous wastes or substances pursuant to Federal, State or local law, rule, regulation or ordinance, including but not limited to the Worker and Community Right to Know Act (N.J.S.A. 34:5A-1 et seq.) and the Hazardous Substance Discharge - Reports and Notices Act (N.J.S.A. 13:1K-15 et seq.) and the regulations promulgated thereunder, and the Lessee shall also provide the Port Authority with all documentation, records, correspondence, notices and submissions received by the Lessee from any environmental regulatory authority regarding the premises or any hazardous wastes and substances in, on or under the premises.

(c) Notwithstanding the provisions of subparagraph (a) of this paragraph, and without otherwise limiting the generality thereof, the Lessee shall not be obligated to cleanup and remove hazardous wastes and substances discharged or spilled on the premises if the presence of such hazardous wastes and substances did not arise out of any default of the Lessee in performing or observing any term or provision of the Lease as herein amended, or out of the use or occupancy of the premises by the Lessee or by others with its consent, or out of any acts or omissions of

the Lessee or "the Lessee's Representatives", as hereinafter defined, if with regard to such hazardous wastes and substances:

(i) Neither the Lessee nor the Lessee's Representatives, as hereinafter defined, committed any negligent acts or omissions with respect to such hazardous wastes and substances; and

(ii) Neither the Lessee nor the Lessee's Representatives, as hereinafter defined, failed to observe and comply with governmental laws, rules, regulations, requirements, orders and directives with respect to such hazardous wastes and substances, or failed to observe and comply with Port Authority requirements, directives and procedures regarding any hazardous wastes and substances at the premises, including but not limited to those set forth in any design guidelines or construction guidelines which may be established by the Port Authority for the Facility and submitted to the Lessee.

(d) Without limiting the generality of any other provision contained in the Lease as herein amended and extended, the Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives from (and shall reimburse the Port Authority for its costs or expenses including fines, penalties, costs of compliance, and legal expenses incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, and from all claims and demands of any governmental agency, arising out of or in any way resulting from (i) any spill or discharge of hazardous waste or substances at the premises or any portion thereof during the term of the letting under the Lease as herein amended and extended regardless of whether such spill or discharge occurred prior or subsequent to the date of this Supplemental Agreement, or (ii) the failure of the Lessee to observe or perform its obligations under the provisions of this paragraph, including without limitation the failure of the Lessee to provide all information, make all submissions and take all other actions required under ECRA, provided, however that the Lessee shall not be obligated to indemnify and hold harmless the Port Authority as to any claim or demand arising out of or resulting from the presence of hazardous wastes and substances discharged or spilled on the premises if the presence of such hazardous wastes and substances did not arise out of any default of the Lessee in performing or observing any term or provision of the Lease as herein amended, or out of the use or occupancy of the premises by the Lessee or by others with its consent, or out of any acts or omissions of the Lessee or the Lessee's Representatives, as hereinafter defined, if with regard to such hazardous wastes and substances:

(i) Neither the Lessee nor any of the Lessee's Representatives, as hereinafter defined,

committed any negligent acts or omissions with respect to such hazardous wastes and substances; and

(ii) Neither the Lessee nor any of the Lessee's Representatives, as hereinafter defined, failed to observe and comply with governmental laws, rules, regulations, requirements, orders and directives with respect to such hazardous wastes and substances, or failed to observe and comply with Port Authority requirements, directives and procedures regarding any hazardous wastes and substances at the premises, including but not limited to those set forth in any design guidelines or construction guidelines which may be established by the Port Authority for the Facility and submitted to the Lessee.

(e) The failure of the Lessee to observe or perform any of its obligations under the provisions of this paragraph shall entitle the Port Authority to terminate the Lease as herein amended at any time, and any such termination shall be and operate as a conditional limitation. The Lessee's obligations under this paragraph shall survive the expiration or earlier termination of the extended term of the letting under the Lease as herein amended and shall continue so long as the Port Authority remains responsible for any spill or discharge of hazardous wastes or substances at the premises.

(f) As used in this paragraph the term "the Lessee's Representatives" shall mean its officers, employees, agents, representatives, contractors, customers, guests, invitees, and other persons who are doing business with the Lessee or are on the premises with the Lessee's consent.

(g) In addition to all other rights of termination which the Lessee has pursuant to provisions of Lease as herein amended, in the event that subsequent to the execution of this Agreement by the Lessee and the Port Authority and the delivery of a fully executed copy thereof to the Lessee an environmental law is passed, amended, or modified so as to require the Lessee to clean up and remove hazardous wastes and substances which pursuant to provision of subparagraph (c) of this paragraph the Lessee is not obligated to clean up and remove, the Lessee shall have the right to terminate the extended term of the letting under the Lease as herein amended provided, however, the Lessee shall give unconditional written notice to the Port Authority of its election so to do executed by an executive officer thereof within ninety (90) days of the promulgation, amendment, or modification of such environmental law, provided, further, however, that any notice given in accordance with the provisions of this subparagraph shall not be effective if the Lessee is in default of any term or provision of the Lease as herein amended after the service of a notice of such default by the Port Authority and the expiration of any applicable period to cure, or has been served with a notice of termination by the Port Authority either on the date of the giving of its notice to the Port Authority or on the

intended effective date thereof. Such termination shall not relieve the Lessee of any liabilities or obligations which shall have accrued on or prior to the effective date of termination or which shall mature on such date, including, without limitation, any environmental obligations and liabilities which have so accrued, or which shall mature on such date. Nothing contained in this paragraph shall or shall be construed to grant the Lessee a right to terminate the letting based upon the provisions of any environmental law currently in effect or any rule, regulation, order, or directive promulgated thereunder or which may hereafter be promulgated thereunder, including, without limitation, the provisions of ECRA. In event of termination pursuant to the provisions of this subparagraph the extended term of letting under the Lease as herein amended shall cease and expire as if the effective date of termination stated in the Lessee's notice were the date originally set forth herein for the expiration of the extended term of the letting under the Lease as herein amended.

13. Notwithstanding the provisions of Section 19 of the Terms and Conditions of the Lease as herein amended and without otherwise limiting the generality thereof, the amount of damages for the period of time subsequent to any termination or cancellation of the extended term of the letting under the Lease as herein amended (or re-entry, regaining, or resumption of possession) on account of the Lessee's additional basic rental obligations shall be based upon the cumulative number of vehicles which would have been discharged to the Facility for the account of the Lessee during the balance of the extended term of the letting if there had been no termination or cancellation (or re-entry, regaining, or resumption of possession) and for the purpose of such calculation the said cumulative number of vehicles shall be derived by multiplying the the number of months in the balance of the extended term originally fixed by the monthly average number of vehicles; the monthly average number of vehicles shall be the total actual number of vehicles discharged to the Facility for the account of the Lessee during that part of the effective period of the letting (including all annual periods falling within the effective period) in which no abatement was in effect, divided by the number of months included in such part of the effective period.

14. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

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

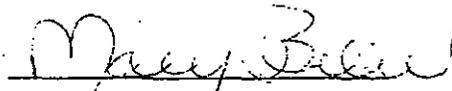
16. Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Lessee with any liability, or held liable to the Lessee under any term or provision of this Supplemental Agreement, or because of its execution or attempted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

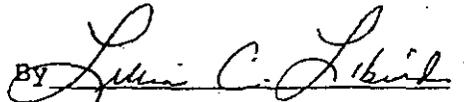
17. This Supplemental Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of 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 the Lease or in this Supplemental Agreement.

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

ATTEST:

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY


ACTING
ASSISTANT SECRETARY

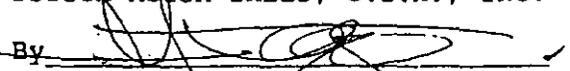
BY 
LILLIAN C. LIBURDI
(Title) DIRECTOR, PORT DEPARTMENT

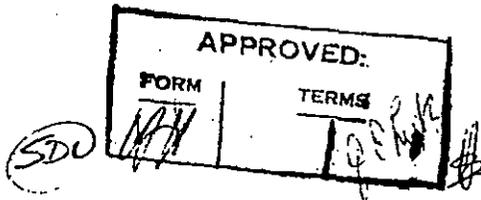
(Seal)

ATTEST:

TOYOTA MOTOR SALES, U.S.A., INC.


Secretary

By 
(Title) President



(a) If at any time the Lessee shall become entitled to an abatement of basic rental under the provisions of this Agreement or otherwise, such abatement shall be computed as follows:

(1) For each square foot of usable open area the use of which is denied to the Lessee, at the annual rate of \$ _____

(2) For each square foot of usable covered area the use of which is denied to the Lessee, at the annual rate of \$ _____

(b) If no rates are filled in above then the abatement of basic rental shall be made on an equitable basis, giving effect to the amount and character of the area the use of which is denied the Lessee, as compared with the entire area of such character included in the premises.

(c) If an exemption amount is fixed in this Agreement, it shall be reduced in the same proportion as the total basic rental is abated.

(d) For the purposes of this Endorsement, the number of square feet of covered area shall be computed as follows: by measuring from the inside surface of outer building walls to the surface of the public area side, or of the non-exclusive area side, as the case may require, of all partitions separating the area measured from adjoining areas designated for the use of the public or for use by the Lessee in common with others, and to the center of partitions separating the area measured from adjoining area exclusively used by others; no deduction will be made for columns, partitions, pilasters or projections necessary to the building and contained within the area measured. Permanent partitions enclosing elevator shafts, stairs, fire towers, vents, pipe shafts, meter closets, flues, stacks and any vertical shafts have the same relation to the area measured as do outer building walls.

(e) In the event that during the term of the letting under this Agreement the Lessee shall be partially evicted (actually or constructively) and shall remain in possession of the premises or the balance thereof, the Lessee agrees that notwithstanding it might have the right to suspend payment of the rent in the absence of this provision, it will pay at the times and in the manner herein provided, the full basic rental less only an abatement thereof computed in accordance with the above.

* \$0.55 for the period November 1, 1986 to October 31, 1988, both dates inclusive
\$0.59 for the period November 1, 1988 to October 31, 1990, both dates inclusive
\$0.64 for the period November 1, 1990 to October 31, 1992, both dates inclusive
\$0.70 for the period November 1, 1992 to October 31, 1994, both dates inclusive
\$0.75 for the period November 1, 1994 to October 31, 1996, both dates inclusive

.81
.86
.95
1.03
1.11

Standard Endorsement No. L 27.4

Abatement

All Marine Terminals

10/6/68

2765,720.00
52.0 Ac
Actual 50.37 Ac

FORM E — Assignment, all Facilities
82773

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

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

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

an individual, residing at

a partnership, consisting of

and

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

an individual, residing at

a partnership, consisting of

the representative of which is

WITNESSETH, THAT:

WHEREAS, the Assignor desires to assign to the Assignee that certain Agreement
of Lease dated as of _____, 19____, made by and between The Port Authority and
the Assignor, and hereinafter, as the same has been heretofore amended and extended, called
"the Lease";

covering premises at

; and

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

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

1. The Assignor does hereby assign, transfer and set over to the Assignee, heirs, executors, administrators and successors, to and their own proper use, benefit and behoof forever, the Lease, to have and to hold the same unto the Assignee heirs, executors, administrators and successors from the day of 19 , for and during all the rest, residue, and remainder of the term of the letting under the Lease, subject nevertheless to all the terms, provisions, covenants and conditions therein contained; and the Assignor does hereby assign, transfer and set over unto the Assignee heirs, executors, administrators and successors, all right, title and interest of the Assignor in and to a certain deposit (whether of cash or bonds) in the amount of

made by the Assignor with the Port Authority, as security for the performance of the terms, provisions, covenants and conditions of the Lease, but subject to the provisions of the Lease and to any claim or right to the said deposit or any part thereof heretofore or hereafter made or to be made on the part of the Port Authority

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

3. The Assignor agrees that this assignment of the Lease and this consent of the Port Authority thereto shall not in any way whatsoever affect or impair the liability of the Assignor to perform all the terms, provisions, covenants and conditions, including without limitation thereto the obligation to pay rent, of the Lease on the part of the Lessee or tenant thereunder to be performed, and that the Assignor shall continue fully liable for the performance of all the terms, provisions, covenants and conditions, including without limitation thereto the obligation to pay rent, on the part of the Lessee or tenant thereunder to be performed. The liability of the Assignor as set forth in this paragraph shall remain and continue in full force and effect as to any and every renewal, modification, or extension of the Lease whether in accordance with the terms of the Lease or by a separate or additional document, and notwithstanding any such renewal, modification, or extension, whether or not the Assignor has specifically consented to such renewal, modification, or extension. The liability of the Assignor hereunder shall in no way be affected by the failure of the Port Authority to obtain the Assignor's consent to any such renewal, modification or extension notwithstanding that the Port Authority had previously obtained such consent with respect to a prior renewal, modification, or extension.

4. The Assignee does hereby assume the performance of and does hereby agree to perform all the terms, provisions, covenants and conditions, including without limitation thereto the obligation to pay rent, contained in the Lease, to be performed on the part of the lessee or tenant thereunder, as though the Assignee were the original signatory to the Lease. The execution of this instrument by the Port Authority does not constitute a representation by it that the Assignor has performed or fulfilled every obligation required by the Lease; as to such matters the Assignee agrees to rely solely upon the representation of the Assignor.

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

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

(b) The impairment, limitation or modification of the liability of the Assignee or its estate in bankruptcy, or of any remedy for the enforcement of the Assignee's said liability under the Lease, resulting from the operation of

any present or future provision of the Bankruptcy Code or any other statute or from the decision of any court having jurisdiction over the Assignee or its estate; or

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

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

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

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

ASSIGNOR:

By _____

(Title) _____ President
(Seal)

ASSIGNEE:

By _____

(Title) _____ President
(Seal)

ATTEST:

Secretary

ATTEST:

Secretary

ATTEST:

Secretary

By _____

(Title) _____ President
(Seal)

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

On this _____ day of _____, 19____, before me, the
subscriber, a notary public of New York, personally appeared
the _____ of The Port Authority
of New York and New Jersey, who I am satisfied is the person who has signed
the within instrument, and, I having first made known to him the contents
thereof, he did acknowledge that he signed, sealed with the corporate seal,
and delivered the same as such officer aforesaid, and that the within
instrument is the voluntary act and deed of The Port Authority of New York
and New Jersey, made by virtue of the authority of its Board of Commissioners.

(notarial seal and stamp)

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 19____, before me, the
subscriber, a _____, personally appeared
, (the _____ of
_____) who I am satisfied is the person
who has (executed) (signed) the within instrument, and, I having first made
known to (him) (her) the contents thereof, (s)he did acknowledge that (s)he
signed, sealed (with the corporate seal) and delivered the same as (his)
(her) (voluntary act and deed, for the uses and purposes therein expressed)
(such officer aforesaid and that the within instrument is the voluntary act
and deed of _____ made
by virtue of the authority of its board of directors) (individually and as
general partner of _____).

(notarial seal and stamp)

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 19____, before me, the
subscriber, _____, personally appeared
, (the _____ of
_____) who I am satisfied is the person
who has (executed) (signed) the within instrument, and, I having first made
known to (him) (her) the contents thereof, (s)he did acknowledge that (s)he
signed, sealed (with the corporate seal) and delivered the same as (his)
(her) (voluntary act and deed, for the uses and purposes therein expressed)
(such officer aforesaid and that the within instrument is the voluntary act
and deed of _____ made
by virtue of the authority of its board of directors) (individually and as
general partner of _____).

(notarial seal and stamp)

STATE OF NEW YORK

COUNTY OF NEW YORK

On this 3rd day of July, 1988, before me, the subscriber, a notary public of New

York, personally appeared _____ the _____

LILLIAN C. LIBURDI
DIRECTOR, PORT DEPARTMENT of The Port Authority of New York and New Jersey, who

I am satisfied is the person who has signed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Commissioners.

Frank Wyspianski, Jr.
(notarial seal and stamp)

FRANK WYSPIANSKI, JR.
NOTARY PUBLIC, State of New York
No. 9759825
Qualified in Suffolk County
Commission Expires April 30, 1990

STATE OF

COUNTY OF

On this _____ day of _____, 1988, before me, the subscriber, a _____

_____ personally appeared _____

_____ the _____ President of _____

TOYOTA MOTOR SALES, U.S.A., INC., who I am satisfied is the person who has signed the within instrument; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Directors.

(notarial seal and stamp)

STATE OF

COUNTY OF

Be it remembered that on this _____ day of _____, 19____, before me, the subscriber, a _____

_____ personally appeared _____

_____ who I am satisfied is the person named in and who executed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as his voluntary act and deed for the uses and purposes therein expressed.

(notarial seal and stamp)

Port Authority Lease No. L-NS-900
Supplement No. 15

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of June 1, 1988, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and TOYOTA MOTOR SALES, U.S.A., INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of September 18, 1976 the Port Authority and the Lessee entered into an agreement of lease (hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease") covering premises at Port Newark, in the City of Newark, County of Essex and State of New Jersey, all as more particularly described in the Lease; and

WHEREAS, the Port Authority and the Lessee desire to amend the Lease;

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

1. (a) Effective as of 11:59 o'clock P.M. on June 5, 1988 (which hour and date are hereinafter collectively called "the Surrender Date") the Lessee has granted, bargained, sold, surrendered and yielded up and does by these presents grant, bargain, sell, surrender and yield up to the Port Authority, its successors and assigns, forever, that part of the premises let to the Lessee shown in diagonal crosshatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A-11", and the term of years with respect thereto under the Lease as herein amended yet to come (which premises are hereinafter called "the Surrendered Area") and has given, granted and surrendered and by these presents does give, grant and surrender to the Port Authority, its successors and assigns, all the rights, rights of renewal, licenses, privileges and options of the Lessee granted by the Lease as herein amended with respect to the Surrendered Area all to the intent and purpose that the said term under the Lease as herein amended and the said rights, rights of renewal, licenses, privileges and options may be wholly merged, extinguished and determined on the Surrender Date with the same force and effect as if the said term were in and by the provisions of the Lease as herein amended originally fixed to expire on such date; to have and to hold the same unto the Port Authority, its successors and assigns forever.

(b) 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 Area, or the Lessee's leasehold therein, has been or shall be encumbered, as of the Surrender Date in any way whatsoever; (ii) the Lessee is and will remain until the Surrender Date the sole and absolute owner of the leasehold estate in the Surrendered Area and of the rights, rights of renewal, licenses, privileges and options granted by the Lease as herein amended with respect thereto and that the same are and will remain until the Surrender Date free and clear of all liens and encumbrances of whatsoever nature; and (iii) the Lessee has full right and power to make this Agreement.

