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**Sent:** Wednesday, March 06, 2013 10:41 AM  
**To:** Duffy, Daniel  
**Cc:** Torres Rojas, Genara; Van Duyne, Sheree  
**Subject:** Freedom of Information Online Request Form

Information:

First Name: JOSEPH  
Last Name: VITULLI  
Company: PLISKIN, RUBANO, ET AL  
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Required copies of the records: Yes

List of specific record(s):

All lease agreements and any amendements or extensions thereto between the Port Authority of New York and New Jersey, as landlord, in connection with the building 71 located at JFK Airport, Jamaica, NY 11430 for the last 5 years

**THE PORT AUTHORITY OF NY & NJ**

*FOI Administrator*

April 17, 2013

Mr. Joseph Vitulli  
Pliskin, Rubano, Et Al  
137-11 Northern Blvd.  
Flushing, NY 11354

Re: Freedom of Information Reference No. 13813

Dear Mr. Vitulli:

This is a response to your March 6, 2013 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code") for a copy of all lease agreements and any amendments or extensions thereto between the Port Authority in connection with the building 71 located at John F. Kennedy International Airport, Jamaica, NY 11430 for the last 5 years.

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/13813-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), (2.a.) and (4) of the Code.

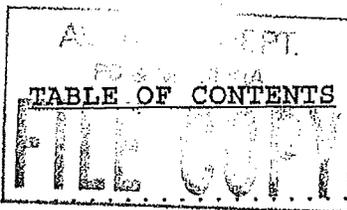
Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,



Daniel D. Duffy  
FOI Administrator

*225 Park Avenue South, 17th Floor  
New York, NY 10003  
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SCHEDULES

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

Lease No. AYD-123

AGREEMENT OF LEASE

THIS AGREEMENT OF LEASE, made as of November 1, 2000, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority"), a body corporate and politic, established 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 at One World Trade Center, in the Borough of Manhattan, City, County and State of New York, and CONTINENTAL AIRLINES, INC. (hereinafter called "the Lessee"), a corporation organized and existing under the Laws of the State of Delaware and having an office address at 1600 Smith Street HQSVP, Houston, Texas 77002, whose representative is Holden Shannon,

WITNESSETH, That:

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

Section 1. Letting

(a) Effective as of November 1, 2000, the Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority at John F. Kennedy International Airport (sometimes hereinafter referred to as "the Airport") in the County of Queens, City and State of New York, upon all the terms, conditions, provisions and agreements of the Lease, the ground space shown in stipple (including stipple cross hatching and stipple/dash) on the drawing attached hereto, hereby made a part hereof, and marked "Exhibit A (Sheet 3 of 3)" which ground space is hereinafter sometimes collectively referred to as "the site," together with Building No. 106, as the same is shown in stipple/dash on Exhibit A (Sheet 3 of 3), "which drawing, together with the drawings attached hereto, hereby made a part hereof, and marked "Exhibit A (Sheet 1 of 3)" and "Exhibit A (Sheet 2 of 3)," respectively, are sometimes hereinafter collectively referred to as "Exhibit A," and all other buildings, structures, fixtures, improvements, facilities and other property of the Port Authority located therein, thereon or thereunder, and all buildings, structures, additions, fixtures, improvements, and facilities located, constructed or installed, or which may be located, constructed or installed therein,

thereon or thereunder, and all easements and other rights appurtenant thereto and granted by this Lease, all of the foregoing being hereinafter collectively referred to as the "premises." The parties acknowledge that the premises consist of two parcels, namely, (1) an approximately 8.1 acre parcel (hereinafter called "Parcel A") surrendered by Northwest Airlines, Inc. and (2) an approximately 0.4 acre parcel (hereinafter called "Parcel B") containing two small structures.