(c) All promises, covenants, agreements and obligations of the Lessee with respect to the Surrendered Area under the Lease as herein amended or otherwise which under the provisions thereof would have matured upon the date originally fixed in the Lease as herein amended for the expiration of the term thereof, or upon the termination of the Lease as herein amended prior to the said date, or within a stated period after expiration or termination, shall, notwithstanding such provisions, mature upon the Surrender Date and shall survive the partial surrender provided for in this paragraph.

(d) The Lessee has released and discharged and does by these presents release and discharge the Port Authority from any and all obligations of every kind, past, present or future on the part of the Port Authority to be performed under the Lease as herein amended with respect to the Surrendered Area. The Port Authority does by these presents release and discharge the Lessee from any and all obligations on the part of the Lessee to be performed under the Lease as herein amended with respect to the Surrendered Area for that portion of the term subsequent to the Surrender Date; it being understood that nothing herein contained shall release, relieve or discharge the Lessee from any liability for rentals or for other charges that may be due or become due to the Port Authority for any period or periods prior to the Surrender Date, or for breach of any other obligation on the Lessee's part to be performed under the Lease as herein amended for or during such period or periods or maturing pursuant to subparagraph (c) of this paragraph.

(e) In consideration of the making of this Agreement by the Port Authority, the Lessee hereby agrees to terminate its occupancy of the Surrendered Area and to deliver actual physical possession of the same to the Port Authority on or before the Surrender Date in the condition required by the Lease as herein amended upon surrender. The Lessee further

agrees that it will remove from the Surrendered Area prior to the Surrender Date all equipment, removable fixtures and other personal property of the Lessee or for which the Lessee is responsible. With respect to any such property not so removed, the Port Authority may at its option as agent for the Lessee and at the risk and expense of the Lessee remove such property to a public warehouse or may retain the same in its own possession and in either event, after the expiration of thirty (30) days may sell or consent to the sale of the same at public auction; the proceeds of any such sale shall be applied first to the expenses of removal, sale and storage, and second to any sums owed by the Lessee to the Port Authority; any balance remaining shall be paid to the Lessee. The Lessee shall pay to the Port Authority any excess of the total cost of removal, storage and sale over the proceeds of sale.

2. In addition to the premises heretofore let to the Lessee under the Lease, the letting as to which shall continue in full force and effect, subject to and in accordance with all the terms, provisions, covenants and conditions of the Lease as amended by this Agreement, the Port Authority hereby lets to the Lessee and the Lessee hires and takes from the Port Authority, at Port Newark aforesaid, the open area shown in stipple on Exhibit A-11 attached hereto, together with the structures, fixtures, improvements and other property, if any, of the Port Authority located or to be located therein or thereon, the said open area and the said structures, fixtures, improvements and other property (all of which is sometimes hereinafter in this Agreement called "the additional premises") to be and become a part of the premises under the Lease at 12:01 o'clock A.M. on June 6, 1988 let to the Lessee, subject to and in accordance with all of the terms, covenants and conditions of the Lease as herein amended, for a term expiring at 11:59 o'clock P.M. on October 31, 1996, unless sooner terminated. The parties hereby acknowledge that the additional premises constitute non-residential property.

3. The Lessee shall use the additional premises solely for the purposes set forth in Article IV of the Lease, and for no other purpose or purposes whatsoever.

4. The Port Authority shall deliver the additional premises to the Lessee in its presently existing "as is" condition. The Lessee acknowledges that prior to the execution of this Agreement, it has thoroughly examined and inspected the additional premises and has found it in good order and repair and has determined it to be suitable for the Lessee's operations therein under the Lease as herein amended. The Lessee agrees to and shall take the additional premises in its "as is" condition and the Port Authority shall have no obligations under the Lease as herein amended for finishing work or preparation of any portion of the additional premises for the Lessee's use.

5. 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 suitability of the additional premises for the operations permitted thereon by the Lease as herein amended. Without limiting any obligation of the Lessee to commence operations under the Lease as herein amended at the time and in the manner stated elsewhere in this Agreement, the Lessee agrees that no portion of the additional premises will be used initially or at any time during the letting thereof under the Lease as herein amended which is in a condition unsafe or improper for the conduct of the Lessee's operations therein under the Lease as herein amended so that there is possibility of injury or damage to life or property.

6. The Port Authority shall have no obligation to supply to the Lessee any services or utilities in the additional premises.

7. Notwithstanding any provision of this Agreement, including without limitation the provisions of subparagraph (d) of paragraph 1 hereof, there shall be no change in the amount of the basic rental and additional basic rental payable by the Lessee to the Port Authority pursuant to the provisions of the Lease, and the Lessee shall continue to be obligated to pay all said rentals in the full amount set forth in the Lease and subject to all the provisions of the Lease during the period from the Surrender Date through the expiration date of the term of the letting under the Lease as herein amended.

8. From and after the Surrender Date, the sketch attached hereto, hereby made a part hereof and marked "Exhibit A-12" shall be and be deemed substituted for Exhibit A-3 for purposes of the provisions of paragraph 7 of Supplement No. 14 to the Lease, and all references to the portion of the premises shown on Exhibit A-3 contained in said paragraph 7 shall be and be deemed references to the open area shown in stipple on Exhibit A-12 attached hereto.

9. The Lessee shall comply in all respects with the provisions of paragraph 12 of Supplement No. 14 to the Lease ~~applicable to the partial surrender contemplated in paragraph 1~~ of this Agreement. Without limiting the generality of the provisions of the immediately preceding sentence, the Lessee agrees to deliver to the Port Authority simultaneously with the Lessee's execution of this Agreement and the delivery thereof to the Port Authority any negative declaration or non-applicability letter which may be required or permitted under the Environmental Cleanup Responsibility Act, N.J.S.A. 13:1K-6 et seq., and the regulations promulgated thereunder with respect to said partial

surrender, or to provide the Port Authority with evidence satisfactory to the Port Authority that the Lessee has carried out any cleanup plan which may be required thereunder.

10. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

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

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

13. This Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing 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 the Lease or in this Agreement.

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

ATTEST:

R. DeBartolomeo
SECRETARY

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

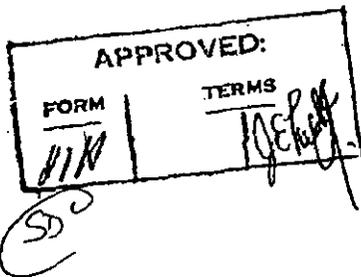
Lillian C. Liburdi
LILLIAN C. LIBURDI
(Title) DIRECTOR, PORT DEPARTMENT
(Seal)

ATTEST:

J. Williamson
Secretary

TOYOTA MOTOR SALES, U.S.A., INC.

By *Hirosaki Imai*
(Title) Group Vice President
(Corporate Seal)



MLPF-10672 Ack., N.J.

STATE OF NEW YORK

COUNTY OF NEW YORK

On this 12th day of July, 1990 before me, the subscriber, a notary public of New York, personally appeared WILLIAM C. LIBURDI the DIRECTOR, PORT DEPARTMENT of The Port Authority of New York and New Jersey, who I am satisfied is the person who has signed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Commissioners.

(notarial seal and stamp)

FRANK WYSPIANSKI JR.
NOTARY PUBLIC, State of New York
No. 9759825
Qualified in Suffolk County
Commission Expires April 30, 1992

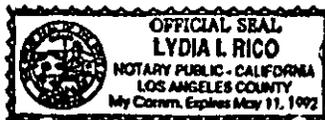
STATE OF California

COUNTY OF Los Angeles

On this 25th day of May, 1990 before me, the subscriber, a notary public of State of California, personally appeared Hiroshi Imai

the Group Vice President of Manufacturing Liaison and Distribution

TOYOTA MOTOR SALES, U.S.A., INC. who I am satisfied is the person who has signed the within instrument; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Directors.



(notarial seal and stamp)

STATE OF

COUNTY OF

Be it remembered that on this _____ day of _____, 19____, before me, the subscriber, a notary public of _____, personally appeared _____

who I am satisfied is the person named in and who executed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as his voluntary act and deed for the uses and purposes therein expressed.

(notarial seal and stamp)

(EX. 4)

Port Authority Lease No. L-NS-900
Supplement No. 16

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of April 1, 1991, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and TOYOTA MOTOR SALES, U.S.A., INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of September 18, 1976 the Port Authority and the Lessee entered into an agreement of lease (hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease") covering premises at Port Newark, in the City of Newark, County of Essex and State of New Jersey, all as more particularly described in the Lease; and

WHEREAS, the Port Authority and the Lessee desire to amend the Lease;

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

1. In addition to the rights set forth in Article IV of the Lease, the Lessee shall have the right to use and occupy the premises under the Lease as herein amended for the receipt, preparation, storage incidental to distribution, and distribution of vehicles manufactured in the United States and Canada to be waterborne from the Facility; and also for the receipt, storage incidental to distribution, and distribution of vehicles manufactured in the United States and Canada which are not waterborne to the Facility for consolidation with imported vehicles to facilitate the distribution thereof; provided, however, that the number of such vehicles not waterborne to the Facility which are consolidated with imported vehicles and distributed from the premises during any annual period shall not exceed forty percent (40%) of the total number of vehicles distributed from the premises pursuant to the provisions of Article IV of the Lease as amended by this paragraph during that annual period. The Lessee shall not use or occupy the premises for any other purpose or purposes whatsoever.

2. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

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

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

5. This Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing 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 the Lease or in this Agreement.

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

ATTEST:

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

[Signature]
SECRETARY

By *[Signature]*
LILLIAN C. LIBURDI
(Title) DIRECTOR, PORT DEPARTMENT
(Seal)

ATTEST:

TOYOTA MOTOR SALES, U.S.A., INC.

[Signature]
Secretary

By *[Signature]*
(Title) Group Vice President
(Corporate Seal)

APPROVED:	
FORM	TERMS
<i>[Signature]</i>	<i>[Signature]</i>

STATE OF NEW YORK }
COUNTY OF NEW YORK }

On this 19th day of April, 1991, before me, the subscriber, a notary public of New

York, personally appeared LILLIAN C. LIBURDI the DIRECTOR, PORT DEPARTMENT

of The Port Authority of New York and New Jersey, who I am satisfied is the person who has signed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Commissioners.

Frank Wyspianski Jr.
(notarial seal and stamp)

FRANK WYSPIANSKI JR.
NOTARY PUBLIC, State of New York
No. 9759825
Qualified in Suffolk County
Commission Expires April 30, 1992

STATE OF California
COUNTY OF Los Angeles

On this 12th day of March, 1991, before me, the subscriber, a notary

personally appeared Hiroshi Inoue
the Group Vice President of

TOYOTA MOTOR SALES, U.S.A., INC. who I am satisfied is the person who has signed the within instrument; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Directors.



Lydia L. Rico
(notarial seal and stamp)

STATE OF }
COUNTY OF }

Be it remembered that on this _____ day of _____, 19____, before me, the subscriber, a

_____ personally appeared _____

_____ who I am satisfied is the person named in and who executed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as his voluntary act and deed for the uses and purposes therein expressed.

(notarial seal and stamp)

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of April 2, 1991, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and TOYOTA MOTOR SALES, U.S.A., INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of September 18, 1976 the Port Authority and the Lessee entered into an agreement of lease (hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease") covering premises at Port Newark, in the City of Newark, County of Essex and State of New Jersey, all as more particularly described in the Lease; and

WHEREAS, the Port Authority and the Lessee desire to amend the Lease;

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

1. The term of the letting under the Lease is hereby extended for the period ending on the 31st day of October, 2006, unless sooner terminated, at an annual basic rental payable during the extension as follows: (a) at the annual rate of One Million Eight Hundred Forty-four Thousand One Hundred Twelve Dollars and No Cents (\$1,844,112.00) for the period commencing November 1, 1996 and continuing through October 31, 1998, both dates inclusive, payable in advance in equal monthly installments of One Hundred Fifty-three Thousand Six Hundred Seventy-six Dollars and No Cents (\$153,676.00) on November 1, 1996 and on the first day of each calendar month thereafter occurring during such period; (b) at the annual rate of One Million Nine Hundred Ninety-four Thousand Five Hundred Ninety-two Dollars and No Cents (\$1,994,592.00) for the period commencing November 1, 1998 and continuing through October 31, 2000, both dates inclusive, payable in advance in equal monthly installments of One Hundred Sixty-six Thousand Two Hundred Sixteen Dollars and No Cents (\$166,216.00) on November 1, 1998 and on the first day of each calendar month thereafter occurring during such period; (c) at the annual rate of Two Million One Hundred Fifty-seven Thousand Three Hundred Fifty-one Dollars and No Cents (\$2,157,351.00) for the period commencing November 1, 2000 and continuing through October 31, 2002, both dates inclusive, payable in advance in

equal monthly installments of One Hundred Seventy-nine Thousand Seven Hundred Seventy-nine Dollars and Twenty-five Cents (\$179,779.25) on November 1, 2000 and on the first day of each calendar month thereafter occurring during such period; (d) at the annual rate of Two Million Three Hundred Thirty-three Thousand Three Hundred Ninety-one Dollars and No Cents (\$2,333,391.00) for the period commencing November 1, 2002 and continuing through October 31, 2004, both dates inclusive, payable in advance in equal monthly installments of One Hundred Ninety-four Thousand Four Hundred Forty-nine Dollars and Twenty-five Cents (\$194,449.25) on November 1, 2002 and on the first day of each calendar month thereafter occurring during such period; and (e) at the annual rate of Two Million Five Hundred Twenty-three Thousand Seven Hundred Ninety-six Dollars and No Cents (\$2,523,796.00) for the period commencing November 1, 2004 and continuing through October 31, 2006, both dates inclusive, payable in advance in equal monthly installments of Two Hundred Ten Thousand Three Hundred Sixteen Dollars and Thirty-four Cents (\$210,316.34) on November 1, 2004 and on the first day of each calendar month thereafter occurring during such period.

2. In addition to the premises heretofore let to the Lessee under the Lease, the letting as to which shall continue in full force and effect, subject to and in accordance with all the terms, provisions, covenants and conditions of the Lease as amended and extended by this Agreement, the Port Authority hereby lets to the Lessee and the Lessee hires and takes from the Port Authority, at Port Newark aforesaid, the open area shown in stipple and in stipple and diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A-13", together with the structures, fixtures, improvements and other property, if any, of the Port Authority located or to be located therein or thereon, the said open area and the said structures, fixtures, improvements and other property (all of which is sometimes hereinafter in this Agreement called "the additional premises") to be and become a part of the premises under the Lease at 12:01 o'clock A.M. on April 2, 1991 (hereinafter called "the additional premises commencement date") let to the Lessee, subject to and in accordance with all of the terms, covenants and conditions of the Lease as herein amended and extended, for a term expiring at 11:59 o'clock P.M. on October 31, 2006, unless sooner terminated. The parties hereby acknowledge that the additional premises constitute non-residential property.

3. The Lessee shall use the additional premises solely for the purposes set forth in Article IV of the Lease, as amended by paragraph 1 of Supplement No. 16 to the Lease, and for no other purpose or purposes whatsoever.

4. The Port Authority shall deliver the additional premises to the Lessee in its presently existing "as is" condition. The Lessee acknowledges that prior to the execution of this Agreement, it has thoroughly examined and inspected the additional premises and has found it in good order and repair and has determined it to be suitable for the Lessee's operations therein under the Lease as herein amended and extended. The Lessee agrees to and shall take the additional premises in its "as is" condition and the Port Authority shall have no obligations under the Lease as herein amended and extended for finishing work or preparation of any portion of the additional premises for the Lessee's use.

X 5. 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 suitability of the additional premises for the operations permitted thereon by the Lease as herein amended and extended. Without limiting any obligation of the Lessee to commence operations under the Lease as herein amended and extended at the time and in the manner stated elsewhere in this Agreement, the Lessee agrees that no portion of the additional premises will be used initially or at any time during the letting thereof under the Lease as herein amended and extended which is in a condition unsafe or improper for the conduct of the Lessee's operations therein under the Lease as herein amended and extended so that there is possibility of injury or damage to life or property.

X 6. The Port Authority shall have no obligation to supply to the Lessee any services or utilities in the additional premises.

7. In addition to all other rentals payable under the Lease as herein amended and extended, the Lessee shall pay an annual basic rental for the additional premises as follows: (a) for the period from April 2, 1991 through October 31, 1992, both dates inclusive, at the annual rate of One Million One Hundred Eighteen Thousand Six Hundred Six Dollars and No Cents (\$1,118,606.00) payable in advance in an installment of Ninety Thousand One Hundred Nine Dollars and Ninety-three Cents (\$90,109.93) on April 2, 1991 and thereafter in equal monthly installments of Ninety-three Thousand Two Hundred Seventeen Dollars and Seventeen Cents (\$93,217.17) on May 1, 1991 and on the first day of each calendar month thereafter during such period; (b) for the period from November 1, 1992 through October 31, 1994, both dates inclusive, at the annual rate of One Million Two Hundred Nine Thousand Eight Hundred Eighty-four Dollars and No Cents (\$1,209,884.00) payable in advance in equal monthly installments of One Hundred Thousand Eight Hundred Twenty-three Dollars and Sixty-seven Cents (\$100,823.67) on November 1, 1992

and on the first day of each calendar month thereafter during such period; (c) for the period from November 1, 1994 through October 31, 1996, both dates inclusive, at the annual rate of One Million Three Hundred Eight Thousand Six Hundred Eleven Dollars and No Cents (\$1,308,611.00) payable in advance in equal monthly installments of One Hundred Nine Thousand Fifty Dollars and Ninety-two Cents (\$109,050.92) on November 1, 1994 and on the first day of each calendar month thereafter during such period; (d) for the period from November 1, 1996 through October 31, 1998, both dates inclusive, at the annual rate of One Million Four Hundred Fifteen Thousand Three Hundred Ninety-four Dollars and No Cents (\$1,415,394.00) payable in advance in equal monthly installments of One Hundred Seventeen Thousand Nine Hundred Forty-nine Dollars and Fifty Cents (\$117,949.50) on November 1, 1996 and on the first day of each calendar month thereafter during such period; (e) for the period from November 1, 1998 through October 31, 2000, both dates inclusive, at the annual rate of One Million Five Hundred Thirty Thousand Eight Hundred Ninety Dollars and No Cents (\$1,530,890.00) payable in advance in equal monthly installments of One Hundred Twenty-seven Thousand Five Hundred Seventy-four Dollars and Seventeen Cents (\$127,574.17) on November 1, 1998 and on the first day of each calendar month thereafter during such period; (f) for the period from November 1, 2000 through October 31, 2002, both dates inclusive, at the annual rate of One Million Six Hundred Fifty-five Thousand Eight Hundred Eleven Dollars and No Cents (\$1,655,811.00) payable in advance in equal monthly installments of One Hundred Thirty-seven Thousand Nine Hundred Eighty-four Dollars and Twenty-five Cents (\$137,984.25) on November 1, 2000 and on the first day of each calendar month thereafter during such period; (g) for the period from November 1, 2002 through October 31, 2004, both dates inclusive, at the annual rate of One Million Seven Hundred Ninety Thousand Nine Hundred Twenty-five Dollars and No Cents (\$1,790,925.00) payable in advance in equal monthly installments of One Hundred Forty-nine Thousand Two Hundred Forty-three Dollars and Seventy-five Cents (\$149,243.75) on November 1, 2002 and on the first day of each calendar month thereafter during such period; and (h) for the period from November 1, 2004 through October 31, 2006, both dates inclusive, at the annual rate of One Million Nine Hundred Thirty-seven Thousand Sixty-four Dollars and No Cents (\$1,937,064.00) payable in advance in equal monthly installments of One Hundred Sixty-one Thousand Four Hundred Twenty-two Dollars and No Cents (\$161,422.00) on November 1, 2004 and on the first day of each calendar month thereafter during such period.

8. If on the additional premises commencement date as defined in paragraph 2 hereof the additional premises are not available or ready for occupancy or use by the Lessee by reason of the fact that the additional premises or any part thereof, or any

part of the Facility, is in the course of construction, repair, alteration or improvement or by reason of the fact that the occupant of the additional premises or a part thereof failed or refused to deliver possession or by reason of any causes or conditions beyond the control of the Port Authority, the Port Authority may postpone the letting of the additional premises and the Port Authority shall not be subject to any liability for such postponement or failure to give possession on such date. No such postponement or failure to give possession of the additional premises on such date shall affect the validity of the Lease or of this Agreement or the obligations of the Lessee under either the Lease or this Agreement. However, the basic rental set forth in paragraph 7 hereof shall not commence until possession of the additional premises is tendered by the Port Authority to the Lessee; tender shall be made of the additional premises by the Port Authority to the Lessee by notice given at least five (5) days prior to the effective date of the tender. In the event that notice of tender of the additional premises is not given for possession thereof to commence on or before November 1, 1991, then this Agreement shall be and be deemed cancelled and all the provisions hereof shall be and be deemed null and void and of no further force or effect, and each party shall and does release and discharge the other party from any and all claims or demands based on this Agreement, or a breach or alleged breach thereof. Cancellation of this Agreement shall not affect the letting of the premises under the Lease and the Lease shall continue in full force and effect in accordance with its terms. Any postponement of the letting of the additional premises pursuant to this paragraph shall not be deemed to effect the extension of the term of the letting under the Lease as herein amended, and the term of the letting under the Lease as herein amended and extended shall expire in any event on the date stated in paragraph 1 of this Agreement. In the event that the letting of the additional premises shall be postponed pursuant to the provisions of this paragraph, the additional premises commencement date shall be deemed to be the effective date of the tender of the additional premises pursuant to the provisions of this paragraph.

9. (a) Effective upon the additional premises commencement date, the provisions of paragraph 4 of Supplement No. 14 to the Lease shall be null and void and of no further force or effect, except that the Lessee shall make a final payment of additional basic rental to the Port Authority under said paragraph 4 at the time and in the manner hereinafter set forth. In the event that the cumulative number of vehicles discharged to the Facility for the account of the Lessee during the period from November 1, 1990 through the day preceding the additional premises commencement date, both dates inclusive, with respect to which dockage and wharfage charges (as hereinafter defined) have been paid (which number of vehicles is hereinafter in this subparagraph

called "the cumulative number of vehicles") is less than the prorated guarantee number (as hereinafter defined), the Lessee shall pay additional basic rental to the Port Authority equal to the amount derived by multiplying Seven Dollars and Twenty Cents (\$7.20) by the difference between the prorated guarantee number and the cumulative number of vehicles. For purposes of this subparagraph, "the prorated guarantee number" shall mean seventy thousand (70,000) multiplied by a fraction, the numerator of which shall be the number of days from November 1, 1990 through the day preceding the additional premises commencement date, both dates inclusive, and the denominator of which shall be three hundred sixty-five (365). In the event that any additional basic rental shall be payable by the Lessee to the Port Authority pursuant to the provisions of this subparagraph, the Port Authority shall provide the Lessee with a written statement setting forth the cumulative number of vehicles discharged to the Facility for the account of the Lessee during the period from November 1, 1990 through the day preceding the additional premises commencement date with respect to which dockage and wharfage charges have been paid, and the additional basic rental owed by the Lessee to the Port Authority for such period. The Lessee shall pay to the Port Authority the additional basic rental set forth in the statement within thirty (30) days of the Lessee's receipt of such statement.

(b) In addition to all other basic rentals payable by the Lessee under the Lease as herein amended and extended, the Lessee shall pay to the Port Authority an additional basic rental in accordance with the provisions of this paragraph. If during any annual period occurring during the period from the additional premises commencement date through the expiration date of the term of the letting under the Lease as herein amended and extended, the Port Authority shall not receive dockage charges and wharfage charges pursuant to the Port Authority's tariff, as incorporated in Federal Maritime Commission Schedule PA-9 (which charges are hereinafter called "dockage and wharfage charges" and which tariff is hereinafter called "the tariff"), on vehicles discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee equal to or greater than the Guaranteed Annual Dockage and Wharfage Charge (as hereinafter defined) for that annual period, then the Lessee shall pay to the Port Authority an amount equal to the difference between (i) the Guaranteed Annual Dockage and Wharfage Charge for that annual period and (ii) the dockage and wharfage charges received by the Port Authority during that annual period on vehicles discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee. "Guaranteed Annual Dockage and Wharfage Charge" shall mean the respective amount set forth in the Schedule annexed to this Agreement, hereby made a part hereof and marked "Schedule A" opposite the respective annual period.

Notwithstanding any other provision of the Lease as herein amended and extended, for purposes of the computation of the additional basic rental payable by the Lessee pursuant to the provisions of this subparagraph and subparagraphs (c) and (d) of this paragraph, the period from the additional premises commencement date through October 31, 1991, both dates inclusive, shall be deemed an annual period. In the event that the additional premises commencement date shall be postponed pursuant to the provisions of paragraph 8 hereof, the Guaranteed Annual Dockage and Wharfage Charge of \$521,685 set forth in Schedule A for the annual period commencing on the additional premises commencement date shall be adjusted by multiplying \$521,685 by a fraction, the numerator of which shall be the number of days from the additional premises commencement date through October 31, 1991, both dates inclusive, and the denominator of which shall be two hundred thirteen (213). The computation of additional basic rental for each annual period, or a portion of an annual period as herein provided, shall be individual to such annual period and without relation to any other annual period, or any other portion of any annual period. The time and manner of payment of the additional basic rental described in this subparagraph shall be as set forth in subparagraph (c) of this paragraph.

(c) In the event that any additional basic rental shall be payable by the Lessee to the Port Authority pursuant to the provisions of subparagraph (b) of this paragraph for any annual period to occur during the period from the additional premises commencement date through the expiration date of the term of the letting under the Lease as herein amended and extended, the Port Authority shall provide the Lessee with a written statement setting forth the dockage and wharfage charges received by the Port Authority during the annual period for which the statement is made on vehicles discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee, and the additional basic rental owed by the Lessee to the Port Authority for such annual period. The Lessee shall pay to the Port Authority the additional basic rental set forth in the statement within thirty (30) days of the Lessee's receipt of such statement.

(d) Upon any termination of the letting under the Lease as herein amended and extended (even if stated to have the same effect as expiration), the Lessee shall pay to the Port Authority additional basic rental as determined pursuant to the provisions of this subparagraph. If the Projected Dockage and Wharfage Charges on the Lessee's Vehicles (as hereinafter defined) for the annual period in which the effective date of termination happens to fall shall not be equal to or greater than the Guaranteed Annual Dockage and Wharfage Charge for that annual period, then the Lessee shall pay to the Port Authority an amount equal to the difference between (i) the Guaranteed Annual Dockage

and Wharfage Charge for that annual period and (ii) the Projected Dockage and Wharfage Charges on the Lessee's Vehicles for that annual period. For purposes of this subparagraph, "the Projected Dockage and Wharfage Charges on the Lessee's Vehicles" shall mean the dockage and wharfage charges received by the Port Authority on vehicles discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee from the commencement of the annual period in which the effective date of termination happens to fall through the effective date of termination, both dates inclusive, multiplied by a fraction, the numerator of which shall be three hundred sixty-five (365) and the denominator of which shall be the number of days from the commencement of the annual period in which the effective date of termination happens to fall through the effective date of termination, both dates inclusive. In the event that any additional basic rental shall be payable by the Lessee to the Port Authority pursuant to the provisions of this subparagraph, the Port Authority shall provide the Lessee with a written statement setting forth the Projected Dockage and Wharfage Charges on the Lessee's Vehicles and the amount of such additional basic rental owed by the Lessee to the Port Authority, and the Lessee shall pay such additional basic rental to the Port Authority within thirty (30) days of the Lessee's receipt of such statement.

(e) For purposes of this Agreement, the dockage charge on a vehicle shall be deemed to be the quotient obtained by dividing (i) the dockage charge received by the Port Authority pursuant to the tariff on a waterborne vessel from which vehicles were discharged to the Facility for the account of the Lessee and/or to which vehicles were discharged from the Facility by the Lessee by (ii) the number of such vehicles so discharged. Notwithstanding any other provision of this subparagraph or of the tariff, for purposes of the computation of the additional basic rental payable by the Lessee to the Port Authority pursuant to the provisions of subparagraphs (b) and (c) or subparagraph (d) of this paragraph, no dockage charge shall be deemed to have been received by the Port Authority (whether or not payment of such dockage charge was made to the Port Authority) with respect to any waterborne vessel which shall have discharged to the Facility any cargo other than "Toyota vehicles" and/or shall have had discharged to it from the Facility any cargo other than "Toyota vehicles". For purposes of this paragraph, a "Toyota vehicle" shall mean (i) any vehicle bearing the trademark or tradename "Toyota", (ii) any vehicle bearing the trademark or tradename "Lexus" and (iii) any other vehicle manufactured by Toyota Motor Corp. or any successor corporation thereto or by any corporation controlled by Toyota Motor Corp. or any successor corporation thereto; provided, however, that no vehicle shall be deemed to be a "Toyota vehicle" unless it shall have been discharged to the Facility for the account of the Lessee or shall have been

discharged from the Facility by the Lessee. "Successor corporation" as used in this subparagraph shall mean any corporation or corporations having direct ownership of substantially all of the manufacturing assets of a predecessor corporation. "Controlled" as used in this subparagraph shall mean ownership by Toyota Motor Corp. or any successor corporation thereto of a majority of the issued and outstanding shares of the capital stock and voting rights of another corporation. "Vehicle" shall have the meaning set forth in subparagraph (b) of paragraph 8 of Supplement No. 14 to the Lease.

(f) During the period from the additional premises commencement date through the expiration date of the term of the letting under the Lease as herein amended and extended, the Lessee shall provide the Port Authority with a written statement setting forth the following information within ten (10) days of the completion of the discharge of vehicles from any waterborne vessel to the Facility across a public wharf for the account of the Lessee and/or the discharge of vehicles to any waterborne vessel from the Facility across a public wharf by the Lessee: (i) the name of the waterborne vessel, (ii) the date or dates on which such vehicles were so discharged to the Facility and/or the date or dates on which such vehicles were so discharged from the Facility, and (iii) the cumulative number of each model of vehicle so discharged to the Facility and/or the cumulative number of each model of vehicle so discharged from the Facility.

10. Effective April 2, 1991, abatement of rental, if any, shall be computed in accordance with Standard Endorsement No. L27.4 attached hereto and hereby made a part hereof.

11. Effective upon the additional premises commencement date, the provisions of paragraph 7 of Supplement No. 14 to the Lease and the provisions of paragraph 8 of Supplement No. 15 to the Lease shall be null and void and of no further force or effect.

12. (a) In the event that any law, rule or regulation of any United States governmental body or agency having jurisdiction over the matter shall be passed or promulgated for the purpose of reducing the number of vehicles manufactured in Japan which may be imported into the United States (which law, rule or regulation is hereinafter called "the Import Control Legislation") then for the purpose of calculating the amount of additional basic rental payable by the Lessee pursuant to the provisions of paragraph 9 hereof during the period when the Import Control Legislation shall remain in effect the Guaranteed Annual Dockage and Wharfage Charge shall be reduced for the annual period in which the Import Control Legislation shall become effective and for each annual period which shall occur thereafter during which

the Import Control Legislation shall remain in effect by multiplying the Guaranteed Annual Dockage and Wharfage Charge for each such annual period by a fraction, the numerator of which shall be the number of all vehicles manufactured in Japan and imported into the United States during the respective annual period and the denominator of which shall be the number of all vehicles manufactured in Japan and imported into the United States during the twelve (12) month period preceding the effective date of the Import Control Legislation.

(b) For the purposes of subparagraph (a) of this paragraph, the determination of the number of vehicles imported into the United States during any given year or annual period shall be made by the Port Authority based on reports of commodities imported into the United States issued by the Foreign Trade Division of the Bureau of the Census of the United States Department of Commerce. In the event that any number required for the computation set forth in subparagraph (a) of this paragraph is not available by the date that additional basic rental is payable pursuant to the provisions of paragraph 9 hereof, the Lessee shall pay the additional basic rental computed pursuant to the provisions of said paragraph 9 subject to retroactive adjustment at such time as the required number becomes available. In the event the Foreign Trade Division of the Bureau of the Census of the United States Department of Commerce shall cease to issue reports of commodities imported into the United States then for the purposes hereof there shall be substituted for such reports of commodities imported into the United States such other governmental statistical reports of a similar nature as the Port Authority may determine to be appropriate.

13. (a) In the event that the Lessee shall terminate the operation of its facilities for the importation of vehicles through the Port of Boston (the date of such termination being hereinafter called "the closure date") on or before October 31, 1993, then effective upon the closure date the provisions of paragraph 5 of Supplement No. 14 to the Lease shall be null and void and of no further force or effect, except that the Lessee shall be entitled to a final credit against the basic rental payable pursuant to the provisions of paragraph 1 of Supplement No. 14 to the Lease and paragraph 7 hereof at the time and in the manner hereinafter set forth. The Lessee shall provide the Port Authority with a written statement within twenty (20) days after the closure date stating that the aforesaid facilities have been terminated and setting forth the closure date, and also setting forth the cumulative number of vehicles discharged to the Facility across a public wharf for the account of the Lessee during the period from the commencement of the annual period in which the closure date happens to fall through the closure date, both dates inclusive, (which period is hereinafter called "the closure

period") which have been or are being transported outside the boundaries of New York, New Jersey, and Connecticut, the specific states to which such vehicles have been or are being shipped, and the number of such vehicles shipped or being shipped to each specific state. Any credit to be granted to the Lessee shall be calculated as follows: the cumulative number of vehicles discharged to the Facility for the account of the Lessee during the closure period with respect to which dockage and wharfage charges have been paid shall be divided by the number of days in the closure period and the quotient so obtained shall be multiplied by three hundred sixty-five (365) (the product of such calculation being hereinafter called "the Final Projected Number of Discharged Vehicles"). If the Final Projected Number of Discharged Vehicles for the closure period shall be in excess of seventy thousand (70,000), the cumulative number of vehicles discharged to the Facility for the account of the Lessee during the closure period with respect to which dockage and wharfage charges have been paid and which have been or are being transported to customers of the Lessee located outside the boundaries of the States of New York, New Jersey, and Connecticut shall be divided by the number of days in the closure period and the quotient so obtained shall be multiplied by three hundred sixty-five (365) (the product of such calculation being hereinafter called "the Final Projected Number of Discharged Vehicles to be Shipped Outside of the Lessee's New York Regional Sales Area"). The Lessee shall be entitled to a credit against its basic rental obligations in an amount equal to the product obtained by multiplying (i) the number of the Final Projected Number of Discharged Vehicles to be Shipped Outside of the Lessee's New York Regional Sales Area which does not exceed the difference between the Final Projected Number of Discharged Vehicles and seventy thousand (70,000) by (ii) Five Dollars and No Cents (\$5.00). Any credit due the Lessee under this subparagraph shall be applied in equal monthly installments against monthly installments of basic rental payable by the Lessee during the twelve (12) month period commencing on the first day of the first calendar month following the Port Authority's receipt of the Lessee's statement until exhausted.

(b) In the event that the Lessee shall not terminate the operation of its facilities for the importation of vehicles through the Port of Boston on or before October 31, 1993, then effective November 1, 1993 the provisions of paragraph 5 of Supplement No. 14 to the Lease shall be null and void and of no further force or effect, except that any credit due the Lessee pursuant to the provisions of said paragraph 5 for the annual period ending October 31, 1993 shall be computed and applied pursuant to the provisions of said paragraph 5 as amended by the provisions of subparagraph (c) of this paragraph.

(c) Effective upon the additional premises commencement date, the provisions of paragraph 5 of Supplement No. 14 to the Lease shall be amended as set forth in this subparagraph. In the event that the Lessee shall claim a credit against basic rental pursuant to the provisions of paragraph 5 of said Supplement No. 14, the Lessee shall provide to the Port Authority the statement required to be provided for that purpose pursuant to the provisions of subparagraph (b) or (c), as the case may be, of paragraph 4 of said Supplement No. 14, except that (i) the statement need not be sworn to by the Lessee's chief financial officer and (ii) the statement shall set forth (aa) the cumulative number of vehicles discharged to the Facility across a public wharf for the account of Lessee during the annual period for which the statement is made which have been or are being transported outside the boundaries of New York, New Jersey, and Connecticut, (bb) the specific states to which such vehicles have been or are being shipped, and (cc) the number of such vehicles shipped or being shipped to each specific state. Any credit to be granted to the Lessee pursuant to the provisions of subparagraph (a) of paragraph 5 of said Supplement No. 14 shall be applied in equal monthly installments against monthly installments of basic rental payable by the Lessee pursuant to the provisions of paragraph 1 of said Supplement No. 14 and paragraph 7 hereof during the next succeeding annual period until exhausted. Except as specifically set forth in this subparagraph, the provisions of paragraph 5 of said Supplement No. 14, including without limitation the provisions of subparagraph (b) of said paragraph 5, shall not be amended in any respect whatsoever.