(b) The Port Authority hereby agrees that the strip of land lying along and within the eastern boundary line and continuing generally in an arc to the west thereof within the premises covered by that certain agreement of lease entered into by the Port Authority and Northwest Airlines, Inc. (hereinafter referred to as "NWA"), dated as of October 1, 1974 and bearing Port Authority file number AYA-850, which strip of land is shown in diagonal hatching on Exhibit A (Sheet 3 of 3) attached hereto and hereby made a part hereof, shall be made subject to an easement for use as a taxilane (hereinafter referred to as the "Taxilane Easement") in favor of the Lessee hereunder for the purposes of ingress to and egress from the premises hereunder, and may be used jointly by the Lessee, NWA, the Port Authority and by any successors in interest of the Lessee, NWA, or by any other entity to whom the Port Authority may grant the right to use such easement during the period the Lessee has any interest in said strip of land. From and after the Completion Date, as defined in paragraph (i) of Section 2 hereof, in addition to the rental payable by the Lessee pursuant to Section 5 hereof the Lessee shall pay a rental to the Port Authority in an amount equal to fifty percent (50%) of the then effective rental rate per acre payable by NWA multiplied by the number of acres or fraction thereof comprising the Taxilane Easement site. The Lessee shall also share equally with NWA the costs of maintenance and repair of the Taxilane Easement, including snow and ice removal.

(c) The parties hereby agree that the strip of land lying along and within the eastern boundary line of the premises hereunder shall be subject to an easement (hereinafter referred to as the "Roadway Easement") in favor of NWA, which strip of land is shown in stipple cross hatching on Exhibit A (Sheet 3 of 3) hereof for the purposes of ingress to and egress from the premises under NWA's said Lease AYA-850, and may be used jointly by the Lessee, NWA, the Port Authority and by any successors in interest of the Lessee, NWA, or by any other entity to whom the Port Authority may grant the right to use the Roadway Easement during the period NWA has any interest in said strip of land. In exercising the foregoing right of granting such right to use the Roadway Easement to others, the Port Authority shall, except in emergencies, give reasonable prior notice thereof to the Lessee and take reasonable steps to minimize or avoid interference with the Lessee's operations hereunder. From and after the Completion Date, as defined in paragraph (i) of Section 2 hereof, the rental

payable by the Lessee pursuant to Section 5 hereof shall be decreased by an amount equal to fifty percent (50%) of the then effective rental rate per acre payable by the Lessee multiplied by the number of acres or fraction thereof comprising the Roadway Easement site. The Lessee shall also share equally with NWA the costs of maintenance and repair of the Roadway Easement, including snow and ice removal.

(d) During the period the Lessee has an interest in the Roadway Easement, any party, other than the Port Authority and NWA, desiring to use the Roadway Easement as provided above shall enter into an agreement with the Lessee covering such use which shall be submitted to the Port Authority for its consent, which agreement shall provide, among other things, that such user shall (i) share on an equitable basis the Lessee's obligations of maintenance and repair under the Lease, (ii) indemnify and hold harmless the Lessee for and against all personal injury and property damage caused by such user, and (iii) agree not to block or otherwise interfere with the ability of the Lessee or others to use the Roadway Easement. Every user of the Roadway Easement shall make every reasonable effort not to block or otherwise interfere with the ability of any other user to use the Roadway Easement.

(e) In granting the foregoing right of ingress to and egress from the premises to others actually requiring the same on a temporary basis, the Port Authority shall obligate such user to give, except in emergencies, reasonable prior notice thereof to the Lessee and take reasonable steps to minimize or avoid interference with the Lessee's operations hereunder.

(f) It is expressly recognized that Exhibit A which shows the premises hereunder is a preliminary exhibit and is so marked, and further that the said Exhibit A is based on a preliminary description of the areas shown thereon and does not contain a precise metes and bounds description and gives only a rough approximation of the areas comprising the premises. It is further expressly recognized that the amount of the annual rental as set forth in Section 5 hereof has been compiled on the basis of an estimate of the land constituting the premises. The Port Authority and the Lessee hereby agree that upon the Port Authority's determination of the actual metes and bounds of the premises, the final version thereof shall be prepared and the amount of the annual rental shall be appropriately adjusted and shall be set forth in a Supplemental Agreement to this Agreement which shall be prepared by the Port Authority and submitted to the Lessee for execution and shall have attached thereto the final version of Exhibit A which shall be deemed to show the letting of the premises with retroactive effect. The Lessee agrees to execute the said Supplemental Agreement and return same to the Port Authority within ten (10) days of its receipt of same.