14. The Port Authority shall provide the Lessee with copies of the records and documentation employed by the Port Authority to prepare any statement rendered by the Port Authority to the Lessee pursuant to the provisions of paragraph 9 hereof setting forth additional basic rental payable by the Lessee to the Port Authority pursuant to the provisions of said paragraph 9; provided, that, such records and documentation as provided to the Lessee shall contain only such information that is subject to public access under the freedom of information policy of the Port Authority set forth in the resolution entitled "Freedom of Information - Port Authority Policy and Procedure" adopted at the meeting of the Committee on Operations of the Port Authority held on September 28, 1977 and that does not fall within any of the categories set forth in said resolution as to which public access may be denied. The Port Authority shall provide the Lessee with copies of such records and documentation upon written request from the Lessee to the Port Authority given within one hundred eighty (180) days of the date of receipt by the Lessee of the statement as to which the records and documentation pertain. The Lessee acknowledges and agrees that its rights under this paragraph are solely for the purpose of determining the amount of the dockage and wharfage charges actually

received by the Port Authority during the annual period for which the statement is made on vehicles discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee, and further acknowledges and agrees that the amount of such dockage and wharfage charges actually received by the Port Authority during any annual period shall be determinative for purposes of the computation of any additional basic rental payable by the Lessee with respect to such annual period.

15. The following phrase shall be deemed inserted after the word "Lessee" appearing in the sixth line of paragraph 6 of Supplement No. 14 to the Lease:

"and/or the discharge of vehicles from the Facility by the Lessee and all transactions relevant to the computation of any credit payable to the Lessee under the Lease as herein amended and extended"

16. Effective upon the additional premises commencement date, the provisions of paragraph 13 of Supplement No. 14 to the Lease shall be null and void and of no further force or effect and the following provisions of this paragraph shall be substituted therefor. Notwithstanding the provisions of Section 19 of the Terms and Conditions of the Lease and without otherwise limiting the generality thereof, the amount of damages for the period of time subsequent to any termination or cancellation of the term of the letting under the Lease as herein amended and extended (or re-entry, regaining, or resumption of possession) on account of the Lessee's additional basic rental obligations under paragraph 9 hereof shall be an amount equal to the then present value of all such additional basic rental payable during the balance of the term of the letting under the Lease as herein amended and extended following the effective date of termination or cancellation (or re-entry, regaining, or resumption of possession); the amount of such additional basic rental payable during the balance of the term of the letting under the Lease as herein amended and extended following the effective date of termination or cancellation (or re-entry, regaining, or resumption of possession) shall be the sum of each Guaranteed Annual Dockage and Wharfage Charge set forth in Schedule A for each annual period (including the last annual period falling within the effective period) that would have occurred during such balance of the term of the letting under the Lease as herein amended and extended, except that any such Charge for the last annual period falling within the effective period shall be reduced by any amount paid pursuant to paragraph 9(d) hereof and shall be subject to offset pursuant to paragraph 9(b) hereof.

17. The phrase "extended term of the letting under the Lease as herein amended" wherever it appears in Supplement No. 14 to the Lease shall be deemed to mean the term of the letting under the Lease as herein amended and extended for the period from November 1, 1986 through the expiration date of the term of the letting under the Lease as herein amended and extended set forth in paragraph 1 of this Agreement. As used in the Lease as herein amended and extended, including without limitation paragraphs 9 and 13 of this Agreement, the term "the Facility" shall mean Port Newark as defined in Standard Endorsement No. L19.4 annexed to the Lease. As used in this Agreement, the term "public wharf" shall have the meaning set forth in Item 335 of the tariff.

18. Effective April 2, 1991, the provisions of subparagraph (a) of paragraph 9 of Supplement No. 14 to the Lease shall be null and void and of no further force or effect.

19. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

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

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

22. This Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing 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 the Lease or in this Agreement.

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

ATTEST:

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

R. DiBartolomeo
SECRETARY

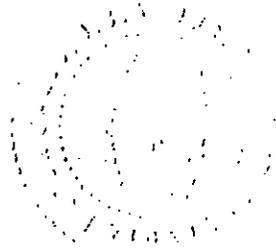
By *Lillian C. Liburdi*
LILLIAN C. LIBURDI
(Title) DIRECTOR, PORT DEPARTMENT
(Seal)

ATTEST:

TOYOTA MOTOR SALES, U.S.A., INC.

[Signature]
Secretary

By *Hirosaki Inan*
(Title) Group Vice President
(Corporate Seal)



APPROVED:

FORM	TERMS
<i>[Signature]</i>	<i>[Signature]</i>

(a) If at any time the Lessee shall become entitled to an abatement of basic rental under the provisions of this Agreement or otherwise, such abatement shall be computed as follows:

(1) For each square foot of usable open area the use of which is denied to the Lessee, at the annual rate of § 0.6642 *

(2) For each square foot of usable covered area the use of which is denied to the Lessee, at the annual rate of § Not Applicable

(b) If no rates are filled in above then the abatement of basic rental shall be made on an equitable basis, giving effect to the amount and character of the area the use of which is denied the Lessee, as compared with the entire area of such character included in the premises.

(c) If an exemption amount is fixed in this Agreement, it shall be reduced in the same proportion as the total basic rental is abated.

(d) For the purposes of this Endorsement, the number of square feet of covered area shall be computed as follows: by measuring from the inside surface of outer building walls to the surface of the public area side, or of the non-exclusive area side, as the case may require, of all partitions separating the area measured from adjoining areas designated for the use of the public or for use by the Lessee in common with others, and to the center of partitions separating the area measured from adjoining area exclusively used by others; no deduction will be made for columns, partitions, pilasters or projections necessary to the building and contained within the area measured. Permanent partitions enclosing elevator shafts, stairs, fire towers, vents, pipe shafts, meter closets, flues, stacks and any vertical shafts have the same relation to the area measured as do outer building walls.

(e) In the event that during the term of the letting under this Agreement the Lessee shall be partially evicted (actually or constructively) and shall remain in possession of the premises or the balance thereof, the Lessee agrees that notwithstanding it might have the right to suspend payment of the rent in the absence of this provision, it will pay at the times and in the manner herein provided, the full basic rental less only an abatement thereof computed in accordance with the above.

* For the period from April 2, 1991 through October 31, 1992; \$0.7184 for the period from November 1, 1992 through October 31, 1994; \$0.7770 for the period from November 1, 1994 through October 31, 1996; \$0.8404 for the period from November 1, 1996 through October 31, 1998; \$0.9090 for the period from November 1, 1998 through October 31, 2000; \$0.9832 for the period from November 1, 2000 through October 31, 2002; \$1.0634 for the period from November 1, 2002 through October 31, 2004; and \$1.1502 for the period from November 1, 2004 through October 31, 2006.

Standard Endorsement No. L 27.4

Abatement

All Marine Terminals

10/6/68

SCHEDULE A

The Guaranteed Annual Dockage and Wharfage Charge referred to in paragraph 9 of the Agreement to which this schedule is annexed for each respective annual period occurring during the period from the additional premises commencement date through the expiration date of the letting under the Lease as herein amended and extended is the respective amount set forth below opposite the respective annual period.

<u>Annual Period</u>	<u>Guaranteed Annual Dockage and Wharfage Charge</u>
For the annual period from the additional premises commencement date through October 31, 1991	\$ 521,685
For the annual period from November 1, 1991 through October 31, 1992	\$ 893,966
For the annual period from November 1, 1992 through October 31, 1993	\$ 966,914
For the annual period from November 1, 1993 through October 31, 1994	\$ 966,914
For the annual period from November 1, 1994 through October 31, 1995	<u>\$1,045,813</u>
For the annual period from November 1, 1995 through October 31, 1996	\$1,045,813
For the annual period from November 1, 1996 through October 31, 1997	<u>\$1,131,151</u>
For the annual period from November 1, 1997 through October 31, 1998	\$1,131,151

<u>Annual Period</u>	<u>Guaranteed Annual Dockage and Wharfage Charge</u>
For the annual period from November 1, 1998 through October 31, 1999	\$1,223,453
For the annual period from November 1, 1999 through October 31, 2000	\$1,223,453
For the annual period from November 1, 2000 through October 31, 2001	\$1,323,286
For the annual period from November 1, 2001 through October 31, 2002	\$1,323,286
For the annual period from November 1, 2002 through October 31, 2003	\$1,431,266
For the annual period from November 1, 2003 through October 31, 2004	\$1,431,266
For the annual period from November 1, 2004 through October 31, 2005	\$1,548,057
For the annual period from November 1, 2005 through October 31, 2006	\$1,548,057

STATE OF NEW YORK }
COUNTY OF NEW YORK }

On this 19th day of April, 1991, before me, the subscriber, a notary public of New

York, personally appeared TULLIAN C. LIBURDI the DIRECTOR, PORT DEPARTMENT

of The Port Authority of New York and New Jersey, who I am satisfied is the person who has signed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Commissioners.

Frank Wyspianski Jr.
(separate seal and stamp)

FRANK WYSPIANSKI JR.
NOTARY PUBLIC, State of New York
No. 9759825
Qualified in Suffolk County
Commission Expires April 30, 1992

STATE OF California
COUNTY OF Los Angeles

On this 12th day of March, 1991, before me, the subscriber, a

personally appeared Hiroshi Imai
the Group Vice-President of

TOYOTA MOTOR SALES, U.S.A., INC. who I am satisfied is the person who has signed the within instrument; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Directors.



Lydia I. Rico
(separate seal and stamp)

STATE OF }
COUNTY OF }

Be it remembered that on this _____ day of _____, 19____, before me, the subscriber, a

personally appeared _____

who I am satisfied is the person named in and who executed the within instrument; and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as his voluntary act and deed for the uses and purposes therein expressed.

(separate seal and stamp)

(EX. 4)

Port Authority Lease No. L-NS-900
Supplement No. 18

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of April 3, 2002, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and TOYOTA MOTOR SALES, U.S.A., INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of September 18, 1976, the Port Authority and the Lessee entered into an agreement of lease (hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease") covering premises at Port Newark, in the City of Newark, County of Essex and State of New Jersey, all as more particularly described in the Lease; and

WHEREAS, the Port Authority and the Lessee desire to amend the Lease;

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

1. The term of the letting under the Lease is hereby extended for the period ending at 11:59 o'clock P.M. on October 31, 2018, unless sooner terminated.

2. The Lessee shall pay basic rental to the Port Authority during the extension as follows: (a) during the period from November 1, 2006 through October 31, 2007, both dates inclusive, at the annual rate of Four Million Six Hundred Sixteen Thousand Nine Hundred Ninety Dollars and Ten Cents (\$4,616,990.10) payable in advance in equal monthly installments of Three Hundred Eighty-four Thousand Seven Hundred Forty-nine Dollars and Eighteen Cents (\$384,749.18) on November 1, 2006 and on the first day of each calendar month thereafter during such period; (b) during the period from November 1, 2007 through October 31, 2008, both dates inclusive, at the annual rate of Four Million Seven Hundred Seventy-eight Thousand Five Hundred Eighty-four Dollars and Seventy-five Cents (\$4,778,584.75) payable in advance in equal monthly installments of Three Hundred Ninety-eight Thousand Two Hundred Fifteen Dollars and Forty Cents (\$398,215.40) on November 1, 2007 and on the first day of each

calendar month thereafter during such period; (c) during the period from November 1, 2008 through October 31, 2009, both dates inclusive, at the annual rate of Four Million Nine Hundred Forty-five Thousand Eight Hundred Thirty-five Dollars and Twenty-two Cents (\$4,945,835.22) payable in advance in equal monthly installments of Four Hundred Twelve Thousand One Hundred Fifty-two Dollars and Ninety-three Cents (\$412,152.93) on November 1, 2008 and on the first day of each calendar month thereafter during such period; (d) during the period from November 1, 2009 through October 31, 2010, both dates inclusive, at the annual rate of Five Million One Hundred Eighteen Thousand Nine Hundred Thirty-nine Dollars and Forty-five Cents (\$5,118,939.45) payable in advance in equal monthly installments of Four Hundred Twenty-six Thousand Five Hundred Seventy-eight Dollars and Twenty-nine Cents (\$426,578.29) on November 1, 2009 and on the first day of each calendar month thereafter during such period; (e) during the period from November 1, 2010 through October 31, 2011, both dates inclusive, at the annual rate of Five Million Two Hundred Ninety-eight Thousand One Hundred Two Dollars and Thirty-three Cents (\$5,298,102.33) payable in advance in equal monthly installments of Four Hundred Forty-one Thousand Five Hundred Eight Dollars and Fifty-three Cents (\$441,508.53) on November 1, 2010 and on the first day of each calendar month thereafter during such period; (f) during the period from November 1, 2011 through October 31, 2012, both dates inclusive, at the annual rate of Five Million Four Hundred Eighty-three Thousand Five Hundred Thirty-five Dollars and Ninety-two Cents (\$5,483,535.92) payable in advance in equal monthly installments of Four Hundred Fifty-six Thousand Nine Hundred Sixty-one Dollars and Thirty-three Cents (\$456,961.33) on November 1, 2011 and on the first day of each calendar month thereafter during such period; (g) during the period from November 1, 2012 through October 31, 2013, both dates inclusive, at the annual rate of Five Million Six Hundred Seventy-five Thousand Four Hundred Fifty-nine Dollars and Sixty-seven Cents (\$5,675,459.67) payable in advance in equal monthly installments of Four Hundred Seventy-two Thousand Nine Hundred Fifty-four Dollars and Ninety-seven Cents (\$472,954.97) on November 1, 2012 and on the first day of each calendar month thereafter during such period; (h) during the period from November 1, 2013 through October 31, 2014, both dates inclusive, at the annual rate of Five Million Eight Hundred Seventy-four Thousand One Hundred Dollars and Seventy-six Cents (\$5,874,100.76) payable in advance in equal monthly installments of Four Hundred Eighty-nine Thousand Five Hundred Eight Dollars and Forty Cents (\$489,508.40) on November 1, 2013 and on the first day of each calendar month thereafter during such period; (i) during the period from November 1, 2014 through October 31, 2015, both dates inclusive, at the annual rate of Six Million

Seventy-nine Thousand Six Hundred Ninety-four Dollars and Twenty-nine Cents (\$6,079,694.29) payable in advance in equal monthly installments of Five Hundred Six Thousand Six Hundred Forty-one Dollars and Nineteen Cents (\$506,641.19) on November 1, 2014 and on the first day of each calendar month thereafter during such period; (j) during the period from November 1, 2015 through October 31, 2016, both dates inclusive, at the annual rate of Six Million Two Hundred Ninety-two Thousand Four Hundred Eighty-three Dollars and Fifty-nine Cents (\$6,292,483.59) payable in advance in equal monthly installments of Five Hundred Twenty-four Thousand Three Hundred Seventy-three Dollars and Sixty-three Cents (\$524,373.63) on November 1, 2015 and on the first day of each calendar month thereafter during such period; (k) during the period from November 1, 2016 through October 31, 2017, both dates inclusive, at the annual rate of Six Million Five Hundred Twelve Thousand Seven Hundred Twenty Dollars and Fifty-one Cents (\$6,512,720.51) payable in advance in equal monthly installments of Five Hundred Forty-two Thousand Seven Hundred Twenty-six Dollars and Seventy-one Cents (\$542,726.71) on November 1, 2016 and on the first day of each calendar month thereafter during such period; and (l) during the period from November 1, 2017 through October 31, 2018, both dates inclusive, at the annual rate of Six Million Seven Hundred Forty Thousand Six Hundred Sixty-five Dollars and Seventy-three Cents (\$6,740,665.73) payable in advance in equal monthly installments of Five Hundred Sixty-one Thousand Seven Hundred Twenty-two Dollars and Fourteen Cents (\$561,722.14) on November 1, 2017 and on the first day of each calendar month thereafter during such period.

3. Effective November 1, 2006, abatement of basic rental, if any, to which the Lessee may be entitled shall be computed in accordance with the provisions of Standard Endorsement No. L27.4 attached hereto and hereby made a part hereof.

4. (a) Effective November 1, 2003, the Lessee shall pay an additional basic rental (hereinafter called "the Non-waterborne Vehicle Rental") for each vehicle permitted to be on the premises under the provisions of paragraph 1 of Supplement No. 16 to the Lease as a vehicle "not waterborne to the Facility for consolidation with imported vehicles to facilitate the distribution thereof" (any such "not waterborne" vehicle being hereinafter called a "Non-waterborne Vehicle"). The Lessee shall pay the Non-waterborne Vehicle Rental for each Non-waterborne Vehicle transported onto the premises from and after November 1, 2003 on a one-time basis equal to the product obtained by multiplying each such Non-waterborne Vehicle by the Unit Rate. The Non-waterborne Vehicle Rental shall be incurred with respect

to a Non-waterborne Vehicle on the day that the Non-waterborne Vehicle is first transported onto the premises; provided, however, that the Non-waterborne Vehicle Rental shall not apply to any Non-waterborne Vehicles already on the premises on November 1, 2003. The Lessee shall pay the Non-waterborne Vehicle Rental as follows: on the thirtieth day of the month following the end of each Annual Period occurring during the period from November 1, 2003 through the expiration of the term of the letting, the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee setting forth the number of Non-waterborne Vehicles transported onto the premises during the Annual Period for which the statement is made and the number of such Non-waterborne Vehicles which are not subject to the Non-waterborne Vehicle Rental under the provisions of subparagraph (b) of this paragraph, and the Non-waterborne Vehicle Rental due to the Port Authority under this paragraph for said Annual Period shall be remitted within sixty (60) days following the date set forth above for the Lessee to render said statement.

(b) Notwithstanding any provision to the contrary contained in subparagraph (a) of this paragraph, if the Lessee is prevented from distributing imported vehicles and Non-waterborne Vehicles consolidated with such imported vehicles from the premises as a result of a "Force Majeure Event", as that term is hereinafter defined in this subparagraph, then the date that the Non-waterborne Vehicle Rental is incurred with respect to any Non-waterborne Vehicle shall be postponed for the number of days equal to the lesser of the following number of days (which lesser number of days shall be deemed to constitute such Vehicle's "Postponement Period"): (i) the number of days that the distribution of the Non-waterborne Vehicle from the premises is delayed by the occurrence of the Force Majeure Event, or (ii) fourteen (14) days. Notwithstanding any provision to the contrary contained in subparagraph (a) of this paragraph, in the event that a Non-waterborne Vehicle shall be distributed from the premises such that it was present on the premises for not longer than its Postponement Period, then the Non-waterborne Vehicle Rental shall not be payable for such Non-waterborne Vehicle. On the thirtieth day following the end of the Force Majeure Event, the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee fully describing the Force Majeure Event and the duration thereof, the number of Non-waterborne Vehicles for which the Non-waterborne Vehicle Rental will not be payable pursuant to the provisions of this paragraph and the dollar amount thereof, the Postponement Period for each such Non-waterborne Vehicle, and the number of days each such Non-waterborne Vehicle was on the premises. The Lessee

shall supply the Port Authority with such supporting documents and records as the Port Authority shall deem necessary to substantiate the matters set forth in the certificate. After examination of such certificate, and any such supporting documents and records, the Port Authority shall notify the Lessee of the number of Non-waterborne Vehicles for which the Non-waterborne Vehicle Rental will not be payable pursuant to the provisions of this paragraph and the dollar amount thereof, and if such number shall be different from the number of such Non-waterborne Vehicles set forth in the Lessee's certificate, the Port Authority's notice shall set forth the basis for the adjustment. For purposes of this paragraph, a "Force Majeure Event" shall mean causes or conditions beyond the Lessee's control, including without limitation thereto, (x) strikes, boycotts, picketing, slow-downs, work stoppages or labor troubles of any other type beyond the Lessee's control, and (y) transportation problems beyond the Lessee's control.

5. (a) Effective November 1, 2003, the provisions of paragraph 9 of Supplement No. 17 to the Lease (except for subparagraph (e) thereof) shall be null and void and of no further force or effect, except that the Lessee shall make a final payment of any additional basic rental payable to the Port Authority under said paragraph 9 for the annual period ending on October 31, 2003 at the time and in the manner set forth in said paragraph 9.

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

(1) The term "Annual Period" shall mean, as the context requires, the twelve-month period commencing on November 1, 2003, and each succeeding twelve-month period commencing on each November 1st occurring thereafter during the term of the letting under the Lease as herein amended.

(2) The term "Guaranteed Annual Throughput Number" shall mean one hundred fifty thousand (150,000) for each Annual Period to occur during the term of the letting under the Lease as herein amended.

(c) In addition to all other basic rentals payable by the Lessee under the Lease as herein amended, the Lessee shall pay to the Port Authority an additional basic rental (hereinafter called the "Annual Throughput Rental") in accordance with the provisions of this paragraph including, without limitation, the provisions of subparagraph (i) of this paragraph providing for the reduction of the Annual Throughput Rental. If

the Port Authority shall not receive dockage charges and wharfage charges pursuant to the Port Authority's tariff, as incorporated in FMC Schedule PA-10, or any successor tariff, as the same may be amended from time to time during the term of the letting (which charges are hereinafter sometimes called "Dockage and Wharfage Charges" and which tariff is hereinafter called "the Tariff"), on at least the Guaranteed Annual Throughput Number of vehicles discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee during any Annual Period occurring during the period from November 1, 2003 through the expiration date of the term of the letting, then the Lessee shall pay to the Port Authority an amount equal to the product obtained by multiplying (1) the difference between the Guaranteed Annual Throughput Number and the number of vehicles discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee during such Annual Period as to which the Port Authority received Dockage and Wharfage Charges by (2) the sum of Eight Dollars and Forty Cents (\$8.40) (hereinafter called the "Unit Rate"). The Unit Rate shall be adjusted during the term of the letting proportionately to such adjustments as may be made to the per ton wharfage charge for unboxed automobiles discharged at public berths located at the Port Authority's Marine Terminal facilities, as set forth in the Tariff. The time and manner of payment of the Annual Throughput Rental shall be as set forth in subparagraph (d) of this paragraph.

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

(d) The Lessee shall pay the Annual Throughput Rental described in subparagraph (c) of this paragraph as follows: on the thirtieth day of the month following the end of each Annual Period occurring during the period from November 1, 2003 through the expiration of the term of the letting, the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee setting forth the number of vehicles discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee during the Annual Period for which the statement is made as to which the Port Authority has received Dockage and Wharfage Charges. Whenever any such statement shall show that the number of vehicles discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee during that Annual Period as to which the Port Authority has received Dockage

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

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

(f) For purposes of this Agreement, the dockage charge on a vehicle shall have the meaning set forth in subparagraph (e) of paragraph 9 of Supplement No. 17 to the Lease.

(g) During the period from November 1, 2003 through the expiration date of the term of the letting, the Lessee shall continue to provide the Port Authority with a written statement setting forth the following information within thirty (30) days of the completion of the discharge of vehicles from any waterborne vessel to the Facility across a public wharf for the account of the Lessee and/or the discharge of vehicles to any waterborne vessel from the Facility across a public wharf by the Lessee: (1) the name of the waterborne vessel, (2) the date or dates on which such vehicles were so discharged to the Facility and/or the date or dates on which such vehicles were so discharged from the Facility, and (3) the cumulative number of each model of vehicle so discharged to the Facility and/or the cumulative number of each model of vehicle so discharged from the Facility.

(h) Effective November 1, 2003, the provisions of paragraph 16 of Supplement No. 17 to the Lease shall be null and void and of no further force or effect. Effective November 1, 2003, the obligations of the Lessee set forth in paragraph (b) of Section 19 of the Terms and Conditions of the Lease entitled "Survival of the Obligations of the Lessee" shall include the following obligation in the event of the termination of the Lease as herein amended under Section 16 of said Terms and Conditions entitled "Termination" (any such termination being hereinafter in this paragraph called a "Termination"): on account of the Lessee's obligation to pay the Annual Throughput Rental, an amount equal to all such Annual Throughput Rental payable as provided for in paragraph 5 hereof for the balance of the term of the letting, as provided for in paragraph 1 hereof, following the effective date of the Termination (which remaining term of the letting is hereinafter called "the Remaining Term"); the amount of such Annual Throughput Rental payable as provided for in paragraph 5 of this Agreement for the Remaining Term shall be derived by multiplying the number of whole Annual Periods that would have occurred during the Remaining Term by the product of (1) the Unit Rate and (2) the Guaranteed Annual Throughput Number.

(i) Notwithstanding any other provision contained in this paragraph, the Annual Throughput Rental payable under the provisions of this paragraph for any Annual Period shall be reduced by an amount equal to the lesser of (1) the Non-waterborne Vehicle Rental payable by the Lessee pursuant to the provisions of paragraph 4 hereof for such Annual Period or (2) the product obtained by multiplying the Unit Rate by the following respective number: (i) twenty thousand (20,000) for any Annual Period to occur during the period from November 1, 2003

through October 31, 2008; (ii) fifteen thousand (15,000) for any Annual Period to occur during the period from November 1, 2008 through October 31, 2013; and (iii) ten thousand (10,000) for any Annual Period to occur during the period from November 1, 2013 through October 31, 2018. The computation of the reduction of the Annual Throughput Rental by the Non-waterborne Vehicle Rental for each Annual Period, or a portion of an Annual Period, shall be individual to such Annual Period and without relation to any other Annual Period, or any other portion of any Annual Period.

6. (a) Effective November 1, 2003, if the number of vehicles discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee with respect to which Dockage and Wharfage Charges have been paid shall be fewer than one hundred fifteen thousand (115,000) (hereinafter called the "Consecutive Annual Throughput Number") for each of any three consecutive Annual Periods occurring during the period from November 1, 2003 through the expiration date of the term of the letting, the Port Authority shall have the right to terminate the letting under the Lease as herein amended as to the portion of the premises shown in diagonal crosshatching on Exhibit A-15 annexed hereto (which portion of the premises is hereinafter called "the Eliminated Premises") on one hundred twenty (120) days' prior written notice given to the Lessee within one hundred eighty (180) days following the last day of the third of such three consecutive Annual Periods. Termination of the letting under the Lease as herein amended as to the Eliminated Premises pursuant to the provisions of this subparagraph shall have the same effect as if the effective date of termination stated in the notice were the date of expiration of the letting of the Eliminated Premises under the Lease as herein amended. Termination of the letting of the Eliminated Premises pursuant to the provisions of this subparagraph shall not affect the continuation of the letting under the Lease as herein amended of the remaining portion of the premises heretofore let to the Lessee under the Lease as herein amended and the letting of the remaining portion of the premises under the Lease as herein amended shall continue in full force and effect, subject to and in accordance with all the terms, provisions, covenants and conditions of the Lease as herein amended notwithstanding such termination.

(b) Upon any termination of the letting as to the Eliminated Premises pursuant to the provisions of subparagraph (a) of this paragraph, the Lessee shall be entitled to an abatement of the basic rental provided for under the Lease as herein amended computed in accordance with Standard Endorsement No. L27.4 attached hereto. In addition, upon any such

termination of the letting as to the Eliminated Premises, the Guaranteed Annual Throughput Number for each Annual Period following the Annual Period in which the effective date of such termination occurs shall be adjusted to mean one hundred thirty-three thousand five hundred (133,500). No such adjustment shall be retroactive to any Annual Period occurring prior to the Annual Period in which the effective date of such termination occurs. The Guaranteed Annual Throughput Number for the Annual Period in which the effective date of such termination occurs shall be adjusted as follows: (1) the Guaranteed Annual Throughput Number shall be multiplied by the decimal 0.11 and the result of that computation multiplied by a fraction, the numerator of which shall be the number of days during the period from the day next following the effective date of such termination through the last day of the Annual Period in which the effective date of such termination occurs, both dates inclusive, and the denominator of which shall be three hundred sixty-five (365); and (2) the result of the computations described in subdivision (1) immediately above shall be subtracted from the Guaranteed Annual Throughput Number, with the result thereof rounded off to the nearest whole number to be the adjusted Guaranteed Annual Throughput Number for the Annual Period in which such effective date of termination occurs. For example, if the effective date of termination as to the Eliminated Premises happens to fall on February 28, 2013, then the Guaranteed Annual Throughput Number for the Annual Period from November 1, 2013 through October 31, 2014 shall be adjusted as follows:

(i) $150,000 \times .11 = 16,500 \times \frac{245}{365} = 11,075.341$; and

(ii) $150,000 - 11,075.341 = 138,924.66$, which rounded off to 138,925 is the adjusted Guaranteed Annual Throughput Number for the Annual Period from November 1, 2013 through October 31, 2014.

(c) Notwithstanding any other provision contained in this paragraph, the Consecutive Annual Throughput Number for any Annual Period shall be reduced by a number equal to the lesser of (1) the number of Non-waterborne Vehicles as to which the Lessee paid Non-waterborne Vehicle Rental pursuant to the provisions of paragraph 4 hereof for such Annual Period or (2) the following respective number: (i) twenty thousand (20,000) for any Annual Period to occur during the period from November 1, 2003 through October 31, 2008; (ii) fifteen thousand (15,000) for any Annual Period to occur during the period from November 1, 2008 through October 31, 2013; and (iii) ten thousand (10,000) for any Annual Period to occur during the period from November 1, 2013 through October 31, 2018. The computation of the reduction

of the Consecutive Annual Throughput Number by the number of Non-waterborne Vehicles for each Annual Period, or a portion of an Annual Period, shall be individual to such Annual Period and without relation to any other Annual Period, or any other portion of any Annual Period.

7. (a) The provisions of Standard Endorsement No. L21.1 to the Lease, as amended by paragraph 3 of Supplement No. 14 to the Lease, shall be further amended as follows: (1) the dollar amount "\$2,000,000" set forth respectively in the seventh and tenth lines of subparagraph (b) of said paragraph 3 shall be deemed deleted therefrom and the dollar amount "\$5,000,000" shall be deemed inserted in lieu thereof in both of said lines; (2) wherever the word "comprehensive" appears in said Standard Endorsement No. L21.1 or said paragraph 3, it shall be deemed deleted therefrom and the word "commercial" shall be deemed inserted in lieu thereof; and (3) the words "and earthquake" shall be deemed inserted in the last line of subparagraph (b) of said paragraph 3 immediately after the word "flood". Without limiting the generality of any provision of the Lease as herein amended, the Lessee agrees that with respect to any policies of liability insurance required to be maintained by it under the Lease as herein amended, the Port Authority shall be an additional insured for purposes of both premises-operations and completed operations.

(b) A certified copy of each policy or policies or a certificate or certificates evidencing compliance with the terms set forth above, and in compliance with the terms and provisions of the Lease as herein amended, shall be delivered to the Port Authority simultaneously with the delivery of an executed copy of this Agreement by the Lessee. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or certificate.

8. Effective November 1, 2006, the Lessee shall assume all obligations of maintenance, repair and replacement with respect to all of the paved areas of the premises, with such obligations to be as set forth in Section 7 of the Terms and Conditions of the Lease, and the words "exterior pavement" set forth in the eighth line of Special Endorsement No. 1 to the Lease shall be and be deemed deleted therefrom. Notwithstanding the provisions of the immediately preceding sentence, the Lessee's said obligations of repair and replacement shall not extend to any structural defect existing on November 1, 2006 in the exterior pavement if (a) the structural defect is not the result of the Lessee's acts or omissions and (b) the structural defect is described in detail in a written notice provided by the

Lessee to the Port Authority at any time from May 1, 2006 through October 31, 2006. In the event that the Lessee notifies the Port Authority of a structural defect or defects pursuant to the provisions of the immediately preceding sentence, the Port Authority shall proceed to repair or replace such defective portion or portions of the pavement in accordance with the provisions of Special Endorsement No. 1 to the Lease and shall have three hundred sixty-five (365) days following its receipt of the Lessee's notice to perform said work. In the event that any defect or defects described by the Lessee in its said notice becomes more extensive before corrective action is taken by the Port Authority pursuant to the provisions of the immediately preceding sentence, the Port Authority agrees to repair or replace such defective portion or portions of the pavement as it or they shall exist at the time such corrective action is taken by the Port Authority. Except as provided herein, all of the provisions of Section 7 of the Terms and Conditions of the Lease and of Special Endorsement No. 1 to the Lease shall remain in full force and effect.

9. Upon receipt by the Port Authority from the Lessee or its shipping company, or its representative designated for such purpose by written notice from the Lessee to the Port Authority, of at least seventy-two (72) hours' prior written notice of the arrival of a seagoing vessel carrying vehicles intended to be discharged to the Facility for preparation at the premises or a seagoing vessel onto which vehicles are intended to be loaded following preparation at the premises, the Port Authority will make available the berthing area at Berth 25 at the Facility shown in diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A-16" (hereinafter called "the Berthing Area") to said seagoing vessel for said purpose. Such preferential use of the Berthing Area shall be under such berthing permit as the Port Authority may issue upon application therefor prior to arrival of the seagoing vessel and subject to the provisions of the Tariff including, without limitation, payment to the Port Authority with respect to each seagoing vessel of Dockage and Wharfage Charges. Except as expressly provided for in this paragraph, the Lessee shall have no rights to the use of the Berthing Area for the berthing of seagoing vessels.

10. (a) (1) The Lessee understands that construction and installation work is required in order to prepare and maintain the premises for the Lessee's continued use and occupancy. The Lessee agrees to and shall perform the following categories of work (which work is hereinafter called "the Lessee's Construction Work"): (i) the upgrade of the carwash

facilities; (ii) the upgrade of the maintenance facilities; and (iii) the upgrade of the post-production option facility, including office and administrative space. The Lessee agrees that it will complete the Lessee's Construction Work by December 31, 2004, subject to postponement for one day for each day that the completion of the Lessee's Construction Work is delayed by causes or conditions beyond the Lessee's control, including without limitation thereto, strikes, boycotts, picketing, slow-downs, work stoppages or labor troubles of any other type beyond the Lessee's control.

(2) The Lessee shall have the option to have the Port Authority provide funding for the Lessee's Construction Work in the amount of "the Construction Work Reimbursement Amount", as such term is defined in subparagraph (p) of this paragraph, subject to and in accordance with the provisions of said subparagraph (p) and of subparagraphs (q) and (r) of this paragraph providing for said funding, and subject to and in accordance with the provisions of paragraph 11 hereof providing for the payment by the Lessee of rentals and paragraph 14 hereof providing for the Lessee's waiver of tax credits and depreciation in the event of said funding (which option is hereinafter called "the Funding Option"). The Lessee shall exercise the Funding Option by providing written notice to the Port Authority to such effect not later than August 1, 2002, which notice shall be irrevocable. In the event that the Lessee shall not exercise the Funding Option, the provisions of subparagraphs (p), (q) and (r) of this paragraph and the provisions of paragraphs 11 and 14 hereof shall be null and void and of no further force or effect. Except as specifically set forth in the immediately preceding sentence, all of the provisions of this Agreement shall continue in full force and effect. Without limiting the generality of any provision of this subparagraph, in the event that the Lessee shall not exercise the Funding Option, the Port Authority shall promptly return to the Lessee the Port Authority's counterpart of the form of election described in subparagraph (a) of paragraph 14 hereof, and such election shall be null and void and of no force or effect.

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

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

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

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

(c) Prior to the commencement of any of the Lessee's Construction Work, the Lessee shall submit to the Port Authority for its approval a Construction Application in the form supplied by the Port Authority, and containing such terms and conditions as the Port Authority may include, setting forth in detail by appropriate plans and specifications the work the Lessee proposes to perform and the manner of and time periods for performing the same, including without limitation a schedule listing each contract proposed to be entered into for the performance of the work and the estimated cost of the work to be performed under each such contract. The 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 Construction Application and complete plans and specifications, the Port Authority shall give its written approval or rejection thereof, or shall request such revisions or modifications thereto as the Port Authority may find necessary. The Port Authority shall endeavor to complete its initial review of the Construction Application and plans and specifications within thirty (30) business days after the Port Authority's receipt of a Construction Application and plans and specifications deemed by the Port Authority to be complete, and shall endeavor to complete its review of each revision or modification thereof within twenty (20) business days of the Port Authority's receipt of a revision or modification deemed by the Port Authority to be complete; provided, that, each such Construction Application and plans and specifications and/or revision or modification thereof shall be prepared in accordance with the highest professional standards, of uniformly high quality and well coordinated with respect to all engineering and architectural disciplines. 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 subparagraphs (j) and (k) of this paragraph. 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 subparagraph 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 of the letting under the Lease as herein amended. No changes or modifications to such work shall be made without prior Port Authority consent. Following its receipt of the Lessee's certificate, the Port Authority shall inspect the work 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 subparagraph (e) of this paragraph, 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 subparagraph (c) of this paragraph, have been finally approved by the Port Authority.

(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 subparagraph (c) of this paragraph, 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 have full and complete discretion as to whether to permit the Lessee to proceed with the performance of any Partial Approval Work. If the Port Authority consents to the performance of any Partial Approval Work, the Port Authority shall review the 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 subparagraph, the Lessee will, as directed by the Port Authority, and at the Lessee's sole cost and expense, either restore the area affected to the condition existing prior to the commencement of such item of Partial Approval Work or make such modifications and changes to such work as may be required by the Port Authority.

(2) Nothing contained in any approval given pursuant to this subparagraph shall constitute 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 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 the Lease as herein amended.

(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 subparagraph shall affect or limit the obligations of the Lessee under any prior

approvals it may have obtained with respect to the Lessee's Construction Work.