(g) Except to the extent required for the performance of any of the obligations of the Lessee hereunder, nothing contained in this Agreement shall grant to the Lessee any rights whatsoever in the air space above the premises above the heights of the structures thereon as of the Completion Date, as herein-after defined.

(h) The parties acknowledge that the premises constitute non-residential real property.

(i) The Lessee hereby 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, except as expressly provided in this Agreement. The Lessee, prior to the execution of this Agreement, has thoroughly examined the premises and determined them to be suitable for the Lessee's operations hereunder and the Lessee hereby agrees (subject to the provisions of Section 3 hereof) to take the premises in their "as is" condition as of the commencement of the term of the letting 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 in a manner which is unsafe or improper for the conduct of the Lessee's operations hereunder so as to endanger life or property. It is hereby understood and agreed that whenever reference is made in this Lease to the condition of the premises as of the commencement of the term thereof, the same shall be deemed to mean, with respect to the portion of the premises not constructed, altered or improved after the date of this Agreement, the condition of said portion of the premises as of the date of this Agreement, and, with respect to any portion of the premises constructed, altered or improved pursuant to the Construction Work performed under Section 2 hereof during the term of the Agreement, the same shall be deemed to mean the condition existing after the completion of the same.

Section 2. Construction by the Lessee

(a) (1) It is hereby recognized that the site will be in an unfinished state at the time possession or use thereof is turned over and delivered to the Lessee. The Lessee shall, prior to its submission to the Port Authority of the plans and specifications hereinafter provided for, submit to the Port Authority for its consent the Lessee's comprehensive plan for the development of the site, including but not limited to, renderings, layouts, locations, models, estimated commencement and completion dates, and preliminary functional plans.

(2) Without limiting the above, the Lessee agrees that said comprehensive plan shall include the complete demolition of Building No. 106 (said Building being hereinafter refer-

(vii) All grading, paving and other work, as required by the Port Authority, to construct a taxilane apron in the areas shown in stipple and stipple/dash on Exhibit A (Sheet 3 of 3), it being understood that said work is a portion of the work set forth in items (iii) through (vi) hereof; and

(3) All of the foregoing demolition, remediation, design, construction and installation work shall be performed by the Lessee on the site and off the site where required and, where performed on the premises, shall be and become a part of the premises under the Lease and is sometimes collectively referred to herein as the "Construction Work."

(4) The Lessee shall keep the comprehensive plan covered by this paragraph (a) up to date and shall submit to the Port Authority for its prior approval any amendment, revision or modification thereof.

(b) Prior to the commencement of the Construction Work and in addition to the aforesaid comprehensive plan, the Lessee shall execute and submit to the Port Authority for the Port Authority's approval a Construction Application or Applications in the form prescribed by the Port Authority and including complete plans and specifications of the Construction Work (hereinafter collectively called the "Construction Application"). The Port Authority may refuse to grant approval with respect to the Construction Work if, in its opinion, any of the proposed Construction Work as set forth in said plans and specifications (all of which shall be in such detail as may reasonably permit the Port Authority to make a determination as to whether the requirements hereinafter referred to are met) shall:

(i) Be unsafe, unsound, hazardous or improper for the use and occupancy for which it is designed; or

(ii) Not comply with the Port Authority's requirements for harmony of external architecture of similar existing or planned improvements at the Airport; or

(iii) Not comply with the Port Authority's requirements with respect to external and interior building materials and finishes of similar existing or planned improvements at the Airport; or

(iv) Not provide for sufficient clearances for taxiways, runways and apron areas; or

(v) Be designed for use for purposes other than those authorized under this Agreement; or

(vi) Set forth ground elevations or heights other than those prescribed by the Port Authority; or

(vii) Not provide adequate and proper circulation areas; or

(viii) Not be at locations or not be oriented in accordance with the Lessee's approved Construction Application; or

(ix) Not comply with the provisions of the Basic Lease, as hereinafter defined, including without limiting the generality thereof, those provisions of the Basic Lease providing that the Port Authority will conform to the enactments, ordinances, resolutions and regulations of the City of New York and its various departments, boards and bureaus in regard to construction and maintenance of buildings and structures and in regard to health and fire protection which would be applicable if the Port Authority were a private corporation to the extent that the Port Authority finds it practicable so to do; or

(x) Be in violation or contravention of any other provisions and terms of this Agreement remaining uncured beyond any applicable notice and grace periods; or

(xi) Not comply with all applicable governmental laws, ordinances, enactments, resolutions, rules and orders; or

(xii) Not comply with all applicable requirements of the National Board of Fire Underwriters and the Fire Insurance Rating Organization of New York; or

(xiii) Not comply with the Port Authority's requirements with respect to landscaping; or

(xiv) Not comply with the Port Authority's requirements and standards with respect to noise, air pollution, water pollution or other types of pollution in connection with the Lessee's operations hereunder; or

(xv) Not comply with any construction limitations set forth in Exhibit A, if any; or

(xvi) Not comply with the American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People, ANSI A117.180.

(c) The Construction Work shall be done in accordance with the following terms and conditions:

(1) (a) As between the Lessee and the Port Authority, the Lessee hereby assumes the risk of loss or damage to all of the Construction Work prior to the completion thereof and the risk of loss or damage to all property of the Port

red to as "the Building") presently located on the site and the two small structures on Parcel B, including but not limited to, the removal of all asbestos to an off-airport site satisfactory to the Port Authority and the removal of all other improvements, fixtures and other property as may be situated in or on the premises on the effective date of this Agreement to the extent deemed necessary by the Lessee, or as otherwise required under this Lease, and in a manner determined by the Lessee and consistent with the Lease, all in a manner satisfactory to the Port Authority, it being understood that the Port Authority shall remove or caused to be removed at its sole risk and expense and in accordance with all applicable laws all hazardous substances, including hazardous waste storage drums, from the Building prior to the demolition of the Building by the Lessee and that the Lessee shall remove or caused to be removed at its sole risk and expense and in accordance with all applicable laws all other existing hazardous substances, including any other hazardous waste storage drums, and perform all other necessary remediation of Parcel B, and the design and construction on, off and under the site of:

(i) A state-of-the-art air cargo building for the handling of general air cargo consisting of approximately 54,000 square feet of warehouse space and approximately 9,600 square feet of first and second floor office space, including the design, construction and installation of an appropriate cargo handling system and related fixtures, furnishings and equipment (said building, together with all associated and related systems, fixtures, furnishings, equipment, areas and facilities, being hereinafter collectively called "the Cargo Facility");

(ii) Subject to the provisions of paragraph (j) below, all appropriate lines, mains, cables, manholes, wires, conduits and other facilities required in connection with or relating to the mechanical, utility, electrical, storm sewer, sanitary sewer, telephone, fire alarm, fire protection, gas and other systems needed for the Cargo Facility, including all necessary relocations and upgrades with sufficient capacity for the Lessee's Cargo Facility;

(iii) All necessary roadways, ramps and pedestrian circulation areas, together with all associated and related areas and facilities;

(iv) All necessary aircraft ramp and apron areas, together with all associated and related areas and facilities;

(v) All taxiways, together with all associated and related areas and facilities;

(vi) All grading and paving of ground areas and appropriate landscaping, together with all associated and related areas;

Authority arising out of or in connection with the performance of the Construction Work. In the event of such loss or damage, the Lessee shall forthwith repair, replace and make good the Construction Work and the property of the Port Authority without cost or expense to the Port Authority. The Lessee shall itself and shall also require its contractors to indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from and against all claims and demands, just or unjust, of third persons (including employees, officers and agents of the Port Authority) arising or alleged to arise out of the performance of the Construction Work and for all expenses 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, whether they arise from the acts or omissions of the Lessee, of any contractors of the Lessee, of the Port Authority, or of third persons, or from acts of God or of the public enemy, or otherwise, excepting only claims and demands which result solely from the wilful misconduct, or the sole negligence, of the Port Authority, its Commissioners, officers, agents and employees with respect to the Construction Work, provided, however, that the Lessee shall not be required to indemnify the Port Authority where indemnity would be precluded pursuant to the provisions of Section 5-322.1 of the General Obligations Law of the State of New York.