(5) The fact that the Lessee has performed any item of Partial Approval Work and that the Port Authority has consented to the performance thereof shall not affect or limit the obligations of the Lessee under this Agreement with respect to the Lessee's Construction Work. The Lessee specifically understands that neither the Port Authority's approval of any 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 subparagraph, 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 at any time during the performance of any portion of any item of Partial Approval Work under the approval granted by the Port Authority pursuant to this subparagraph shall fail to comply with all of the provisions of this Agreement with respect to such work or shall fail to comply with the provisions of the Construction Application covering such work and the plans and specifications forming a part thereof, or shall fail to comply with any requirements, stipulations, or provisions imposed by the Port Authority in its approval of the performance of such item of Partial Approval Work, or if in the Port Authority's opinion the Lessee shall be in breach of any of the provisions of this Agreement covering such work or shall be in breach of any of the provisions of the Construction Application and plans and specifications covering the performance of such work, or 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 all or such part of such item of the Partial Approval Work as 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 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 a minimum of air pollution, water pollution or any other type of pollution, and a minimum of noise emanating from, arising out of, or resulting from construction. Subject to the provisions of this Agreement, the Lessee shall construct such reasonable structures, fences, equipment, devices and other facilities as may be necessary or appropriate to accomplish the objectives set forth in this subparagraph, 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 paragraph.

(g) Without limiting the generality of subparagraph (c) of this paragraph the Lessee shall be solely responsible for the plans and specifications used by it and for the adequacy or sufficiency of such plans, 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 conduct no public operations in the premises with respect to any improvements, fixtures or equipment constituting the Lessee's Construction Work or any portion thereof until the Port Authority shall have notified the Lessee in writing that the Lessee's Construction Work or such portion thereof has been completed or substantially completed to its satisfaction. In the event of any inconsistency between the provisions of this Agreement and those of the Construction Application referred to in subparagraph (c) of this paragraph the provisions of this Agreement shall control.

(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 all preventive maintenance and make all repairs, replacements, rebuilding (ordinary or extraordinary, structural or non-structural) and painting necessary to keep such systems, improvements, additions, fixtures, finishes, decorations and equipment (whether the same involves structural or non-structural work) in the condition they were in when made or installed except for reasonable wear 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 the Lease as herein amended, the Lessee shall procure and maintain or cause to be procured and maintained in effect during the performance of the Lessee's Construction Work:

(i) Commercial General Liability Insurance including but not limited to coverage for Products Liability-Completed Operations and for Broad Form Property Damage and Independent Contractor coverage, with a contractual liability endorsement covering the obligations assumed by the Lessee under subparagraph (b) of this paragraph, which coverage shall not exclude claims arising out of or in connection with work performed within fifty feet of railroad property, and which are customarily insured under such a policy, with a minimum combined single limit coverage for bodily injury and property damage of \$10 million. Said insurance shall also include coverage for explosion, collapse and underground property damage hazards.

(ii) Commercial Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with said construction with a minimum combined single limit coverage for bodily injury and property damage of \$5 million.

(iii) Workers' Compensation and Employers' Liability Insurance in accordance with the requirements of law.

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

repair, replacement, rebuilding or other performance of the Lessee's Construction Work.

(l) With the exception of the Workers' Compensation and Employers' Liability Insurance policy each policy of insurance described in subparagraph (j) of this paragraph 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 (i) of subparagraph (j) of this paragraph. Such insurance shall also contain an endorsement providing that the protection afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third party shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority and against the Port Authority by the Lessee, but said endorsement shall not limit, vary, change or affect the protections afforded the Port Authority as an additional insured. Such insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.

(m) Unless otherwise set forth herein, each policy of insurance described in subparagraphs (j) and (k) of this paragraph shall be subject to the applicable provisions of paragraph (e) of Special Endorsement No. L.21.1 annexed to the Lease.

(n) Title to and property in all improvements and fixtures placed, constructed or installed in or on the premises, including all such improvements and fixtures as shall constitute the Lessee's Construction Work, shall vest in the Port Authority upon placement, construction or installation thereof and title to and property in any and all equipment and trade fixtures removable without substantial injury to the premises placed in or installed upon the premises shall vest in the Lessee upon the installation thereof. No equipment or trade fixtures which are

the property of the Port Authority shall be removed by the Lessee prior to the expiration date of the letting under the Lease as herein amended unless replaced with identical property of equal or greater value. Without limiting any other term of the Lease as herein amended, and notwithstanding the foregoing provisions, upon notice given by the Port Authority either prior to or within sixty (60) days after expiration or earlier termination of the letting of the premises under the Lease as herein amended 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.

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

(p) In consideration of the performance by the Lessee of the Lessee's Construction Work in accordance with the provisions of this paragraph, the Port Authority shall pay to the Lessee an amount (which amount is hereinafter called "the Construction Work Reimbursement Amount") equal to the lesser of: (1) the reasonable cost, as hereinafter defined, of the Lessee's Construction Work, or (2) Eighteen Million Dollars and No Cents (\$18,000,000.00). The Lessee shall pay rental to the Port Authority on account of the payment by the Port Authority of the Construction Work Reimbursement Amount as set forth in paragraph

11 hereof. To the extent permitted by sound accounting practice, and subject to the terms and conditions of subparagraph (q) of this paragraph, the sum of the following items of cost incurred by the Lessee in performing the Lessee's Construction Work shall constitute the reasonable cost thereof for the purposes of this Agreement:

- (1) The Lessee's payments to contractors;
- (2) The Lessee's payments for supplies and materials;
- (3) The Lessee's payments to persons, firms or corporations other than construction contractors or suppliers of materials, for services rendered or rights granted in connection with construction, not including services of the types mentioned in items (4), (5) and (6) of this subparagraph;
- (4) The Lessee's payments of premiums for performance bonds and for the insurance the Lessee is required to maintain in effect in accordance with the provisions of subparagraph (j) of this paragraph during the period of construction only;
- (5) The Lessee's payments for engineering services in connection with the Lessee's Construction Work;
- (6) The Lessee's payments for architectural, planning and design services in connection with the Lessee's Construction Work;
- (7) The sum of the costs approved under items (4), (5) and (6) of this subparagraph shall not exceed 20% of the sum of the costs approved under items (1), (2) and (3) of this subparagraph; if in fact there is any such excess, such excess shall not be a part of the cost incurred by the Lessee in the performance of the Lessee's Construction Work for the purposes of this paragraph.

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

(q) On or about the fiftieth day after the end of the month in which the Lessee commences performance of the Lessee's Construction Work, the Lessee shall certify to the Port Authority by written certification subscribed by a responsible officer of the Lessee: (i) the amount of the Lessee's Construction Work performed by the Lessee in such month, the cost of the work described in the certificate, the amount of such cost incurred by the Lessee during such month, and the amount paid by the Lessee on account of such cost, if any; (ii) that except for the amount, if any, stated in such certificate to be due for services and materials, there is no outstanding indebtedness known to the persons signing such certificate, after due inquiry, then due on account of the purchase of any equipment or fixtures described in the certificate or for labor, wages, materials, supplies or services in connection with any work described therein which, if unpaid, might become the basis of a vendor's, mechanic's, laborer's or materialmen statutory or similar lien or alleged lien upon such work or upon the premises or any part thereof, or upon the Lessee's leasehold interest therein, nor are any of the equipment, or fixtures described in such certificate secured by any liens, mortgages, security interests or other encumbrances. Nothing contained herein shall be deemed or construed as a submission by the Port Authority to the application to itself of any such lien; and (iii) that the work for which the amount set forth in the certificate is due has been performed in accordance with the Lessee's final plans and specifications approved by the Port Authority and the provisions of this Agreement. Such certificate shall also contain a certification by the architect or engineer who sealed the Lessee's plans and specifications pursuant to the provisions of subparagraph (c) of this paragraph certifying that all of the work described in the certificate has been performed in accordance with the Lessee's final plans and specifications approved by the Port Authority. Following its receipt of the Lessee's certificate, the Port Authority shall remit to the Lessee an amount equal to the amount paid by the Lessee for the portion of the Lessee's Construction Work performed by the Lessee in the month for which the certificate is made as shown in said certificate less ten percent (10%) thereof and also less the amount of any claims made against the Port Authority by subcontractors, materialmen or workmen, if any, in connection with any of the work described in the certificate. On or about the fiftieth day after the end of each month thereafter during the period of the performance of the Lessee's Construction Work the Lessee shall deliver a similar certificate to the Port Authority signed by a responsible officer of the Lessee which certificate shall certify the amount of the Lessee's Construction

Work performed by the Lessee in such month, the cost of the work described in the certificate performed by the Lessee in such month, the amount of such cost incurred by the Lessee during such month, the amount paid by the Lessee on account of such cost, the cumulative amount of such cost incurred by the Lessee on account of the work described in the certificate from the date of the commencement of the work, and the cumulative amount of all payments made on account of such cost from the date of the commencement of the work, and such certificate shall also contain the statements set forth in subdivisions (ii) and (iii) of this subparagraph both with respect to the work described in the certificate and all work previously performed by the Lessee. Each such certificate shall also contain a certification by the architect or engineer who sealed the Lessee's plans and specifications pursuant to the provisions of subparagraph (c) of this paragraph certifying that all of the work described in the certificate has been performed in accordance with the Lessee's final plans and specifications approved by the Port Authority. Following its receipt of such certificate the Port Authority shall remit to the Lessee an amount equal to the amount paid by the Lessee for the portion of the Lessee's Construction Work performed by the Lessee in the month for which such certificate is made as shown in such certificate less ten percent (10%) thereof and less the amount of claims, if any, made against the Port Authority by subcontractors, materialmen or workmen on account of any of the work described in the certificate. The Port Authority shall endeavor to remit the aforesaid amounts to the Lessee within sixty (60) days of the receipt by the Port Authority of the Lessee's certificate certifying the matters set forth above for the month for which the certificate is made and deemed by the Port Authority to be complete. Upon final completion of all of the Lessee's Construction Work to be performed under each separate contract by the Lessee as set forth in the Lessee's approved plans and specifications, the Lessee shall submit to the Port Authority a final certification signed by a responsible officer thereof that all work has been completed under said contract, which certificate shall certify separately the final cost of all of the Lessee's Construction Work performed by the Lessee under said contract, the cumulative payments made by the Lessee on account of such costs under said contract, and shall also certify the items set forth in subdivisions (ii) and (iii) of this subparagraph with respect to all of the work performed under said contract. In addition, the architect or engineer who sealed the Lessee's plans and specifications pursuant to the provisions of subparagraph (c) of this paragraph shall certify that all of such work has been performed in accordance with the Lessee's final plans and specifications approved by the Port Authority. After examination and approval

of such certificates, and such supporting documents and records as the Port Authority shall deem necessary to substantiate the certificates, the Port Authority shall inspect such work and after such inspection the Port Authority shall notify the Lessee if all of such work has been performed in accordance with the approved plans and specifications and the provisions of this Agreement. The Port Authority shall have the right (but shall not be obliged) to conduct an interim inspection and audit in connection with the Lessee's Construction Work certified as completed under said contract, and shall have the rights in the conduct of such interim inspection and audit as are set forth below in this subparagraph in regard to the final inspection and audit. If all of the Lessee's Construction Work under said contract has been completed in accordance with the approved plans and specifications, and the provisions of this Agreement, the Port Authority will pay to the Lessee on account of the cost of the Lessee's Construction Work performed under said contract an amount equal to the difference between the sum obtained by adding together all prior payments made by the Port Authority to the Lessee on account of the cost of the Lessee's Construction Work performed under said contract and the final cost of such work as certified by the Lessee, less the amount of any claims made against the Port Authority by subcontractors, materialmen or workmen, if any, in connection with any of the work performed under said contract. The Port Authority shall endeavor to make the payment referred to in the immediately preceding sentence within sixty (60) days of its inspection of the Lessee's Construction Work performed under said contract and its completed review of the cost thereof and the payments made on account of such cost, and its determination that all of such work has been completed in accordance with the approved plans and specifications and the provisions of this Agreement. If the sum of all of the previous payments made by the Port Authority to the Lessee on account of the cost of the Lessee's Construction Work performed under said contract exceeds the final cost of such work, the Lessee shall pay to the Port Authority the amount of such excess on demand. No payment made by the Port Authority to the Lessee on account of the cost the Lessee's Construction Work as set forth above in this subparagraph shall be deemed final until the final determination of the cost of the Lessee's Construction Work as set forth below in this subparagraph. Upon final completion of all of the Lessee's Construction Work to be performed by the Lessee as set forth in the Lessee's approved plans and specifications, the Lessee shall submit to the Port Authority a final certification signed by a responsible officer thereof that all of the work has been completed, which certificate shall certify separately the final cost of all of the Lessee's Construction Work performed by the Lessee, the

cumulative payments made by the Lessee on account of such cost, and shall also certify the items set forth in subdivisions (ii) and (iii) of this subparagraph with respect to all of the work. In addition, the architect or engineer who sealed the Lessee's plans and specifications pursuant to the provisions of subparagraph (c) of this paragraph shall certify that all of the work not previously certified by any said architect or engineer has been performed in accordance with the Lessee's final plans and specifications approved by the Port Authority. After examination and approval of such certificate, and such supporting documents and records as the Port Authority shall deem necessary to substantiate the certificate, the Port Authority shall finally inspect the premises and the work and after such inspection the Port Authority shall notify the Lessee if all of the work has been performed in accordance with the approved plans and specifications and the provisions of this Agreement. If all of the work has been completed in accordance with the approved plans and specifications, and the provisions of this Agreement, the Port Authority will pay to the Lessee on account of the cost of the Lessee's Construction Work the difference between the sum obtained by adding together all prior payments made by the Port Authority to the Lessee on account of the cost of the Lessee's Construction Work and the Construction Work Reimbursement Amount. The Port Authority shall endeavor to make the payment referred to in the immediately preceding sentence within sixty (60) days of its final inspection of the Lessee's Construction Work and its completed review of the cost thereof and the payments made on account of such cost, and its determination that all of the Lessee's Construction Work has been completed in accordance with the approved plans and specifications and the provisions of this Agreement. If the sum of all of the previous payments made by the Port Authority to the Lessee on account of the cost of the Lessee's Construction Work exceeds the Construction Work Reimbursement Amount, the Lessee shall pay to the Port Authority the amount of such excess on demand. No payment made by the Port Authority to the Lessee pursuant to the provisions of this subparagraph, including, without limitation, any payment made to the Lessee following the Port Authority's receipt of the Lessee's final certification of cost, shall be deemed final until the cost of the Lessee's Construction Work has been finally determined by the Port Authority. Any payment made to the Lessee following the Port Authority's receipt of the Lessee's final certification of cost shall not be deemed a final determination of the cost of the Lessee's Construction Work. Such final determination shall occur only after the Port Authority has examined and approved the Lessee's final certificate of cost and such records and other documentation of the Lessee as the Port Authority shall deem necessary to substantiate such cost. The Lessee shall permit the

Port Authority by its agents, employees and representatives at all reasonable times prior to a final determination of the cost of the Lessee's Construction Work to examine and audit the records and other documentation of the Lessee which pertain to and will substantiate such cost. In no event whatsoever shall the cost of any portion of the Lessee's Construction Work as finally determined and computed in accordance with the provisions of subparagraph (p) of this paragraph and in accordance with the provisions of this subparagraph include any expenses, outlays or charges whatsoever by or for the account of the Lessee for or in connection with any improvements, equipment or fixtures or the performance of any work unless such are actually and completely installed in and/or made to the premises nor shall cost include the costs of any equipment, fixture or improvements which are secured by liens, mortgages, other encumbrances or conditional bills of sale. If the cost of the Lessee's Construction Work as finally determined shall be less than the amount previously paid to the Lessee pursuant to the provisions of this paragraph, the Lessee shall pay the difference to the Port Authority within ten (10) days after notification to the Lessee stating the amount thereof. No amount paid by the Port Authority to the Lessee pursuant to the provisions of this paragraph shall or shall be deemed to imply that the Lessee's Construction Work or any portion thereof has been completed in accordance with law or the provisions of this Agreement.

(r) The Port Authority shall not be obligated to pay for any item constituting a portion of the Lessee's Construction Work which has been constructed or installed subsequent to December 31, 2004, as such date may be postponed for one day for each day that the completion of the Lessee's Construction Work is delayed by causes or conditions beyond the Lessee's control, including without limitation thereto, strikes, boycotts, picketing, slow-downs, work stoppages or labor troubles of any other type beyond the Lessee's control. The Port Authority's entire obligation under this Agreement to make payments to the Lessee on account of the cost of the Lessee's Construction Work shall be limited in amount to the Construction Work Reimbursement Amount.

(s) 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

contractor or contractors and subcontractors at any tier of construction as well as to the Lessee, and the Lessee agrees to include the provisions of Schedule E in all of its construction contracts so as to make the provisions and undertakings set forth in Schedule E the direct obligation of the construction contractor or contractors and subcontractors at any tier of construction. The Lessee agrees to and shall require its contractors and subcontractors to furnish to the Port Authority such data, including but not limited to compliance reports, relating to the operation and implementation of the affirmative action, MBE, and WBE programs of the Lessee and its contractor, contractors, and subcontractors at any tier of construction called for under the provisions of this paragraph and Schedule E annexed hereto as the Port Authority may request at any time and from time to time and the Lessee agrees to and shall also require that its contractors and subcontractors at any tier of construction make and put into effect such modifications and additions thereto as may be directed by the Port Authority pursuant to the provisions of this paragraph and Schedule E annexed hereto to effectuate the goals of affirmative action, MBE, and WBE programs. The obligations imposed on the Lessee under this paragraph and Schedule E annexed hereto shall not be construed to impose any greater requirements on the Lessee than those which may be imposed on the Lessee under applicable law.

(t) 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 subparagraph 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 subparagraph (s) and in this subparagraph shall include each contractor and subcontractor at any tier of construction.