(b) If so directed, the Lessee shall at its own expense defend any suit based upon 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 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.

(2) Prior to engaging or retaining an architect or architects for the Construction Work, the name or names of said architect or architects shall be submitted to the Port Authority for its approval. The Port Authority shall have the right to disapprove any architect who may be unacceptable to it. All Construction Work shall be done in accordance with plans and specifications to be submitted to and approved by the Port Authority prior to the commencement of the Construction Work, and until such approval has been obtained the Lessee shall continue to resubmit plans and specifications as required. Upon approval of such plans and specifications by the Port Authority, the Lessee shall proceed diligently at its sole cost and expense to perform the Construction Work. All Construction Work, including workmanship and materials, shall be of first class quality. The Lessee shall re-do, replace or construct at its own cost and expense, any Construction Work not done in accordance with the

approved plans and specifications, the provisions of this Section 2 or any further requirements of the Port Authority pursuant to this Agreement. The Lessee shall expend not less than

(Ex. 2.a) 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 demolition, remediation, design, construction and installation constituting the Construction Work (including the cargo handling system and related equipment) and shall, subject to the provisions of Section 49 hereof, substantially complete the Cargo Facility portion of the Construction Work no later than September 30, 2002, the taxilane shared with NWA and all necessary aircraft ramp and apron areas no later than October 31, 2003. Notwithstanding the foregoing, if the Lessee demonstrates to the Port Authority that it can perform and has performed the Construction Work for an amount less than the above amount, doing so shall not be a breach of this Agreement.

(3) Prior to entering into a contract or contracts for any part of the Construction Work, the Lessee shall submit to the Port Authority for its approval the names of the general contractor and other contractors and subcontractors to whom the Lessee proposes to award said contract or contracts. The Port Authority shall have the right to disapprove any contractor who may be unacceptable to it. The Lessee shall include in all such contracts such provisions and conditions as may be reasonably required by the Port Authority, as Airport Operator, upon notice to the Lessee made prior to the execution of any such contract. Without limiting the generality of the foregoing all of the Lessee's construction contracts shall provide as follows: "If (i) the Contractor fails to perform any of his obligations under the Contract, including his obligation to the Lessee to pay any claims lawfully made against him by any materialman, subcontractor or workman or other third person which arises out of or in connection with the performance of the Contract or (ii) any claim (just or unjust) which arises out of or in connection with the Contract is made against the Lessee or (iii) any subcontractor under the Contract fails to pay any claims lawfully made against him by any materialman, subcontractor, workman or other third persons which arise out of or in connection with the Contract or if in the Lessee's opinion any of the aforesaid contingencies is likely to arise, then the Lessee shall have the right, in its discretion, to withhold out of any payment (final or otherwise and even though such payments have already been certified as due) such sums as the Lessee may deem ample to protect it against delay or loss or to assume the payment of just claims of third persons, and to apply such sums in such manner as the Lessee may deem proper to secure such protection or satisfy such claims. All sums so applied shall be deducted from the Contractor's compensation. Omission by the Lessee to withhold out of any payment, final or otherwise, a sum for any of the above contingencies, even though such contingency has occurred at the time of such payment, shall not be deemed to indicate that the Lessee does not

intend to exercise its right with respect to such contingency. Neither the above provisions for rights of the Lessee to withhold and apply monies nor any exercise or attempted exercise of, or omission to exercise, such rights by the Lessee shall create any obligation of any kind to such materialmen, subcontractors, workmen or other third persons. Until actual payment is made to the Contractor, his right to any amount to be paid under the Contract (even though such amount has already been certified as due) shall be subordinate to the rights of the Lessee under this provision."