(u) In the event that the Lessee shall not exercise the Funding Option under subparagraph (a)(2) of this paragraph to have the Port Authority provide funding for the Lessee's Construction Work and, as a result, the provisions of paragraph 11 hereof shall be rendered null and void, the Lessee shall pay to the Port Authority a fee as compensation for its review and oversight of the Lessee's Construction Work (which fee is hereinafter called "the Review Fee"). The Review Fee shall be an amount equal to four percent (4%) of the actual cost of the Lessee's Construction Work. For purposes of this subparagraph, the term "actual cost of the Lessee's Construction Work" set forth in the immediately preceding sentence shall not include any cost attributable to the property of the Lessee not required to be set forth in any of the Lessee's required submissions to the Port Authority under the provisions of this paragraph 10. Upon final completion of all of the Lessee's Construction Work to be performed by the Lessee as set forth in the Lessee's approved plans and specifications, the Lessee shall certify to the Port Authority by final written certification signed by a responsible officer of the Lessee certifying that all of the Lessee's Construction Work has been completed and the final cost of such work. Upon receipt of the Lessee's certification, the Port Authority shall render a bill to the Lessee setting forth the Review Fee, and the Lessee shall pay the Review Fee to the Port Authority within thirty (30) days of receipt of said bill. No

payment made by the Lessee to the Port Authority pursuant to the provisions of this subparagraph shall be deemed final until the cost of the Lessee's Construction Work has been finally determined by the Port Authority. Any payment made to the Lessee following the Port Authority's receipt of the Lessee's final certification of cost shall not be deemed a final determination of the cost of the Lessee's Construction Work. Such final determination shall occur only after the Port Authority has examined and approved the Lessee's final certificate of cost and such records and other documentation of the Lessee as the Port Authority shall deem necessary to substantiate such cost. Upon thirty (30) days' advance notice given by the Port Authority to the Lessee, the Lessee shall permit the Port Authority by its agents, employees and representatives at all reasonable times during normal business hours prior to a final determination of the cost of the Lessee's Construction Work to examine and audit the records and other documentation of the Lessee which pertain to and will substantiate such cost.

(v) 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.

11. The Lessee shall pay the rentals set forth in this paragraph with respect to the Construction Work Reimbursement Amount paid by the Port Authority to the Lessee on account of the performance by the Lessee of the Lessee's Construction Work in accordance with the provisions of paragraph 10 hereof.

(a) For all purposes of this Agreement, the following terms shall have the respective meanings provided below.

(1) "Facility Rental Payment Start Date" shall mean the earlier of the following dates: (i) the date as of which the Port Authority shall certify that the Lessee has substantially completed performance of the Lessee's Construction Work; or (ii) January 1, 2005, as such date may be postponed for one day for each day that the completion of the Lessee's Construction Work is delayed by causes or conditions beyond the Lessee's control, including without limitation thereto, strikes, boycotts, picketing, slow-downs, work stoppages or labor troubles of any other type beyond the Lessee's control.

(2) "Construction Period" shall mean the period from the commencement of the Lessee's Construction Work through the day preceding the Facility Rental Payment Start Date.

(3) "Facility Rental Payment Period" shall mean the period commencing on the Facility Rental Payment Start Date and ending on October 31, 2018.

(4) "The Port Authority's Costs of the Work" shall mean 104% of all payments made by the Port Authority to the Lessee on account of the cost of the Lessee's Construction Work.

(5) "Y" shall mean the number (with the decimal carried to seven places) obtained by dividing the sum of (i) the average of the weekly Index of 25 Revenue Bonds as reported in the publication "The Bond Buyer" for the one hundred eighty (180) day period immediately preceding the expiration of the Construction Period and (ii) three hundred fifty (350) basis points, by the whole number twelve (12). For purposes of example and illustration only, the Index of 25 Revenue Bonds for June 21, 2001 was 5.52% as set forth in the table entitled "Bond Buyer Indexes" on page 37 of The Bond Buyer, Vol. 336, No. 31166, New York, N.Y. dated Friday, June 22, 2001. In the event that The Bond Buyer or its weekly Index of 25 Revenue Bonds shall be discontinued at any time prior to the time for a determination of Y for purposes of this paragraph a comparable substitute for such Index shall be mutually agreed upon in writing by the Lessee and the Port Authority within thirty (30) days after discontinuance. In the event that the Port Authority and the Lessee shall fail to agree upon such a substitute within the time hereinabove specified then upon notice of either party such dispute shall be disposed of by arbitration in accordance with the then existing rules of the American Arbitration Association or any successor association and relating to three member arbitration panels. One half of the cost of said arbitration shall be borne by the Port Authority and the other half of said cost shall be borne by the Lessee.

(6) "Monthly Rental Factor" shall mean the factor derived in accordance herewith by the application of the following formula:

$$\frac{1}{\frac{1}{Y} - \frac{1}{Y(1+Y)^t}} = \text{Monthly Rental Factor}$$

Where t (a power) equals the number of calendar months (expressed in whole numbers) in the Facility Rental Payment Period.

(b) In addition to all other rentals payable by the Lessee under the Lease as herein amended, the Lessee shall pay to the Port Authority a rental (hereinafter called "the Facility Construction Rental") equal to the result of (i) multiplying Y by the product obtained by multiplying the amount of each payment made by the Port Authority to the Lessee during the Construction Period on account of the cost of the Lessee's Construction Work by the number of days from the date of such payment to the expiration date of the Construction Period and (ii) dividing the result of that calculation by 30. The Facility Construction Rental shall be payable as set forth in subparagraph (c) of this paragraph.

(c) (1) In addition to all other rentals payable by the Lessee under the Lease as herein amended, the Lessee shall pay to the Port Authority a rental (hereinafter called the "Facility Rental") at a monthly rate equal to the product obtained by multiplying the Monthly Rental Factor by the sum of (i) the amount of the Facility Construction Rental payable by the Lessee pursuant to subparagraph (b) of this paragraph and (ii) the Port Authority's Costs of the Work, which Facility Rental shall be payable during the Facility Rental Payment Period in advance on the Facility Rental Payment Start Date and on the first day of each calendar month thereafter during the Facility Rental Payment Period.

(2) If the Facility Rental Payment Start Date shall occur before accurate and final determination of the Port Authority's Costs of the Work then Interim Facility Rental shall be payable by the Lessee during the period prior to such determination at the monthly rate equal to the product obtained by multiplying the Monthly Rental Factor by Eighteen Million

Dollars and No Cents (\$18,000,000.00), payable in advance on the Facility Rental Payment Start Date and on the first day of each calendar month thereafter until such determination has been made.

If the Facility Rental Payment Start Date shall occur on a day which is other than the first day of a calendar month the payment of Interim Facility Rental payable on the Facility Rental Payment Start Date shall be a sum equal to the amount of the full monthly payment thereof, as set forth in this subparagraph, prorated on a daily basis for the period from the Facility Rental Payment Start Date to the end of the calendar month in which the Facility Rental Payment Start Date falls. If the monthly amount of Facility Rental, as finally determined, is greater than the monthly rate of Interim Facility Rental, the sum of the excess over the total amount of Interim Facility Rental theretofore paid of the correct amount of Facility Rental as finally computed for the period prior to final determination of the Port Authority's Costs of the Work together with the then current monthly payment of Facility Rental shall be payable on the first day of the calendar month next ensuing after final computation and determination of the Port Authority's Costs of the Work. If such final computation and determination shall result in an amount of Facility Rental payable for the period prior to final determination which is less than the total amount of Interim Facility Rental theretofore paid, the Lessee shall be entitled to a credit equal to such excess against the next succeeding Facility Rental payments due hereunder.

(3) Notwithstanding any other provision of the Lease as herein amended, the Facility Rental shall not be subject to abatement or suspension or reduction for any reason whatsoever.

(4) Effective November 1, 2003, the obligations of the Lessee set forth in paragraph (b) of Section 19 of the Terms and Conditions of the Lease entitled "Survival of the Obligations of the Lessee" shall include the following obligation in the event of the termination of the Lease as herein amended under Section 16 of said Terms and Conditions entitled "Termination": on account of the Lessee's obligation to pay the Facility Rental, an amount equal to all such Facility Rental payable as provided for in this paragraph for the balance of the term of the letting under the Lease as herein amended, as provided for in paragraph 1 hereof, following the effective date of termination.

12. Effective November 1, 2003, the provisions of paragraph 12 of Supplement No. 14 to the Lease shall be null and

void and of no further force or effect and the following provisions of this paragraph shall be substituted therefor.

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

(1) "Environmental Damage" and "Environmental Damages" shall mean any one or more of the following: (i) the presence on, about or under the premises of any Hazardous Substance whose presence occurred during the term of the letting under the Lease as herein amended or resulted from any act or omission of the Lessee or others during the term of the letting under the Lease as herein amended, and/or (ii) the disposal, release or threatened release of any Hazardous Substance from the premises during the term of the letting under the Lease as herein amended or thereafter if the Hazardous Substance came to be present on, about or under the premises during said term of the letting, and/or (iii) the presence of any Hazardous Substance on, about or under other property at the Facility or elsewhere as a result of the Lessee's use and occupancy of the premises or a migration of a Hazardous Substance from the premises during the term of the letting under the Lease as herein amended or thereafter if the Hazardous Substance came to be present on, about or under the premises during said term of the letting, and/or (iv) any personal injury, including wrongful death, property damage and/or natural resource damage arising out of or related to any such Hazardous Substance, and/or (v) the violation of any Environmental Requirements pertaining to any such Hazardous Substance, the premises and/or the activities thereon.

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

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

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

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

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

(b) Without limiting the generality of any of the other terms and provisions of the Lease as herein amended, the Lessee hereby expressly agrees to assume all responsibility for, and any and all risks of any kind whatsoever caused by, arising out of or in connection with, the conditions of the premises from and after the date of the letting of the premises under the Lease as herein amended, including without limitation all Environmental Requirements and all Environmental Damages and, except for Environmental Damages arising from the sole negligent acts of the Port Authority, the Lessee shall indemnify, hold harmless and reimburse the Port Authority, its Commissioners, officers, agents and employees from and against all such risks and responsibilities and all Environmental Damages and Environmental Requirements (including, without limitation, all fines, penalties, payments in lieu of penalties, and legal expenses incurred by the Port Authority in connection therewith). If so directed, the Lessee shall at its own expense defend any suit based upon the foregoing, and in handling such it shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any

way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.

(c) In addition to and without limiting the generality of the obligations of the Lessee set forth above and elsewhere in the Lease as herein amended, the Lessee shall at its sole cost and expense and in accordance with and subject to the provisions of Section 11 of the Terms and Conditions of the Lease, upon notice from the Port Authority, promptly take all actions to completely remove and remediate: (1) any Hazardous Substance present on, about or under the premises whose presence occurred during the term of the letting under the Lease as herein amended or resulted from any act or omission of the Lessee or others during the term of the letting under the Lease as herein amended, (2) any Hazardous Substance disposed of or released from the premises during the term of the letting under the Lease as herein amended or thereafter if the Hazardous Substance came to be present on, about or under the premises during said term of the letting, and (3) any Hazardous Substance present on, about or under 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 of the letting under the Lease as herein amended or thereafter if the Hazardous Substance came to be present on, about or under the premises during said term of the letting, which any Governmental Authority or any Environmental Requirements or any violation thereof require to be removed and/or remediated, or which in the sole opinion of the Port Authority are necessary to mitigate Environmental Damages, including, but not limited to, the investigation of the environmental condition of the area to be remediated, the preparation of feasibility studies, reports and remedial plans, and the performance of any cleanup, remediation, mitigation, containment, operation, maintenance, monitoring or restoration work; the standard for any of the foregoing shall be that which requires the lowest level or presence of a particular Hazardous Substance under the laws of the United States or the State of New Jersey, with the strictest to be applied, and which does not require any restriction on the possible use of the premises or such other property. The Lessee agrees that with respect to any of its obligations set forth above in this subparagraph it will not make any claim against the Port Authority and/or the City of Newark for contribution under any Environmental Requirement. Any actions required under this subparagraph 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 the Lease as herein amended, the Lessee shall provide the Manager of the Facility at the cost and expense of the Lessee with such information, documentation, records, correspondence, notices, reports, test results, and certifications and any other information as the Port Authority shall request in connection with any Environmental Requirements or Environmental Damages, and as may be necessary for the preparation of any application, registration, statement, certification, notice, non-applicability affidavit, communication, negative declaration, clean-up plan or other information, documentation or communication required by the Environmental Requirements and the Lessee shall promptly swear to, sign or otherwise fully execute the same. The Lessee agrees that any of the foregoing may be filed by the Port Authority with the appropriate Governmental Authority on behalf of the Lessee and at the Lessee's cost and expense. Further, the Lessee agrees unless directed otherwise by the Port Authority, to provide the Manager of the Facility with copies of all information, documentation, records, correspondence, notices, certifications, reports, test results and all other submissions provided by the Lessee to a Governmental Authority at the same time such are provided to a Governmental Authority and by a Governmental Authority to the Lessee at the time the same are provided to the Lessee with respect to any Environmental Requirements.

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

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

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

(g) Notwithstanding any other provision of this paragraph, and without limiting the generality of subparagraph (e) of this paragraph, the Lessee's obligations, undertakings and responsibilities under this paragraph shall not apply to any Environmental Damage involving any Hazardous Substance which migrated or shall migrate onto the premises during the term of the letting under the Lease as herein amended (hereinafter called the "Migrated Hazardous Substance"), except that such obligations, undertakings and responsibilities under this paragraph shall apply to any Environmental Damage involving any Migrated Hazardous Substance to the extent that the Environmental Damage results from 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.

(h) The Lessee agrees that in any legal action or proceeding in which the Port Authority and the Lessee are

opposing parties the Lessee shall have the burden of proof, as hereinafter defined, as to any and all issues of fact with respect to: (1) whether the presence of any Hazardous Substance on, about or under the premises occurred prior or subsequent to the commencement of the term of the letting under the Lease as herein amended; (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 of the letting under the Lease as herein amended; and (3) whether the Lessee exacerbated any pre-existing environmental condition so as to cause a Hazardous Substance to first become regulated during the term of the letting under the Lease as herein amended. For purposes of this paragraph, "burden of proof" shall mean both the legal burden of going forward with the evidence and the legal burden of establishing the truth of any fact by a preponderance of the evidence.

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

13. (a) The Lessee shall maintain in accordance with accepted accounting practice during the term of the letting under the Lease as herein amended and for three years thereafter records and books of account (including, without limitation, bills of lading and manifests) recording all transactions in any way connected with or reflecting upon the payment of any rental by the Lessee pursuant to paragraphs 4 or 5 hereof, and which records and books of account shall be kept at all times within the Port of New York District, as defined in the Port Compact of 1921 authorized by C. 154 Laws of N.Y. 1921 and C. 151 Laws of N.J. 1921, approved by Public Resolution No. 17 of the 67th Congress, First Session, and permit, upon thirty (30) days' advance notice given by the Port Authority to the Lessee, and in ordinary business hours during such time, the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account and also any of such records and books of account of any company which is owned or controlled by the Lessee, if said company performs services, similar to those performed by the Lessee, anywhere in the Port of New York District.

(b) Notwithstanding the provisions of subparagraph (a) of this paragraph, the Lessee may maintain the records and books of account referred to in said subparagraph (a)

outside of the Port of New York District, subject to the following conditions:

(1) If any such records and books of account have been maintained outside of the Port of New York District, but within the continental United States, then the Port Authority in its sole discretion may (i) require such records and books of account to be produced within the Port of New York District or (ii) examine such records and books of account at the location at which they have been maintained and in such event the Lessee shall pay to the Port Authority when billed all travel costs and related expenses, as determined by the Port Authority, for Port Authority auditors and other representatives, employees and officers in connection with such examination and audit, or

(2) If any such records and book of account have been maintained outside the continental United States then, in addition to the costs specified in subparagraph (1) of this paragraph, the Lessee shall pay to the Port Authority when billed all other costs of the examination and audit of such records and books of account including without limitation salaries, benefits, travel costs and related expenses, overhead costs and fees and charges of third party auditors retained by the Port Authority for the purpose of conducting such audit and examination.

(c) The foregoing auditing costs, expenses and amounts set forth in subdivisions (1) and (2) of subparagraph (b) of this paragraph shall be deemed additional rent under the Lease as herein amended payable to the Port Authority with the same force and effect as all other rents payable hereunder.

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

14. (a) Attached hereto as Exhibit Y is a form of election pursuant to Section 142(b) of the Internal Revenue Code of 1986, as amended. The Lessee acknowledges that two counterparts of said form of election have been delivered to it by the Port Authority. Upon the execution of this Agreement by the Lessee and its delivery to the Port Authority, the Lessee

shall execute the said two counterparts and deliver one fully executed counterpart to the Port Authority with its delivery of this Agreement, and the Lessee shall keep the second executed counterpart with its records for the balance of the entire term of the letting under the Lease as herein amended.

(b) The Lessee is not acquiring an ownership interest in the premises under the Lease as herein amended. 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 the Lease as herein amended, and as a condition of any permitted sale or assignment of the interest of the Lessee under the Lease as herein amended, 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 the Lease as herein amended.

(c) In the event the Lessee records any documents in lieu of recording this Agreement, such documents shall incorporate the substance of subparagraph (b) of this paragraph.

(d) It is understood that the election set forth in subparagraph (b) of this paragraph 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 the Lease as herein amended which are installed by the Lessee in or on the premises leased to the Lessee pursuant to the Lease as herein amended and which shall be deemed to be and remain the property of the Lessee.

15. If the Lessee should fail to pay any amount required under the Lease as herein amended when due to the Port Authority, including without limitation any payment of rental or any payment of utility fees or charges, or other charges or fees, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each

such unpaid amount for each late charge period hereinbelow described during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under the Lease as herein amended. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this paragraph, with respect to such unpaid amount. Each late charge shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rentals as set forth in the Lease as herein amended. Nothing in this paragraph is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under the Lease as herein amended, including without limitation the Port Authority's rights set forth in Section 16 of the Terms and Conditions of the Lease entitled "Termination" or (ii) any obligations of the Lessee under the Lease as herein amended. In the event that any late charge imposed pursuant to this paragraph shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under the Lease as herein amended shall be payable instead at such legal maximum.

16. The parties acknowledge and agree that all of the premises under the Lease as herein amended as of the date first above written are shown in diagonal crosshatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A-14".

17. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

18. The Lessee represents and warrants that no broker has been concerned in the negotiation of this Agreement, and that

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

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

20. This Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing 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 the Lease or in this Agreement.

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

ATTEST:

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY



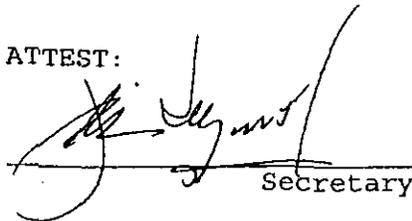
SECRETARY OF THE PORT AUTHORITY OF NY & NJ

By 

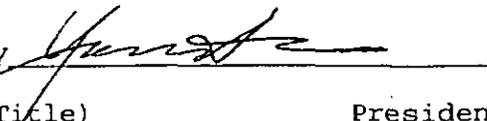
(Title)

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

ATTEST:

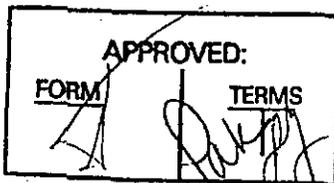

Secretary

TOYOTA MOTOR SALES, U.S.A., INC.

By 
(Title) President
(Corporate Seal)

APPROVED:

FORM	TERMS
------	-------



(a) If at any time the Lessee shall become entitled to an abatement of basic rental under the provisions of the Lease as herein amended or otherwise, such abatement shall be computed as follows:

(1) For each square foot of usable open area the use of which is denied to the Lessee, at the annual rate of \$1.19*

(2) For each square foot of usable covered area the use of which is denied to the Lessee, at the annual rate of N/A

(b) If no rates are filled in above then the abatement of basic rental shall be made on an equitable basis, giving effect to the amount and character of the area the use of which is denied the Lessee, as compared with the entire area of such character included in the premises.

(c) If an exemption amount is fixed in the Lease as herein amended, it shall be reduced in the same proportion as the total basic rental is abated.

(d) For the purposes of this Endorsement, the number of square feet of covered area shall be computed as follows: by measuring from the inside surface of outer building walls to the surface of the public area side, or of the non-exclusive area side, as the case may require, of all partitions separating the area measured from adjoining areas designated for the use of the public or for use by the Lessee in common with others, and to the center of partitions separating the area measured from adjoining area exclusively used by others; no deduction will be made for columns, partitions, pilasters or projections necessary to the building and contained within the area measured. Permanent partitions enclosing elevators shafts, stairs, fire towers, vents, pipe shafts, meter closets, flues, stacks and any vertical shafts have the same relation to the area measured as do outer building walls.

(e) In the event that during the term of the letting under the Lease as herein amended the Lessee shall be partially evicted (actually or constructively) and shall remain in possession of the premises or the balance thereof, the Lessee agrees that notwithstanding it might have the right to suspend payment of the rent in the absence of this provision, it will pay at the times and in the manner herein provided, the full basic rental less only an abatement thereof computed in accordance with the above.

* during the period commencing on November 1, 2006 and continuing through October 31, 2007; at the annual rate of \$1.23 during the period commencing on November 1, 2007 and continuing through October 31, 2008; at the annual rate of \$1.28 during the period commencing on November 1, 2008 and continuing through October 31, 2009; at the annual rate of \$1.32 during the period commencing on November 1, 2009 and continuing through October 31, 2010; at the annual rate of \$1.37 during the period commencing on November 1, 2010 and continuing through October 31, 2011; at the annual rate of \$1.41 during the period commencing on November 1, 2011 and continuing through October 31, 2012; at the annual rate of \$1.46 during the period commencing on November 1, 2012 and continuing through October 31, 2013; at the annual rate of \$1.51 during the period commencing on November 1, 2013 and continuing through October 31, 2014; at the annual rate of \$1.57 during the period commencing on November 1, 2014 and continuing through October 31, 2015; at the annual rate of \$1.62 during the period commencing on November 1, 2015 and continuing through October 31, 2016; at the annual rate of \$1.68 during the period

commencing on November 1, 2016 and continuing through October 31, 2017;
and at the annual rate of \$1.74 during the period commencing on November
1, 2017 and continuing through October 31, 2018.

Standard Endorsement No. L27.4
Abatement:
All Marine Terminals
10/6/68

SCHEDULE E

PART I

Affirmative Action Guidelines -- Equal Employment Opportunity

I. The Lessee agrees to comply with and the Lessee shall require the Contractor, as hereinafter defined, to comply with the provisions set forth hereinafter and in subparagraphs (s) and (t) of paragraph 10 of the Agreement to which this schedule is attached (herein called "the Agreement"). The provisions set forth in this Part I are similar to the conditions for bidding on federal government contracts adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

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

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

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

- | | |
|-----------------------------|------|
| (1) Minority participation: | 32% |
| (2) Female participation: | 6.9% |

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

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

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

(c) As used in these specifications:

- (1) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- (2) "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and supplies, including circulation of solicitations to minority and female contractor associations and other business associations.

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

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

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

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

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

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

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

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(p) Nothing herein provided shall be construed as a limitation upon the application of any laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

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

PART II

Minority Business Enterprises/Women-Owned Business Enterprises

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

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

(b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female contractor associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the Work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

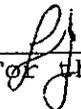
(c) Making plans and specifications for prospective construction work available to MBEs and WBEs in sufficient time for review.

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

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

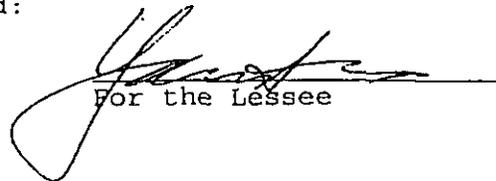
(f) Insuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis.

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



For the Port Authority

Initialed:



For the Lessee

EXHIBIT Y

ELECTION

(PURSUANT TO SECTION 142 (b) OF THE
INTERNAL REVENUE CODE OF 1986)

1. TOYOTA MOTOR SALES, U.S.A., INC. (hereinafter called "the Lessee") pursuant to an Agreement of Lease bearing Port Authority Lease No. L-NS-900 (hereinafter, as the same has been heretofore amended, modified and supplemented, called "the Lease") made under date of September 18, 1976, between the Lessee and The Port Authority of New York and New Jersey (hereinafter called "the Port Authority"), as supplemented by that certain agreement made between the Port Authority and the Lessee, dated as of April 3, 2002 and denominated "Supplement No. 18" to the Lease (hereinafter called "the Supplement"), has leased a site and the structures, improvements, additions, buildings and facilities located or to be located thereon at Port Newark, all as described in the Lease (hereinafter called "the Leased Premises") to be used basically as an vehicle-preparation facility constituting part of a public port for a term commencing no later than December 1, 1977 and expiring no later than October 31, 2018.

2. The principal office of the Port Authority is at 225 Park Avenue South, New York, New York 10003 and its taxpayer identification number is (Ex. 1)

3. The principal office of the Lessee is at 19001 South Western Avenue, Al41, Torrance, California 90509-2722 and its taxpayer identification number is (Ex. 1)

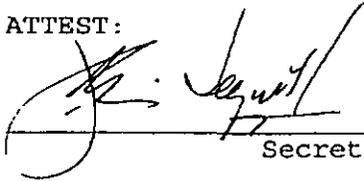
4. Capital expenditures in connection with the Leased Premises have been, or are expected to be made, in whole or in part by the Port Authority from "exempt facility bonds" (within the meaning of Section 142(a) of the Internal Revenue Code of 1986) issued by the Port Authority from time to time (such capital expenditures being hereinafter called "the Property").

5. The Lessee has not acquired and is not acquiring an ownership interest in 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 the Lease and the Supplement, and as a condition of any permitted sale or assignment of the interest of the Lessee under the Lease and the Supplement, every successor in interest shall furnish an executed

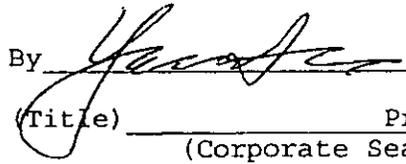
irrevocable election in the form of the immediately preceding sentence to the Port Authority. The foregoing shall not grant or be deemed to grant to the Lessee the right to sell or assign, in any manner, its interests under the Lease and the Supplement.

6. It is understood that the foregoing election shall not apply to any personal property of the Lessee (including equipment and trade fixtures) removable without material damage to the Leased Premises, installed by the Lessee in or on the Leased Premises pursuant to the Lease and the Supplement, and which are deemed to be and remain the property of the Lessee.

ATTEST:


Secretary

TOYOTA MOTOR SALES, U.S.A., INC.

By 
(Title) _____ President
(Corporate Seal)

Dated: 5/6/02

(EX. 4)

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

TABLE OF CONTENTS

	Page
SECTION 1. BACKGROUND.....	2
SECTION 1A. LETTING.....	3
SECTION 2. TERM; LEASE COMMENCEMENT DATE.....	4
SECTION 3. BASIC RENTAL.....	4
SECTION 4. BASIC RENTAL ESCALATION.....	5
SECTION 5. ANNUAL VEHICLE THROUGHPUT RENTAL.....	7
SECTION 6. NON-WATERBORNE VEHICLE WHARFAGE RATE.....	11
SECTION 7. ABATEMENT.....	12
SECTION 8. RIGHTS OF USER.....	13
SECTION 9. INGRESS AND EGRESS.....	13
SECTION 10. GOVERNMENTAL AND OTHER REQUIREMENTS.....	14
SECTION 11. RULES AND REGULATIONS.....	15
SECTION 12. OPERATIONAL OBLIGATIONS OF THE LESSEE.....	16
SECTION 13. PROHIBITED ACTS.....	17
SECTION 14. SIGNS.....	22
SECTION 15. INDEMNITY AND LIABILITY INSURANCE.....	22
SECTION 16. MAINTENANCE AND REPAIR.....	25
SECTION 17. CASUALTY.....	30
SECTION 18. ASSIGNMENT AND SUBLEASE.....	32
SECTION 19. CONDEMNATION.....	35
SECTION 20. CONSTRUCTION BY THE LESSEE.....	37
SECTION 21. ADDITIONAL RENT AND CHARGES.....	51
SECTION 22. RIGHTS OF ENTRY RESERVED.....	51
SECTION 23. LIMITATION OF RIGHTS AND PRIVILEGES GRANTED.....	53
SECTION 24. TERMINATION.....	54
SECTION 25. ADDITIONAL TERMINATION RIGHTS.....	56
SECTION 26. RIGHT OF RE-ENTRY.....	58
SECTION 27. WAIVER OF REDEMPTION.....	58
SECTION 28. SURVIVAL OF THE OBLIGATIONS OF THE LESSEE UPON TERMINATION	58
SECTION 29. RELETTING BY THE PORT AUTHORITY.....	59

TABLE OF CONTENTS
(continued)

	Page
SECTION 29A. REMEDIES UNDER BANKRUPTCY AND INSOLVENCY CODE....	60
SECTION 30. REMEDIES TO BE NONEXCLUSIVE.....	62
SECTION 31. SURRENDER.....	62
SECTION 32. ACCEPTANCE OF SURRENDER OF LEASE.....	63
SECTION 33. NOTICES.....	63
SECTION 34. GENERAL.....	64
SECTION 35. PREMISES.....	69
SECTION 36. FORCE MAJEURE.....	70
SECTION 37. BROKERAGE.....	71
SECTION 38. NON-LIABILITY OF INDIVIDUALS.....	72
SECTION 39. SERVICES.....	72
SECTION 40. RIGHT OF TERMINATION - OWNERSHIP AND CONTROL.....	73
SECTION 41. CONDITION PRECEDENT.....	75
SECTION 42. SECURITY.....	75
SECTION 43. LATE CHARGES.....	77
SECTION 44. INTENTIONALLY DELETED.....	78
SECTION 45. PORT AUTHORITY COSTS FOLLOWING TERMINATION.....	78
SECTION 46. HOLDOVER.....	79
SECTION 47. AUDIT FEE.....	79
SECTION 48. WAIVER OF JURY TRIAL.....	80
SECTION 49. COUNTERPARTS.....	80
SECTION 50. ENVIRONMENTAL RESPONSIBILITIES.....	80
SECTION 51. RECORD KEEPING OBLIGATIONS.....	87
SECTION 52. ENTIRE AGREEMENT.....	88
SECTION 53. OFAC REPRESENTATIONS.....	89
SECTION 54. ESTOPPEL CERTIFICATE.....	90
SECTION 55. TERMINATION OF LEASE 293; SURVIVAL OF OBLIGATIONS.....	90
SECTION 56. RELEASE; COVENANT NOT TO SUE.....	91
SECTION 57. NEGOTIATED AGREEMENT.....	92

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 (1/12th) 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 $(275,000/365) \times 180 = 135,616.44$ (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 $14,384 \times \$2.50 = \$35,960.00$.

(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 administering 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 administering 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 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: (EX.1) , 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 construed 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 (EX. 1)

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 handling such it shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the 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:

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

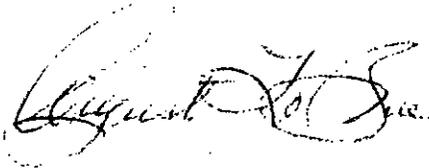

SECRETARY

By _____
(Title)


RICHARD M. LARRABEE
DIRECTOR, PORT COMMERCE DEPT.

ATTEST:

FAPS, INC.



By _____
(Title)

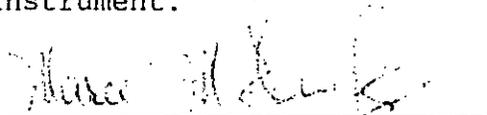

Gary LoBue
President
(Corporate Seal)



STATE OF NEW YORK)
 :
 COUNTY OF NEW YORK)

ss. :

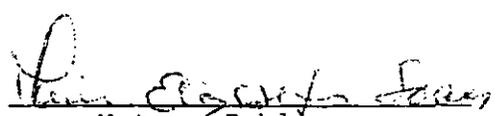
On the 17th day of August, 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared Richard M. Larrabee, Director, Port Commerce Dept. of the PORT AUTHORITY OF NEW YORK AND NEW JERSEY, personally known to me or proved to me on the basis of satisfactory evidence to 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

Marie M. Edwards
Notary Public, State of New Jersey
No. 01ED4959693
ss. Qualified in Kings County
3/07/2014

STATE OF NEW JERSEY)
 :
 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. 13, 2012

(EX. 4)

(EX. 4)

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

TABLE OF CONTENTS

	Page
SECTION 1. BACKGROUND	2
SECTION 1A. LETTING	3
SECTION 2. TERM; COMMENCEMENT DATE	4
SECTION 3. RENTAL/OPERATING FEE	4
SECTION 4. ANNUAL INTERMODAL RENTAL	5
SECTION 5. ANNUAL INTERMODAL RENTAL ESCALATION	8
SECTION 6. RAILROAD TERMINAL OPERATIONS	11
SECTION 7. ABATEMENT	12
SECTION 8. RIGHTS OF USER	13
SECTION 9. INGRESS AND EGRESS	13
SECTION 10. GOVERNMENTAL AND OTHER REQUIREMENTS	14
SECTION 11. RULES AND REGULATIONS	15
SECTION 12. OPERATIONAL OBLIGATIONS OF THE OPERATOR	16
SECTION 13. PROHIBITED ACTS	17
SECTION 14. SIGNS	22
SECTION 15. INDEMNITY AND LIABILITY INSURANCE	22
SECTION 16. MAINTENANCE AND REPAIR	25
SECTION 17. CASUALTY	30
SECTION 18. ASSIGNMENT AND SUBLEASE	31
SECTION 19. CONDEMNATION	34
SECTION 20. REPAIRS, REPLACEMENTS OR ALTERATIONS BY THE OPERATOR	36
SECTION 21. ADDITIONAL RENT AND CHARGES	44
SECTION 22. RIGHTS OF ENTRY RESERVED	45
SECTION 23. LIMITATION OF RIGHTS AND PRIVILEGES GRANTED	47
SECTION 24. TERMINATION	47
SECTION 25. INTENTIONALLY DELETED	50
SECTION 26. RIGHT OF RE-ENTRY	50
SECTION 27. WAIVER OF REDEMPTION	50
SECTION 28. SURVIVAL OF THE OBLIGATIONS OF THE OPERATOR UPON TERMINATION	51
SECTION 29. RELETTING BY THE PORT AUTHORITY	52

TABLE OF CONTENTS
(continued)

	Page
SECTION 29A. REMEDIES UNDER BANKRUPTCY AND INSOLVENCY CODE	53
SECTION 30. REMEDIES TO BE NONEXCLUSIVE	54
SECTION 31. SURRENDER	54
SECTION 32. ACCEPTANCE OF SURRENDER OF AGREEMENT	55
SECTION 33. NOTICES	56
SECTION 34. GENERAL	56
SECTION 35. TERMINAL SPACE	60
SECTION 36. FORCE MAJEURE	61
SECTION 37. BROKERAGE	62
SECTION 38. NON-LIABILITY OF INDIVIDUALS	63
SECTION 39. SERVICES	63
SECTION 40. RIGHT OF TERMINATION - OWNERSHIP AND CONTROL	64
SECTION 41. CONDITION PRECEDENT	66
SECTION 42. SECURITY	66
SECTION 43. LATE CHARGES	67
SECTION 44. INTENTIONALLY DELETED	68
SECTION 45. PORT AUTHORITY COSTS FOLLOWING TERMINATION	68
SECTION 46. HOLDOVER	68
SECTION 47. AUDIT FEE	69
SECTION 48. WAIVER OF JURY TRIAL	69
SECTION 49. COUNTERPARTS	70
SECTION 50. ENVIRONMENTAL RESPONSIBILITIES	70
SECTION 51. RECORD KEEPING OBLIGATIONS	77
SECTION 52. ENTIRE AGREEMENT	78
SECTION 53. OFAC REPRESENTATIONS	78
SECTION 54. ESTOPPEL CERTIFICATE	80
SECTION 55. TERMINATION OF LEASE 293; SURVIVAL OF OBLIGATIONS;	80
SECTION 56. RELEASE: COVENANT NOT TO SUE	81
SECTION 57. NEGOTIATED AGREEMENT	82

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 $(20,000/365) \times 180 = 9,863.01$ (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 $5,137 \times \$7.50 = \$38,527.50$.

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 administering 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: (Ex. 1) , 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 construed 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 biphenyls ("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 handling such it shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port

Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the 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

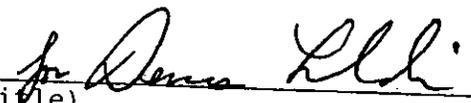
IN WITNESS WHEREOF, the Port Authority and the Operator have executed this Agreement as of the date first above written.

ATTEST:

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY



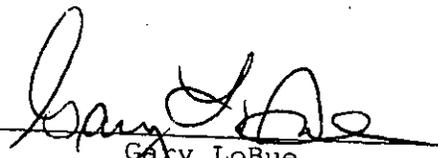
SECRETARY

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

ATTEST:

FAPS, INC.



By 
(Title) Gary LoBue
President
(Corporate Seal)

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

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").

WITNESSETH:

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:

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:

Richard M. Larabee

By:

Richard M. Larabee

SECRETARY

Name:

RICHARD M. LARABEE

DIRECTOR, PORT COMMERCE DEPT.

Title:

WITNESS:

Richard M. Larabee

FAPS, INC.,

A New Jersey corporation

By:

Gary LoBue

Name Gary LoBue

(Title) President



(Port Authority Acknowledgment)

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

On the 20th day of October, 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.

Marie M. Edwards
(notarial seal and stamp)

(FAPS Acknowledgment)

Marie M. Edwards
Notary Public, State of New York
No. 01ED4959693
Qualified in Kings County
Commission Expires 2/04/2012

STATE OF NEW JERSEY)
 :
COUNTY OF Essex)

ss. :

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.

Maria Elizabeth Soares
Notary Public

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

(EX. 4)