(4) The Lessee shall file with the Port Authority a copy of its contracts with its contractors prior to start of the Construction Work.

(5) The Lessee shall furnish or require its architect to furnish a full time resident engineer or, with the consent of the Port Authority, a representative of the Lessee authorized to act on behalf of the Lessee, during the construction period. The Lessee shall require certification by a licensed engineer of all pile driving data and of all controlled concrete work and such other certifications as may be requested by the Port Authority from time to time.

(6) As between the Port Authority and the Lessee, the Lessee agrees to be solely responsible for any plans and specifications used by it and for any loss or damages resulting from the use thereof, notwithstanding the same have been approved by the Port Authority and notwithstanding the incorporation therein of Port Authority recommendations or requirements. Notwithstanding the requirement for approval by the Port Authority of the contracts to be entered into by the Lessee or the incorporation therein of Port Authority requirements or recommendations, and notwithstanding any rights the Port Authority may have reserved to itself hereunder, the Port Authority shall have no liabilities or obligations of any kind to any contractors engaged by the Lessee or for any other matter in connection therewith and the Lessee hereby releases and discharges the Port Authority, its Commissioners, officers, representatives and employees of and from any and all liability, claims for damages or losses of any kind, whether legal or equitable, or from any action or cause of action arising or alleged to arise out of the performance of any Construction Work pursuant to the contracts between the Lessee and its contractors, except for any of the foregoing which result solely from the wilful misconduct, or the sole negligence of, the Port Authority, its Commissioners, officers, agents and employees. Any warranties contained in any construction contract entered into by the Lessee for the performance of the Construction Work hereunder shall be for the benefit of the Port Authority, as well as the Lessee.

(7) The Port Authority shall have the right, through its duly designated representatives, to inspect the Construction Work and the plans and specifications thereof, at

any and all reasonable times during the progress thereof and from time to time, in its discretion, to take samples and perform testing in any part of the Construction Work.

(8) The Lessee agrees that it shall deliver to the Port Authority two (2) sets of "as built" drawings of the Construction Work. One set of drawings shall be printed on Mylar transparencies with the image of the New York seal of the Lessee's Architect or Engineer of Record on each drawing. The associated Architect's or Engineer's signature can also be imaged or signed in pencil on each drawing. The second set of drawings shall consist of blue line paper prints, each with the raised embossed New York seal of the Architect or Engineer of Record appropriately signed in ink. The Lessee shall during the term of this Lease keep said drawings current showing thereon any changes or modifications which may be made. No changes or modifications shall be made without prior Port Authority consent.

(9) The Lessee shall, if requested by the Port Authority, take all reasonable measures to prevent erosion of the soil and the blowing of sand during the performance of the Construction Work, including but not limited to, the fencing of the premises or portions thereof or other areas and the covering of open areas with asphaltic emulsion or similar materials as the Port Authority may direct.

(10) Any soil, dirt, sand or other matter (hereinafter in this subparagraph [10] collectively called "the matter") excavated by the Lessee during the course of the Construction Work and not used at the site shall be delivered and deposited by the Lessee at its expense to any location on the Airport or to any location off the Airport within the Port of New York District as may be designated by the Port Authority prior to the time of removal thereof from the Airport, subject to and in accordance with the provisions of Section 3 hereof. The entire proceeds, if any, of the sale or other disposition of the matter shall belong to the Port Authority. Notwithstanding the foregoing the Port Authority may elect by prior written notice to the Lessee to waive any rights it may have hereunder as to all or portions of the matter in which event the Lessee at the Lessee's expense shall dispose of the same without further instruction from the Port Authority, subject to and in accordance with the provisions of Section 3 hereof.

(11) The Lessee shall pay or cause to be paid 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 Construction Work, and shall cause its contractors and subcontractors to pay all such claims lawfully made against them, provided, however, that nothing herein contained shall be construed to limit the right of the Lessee to contest any claim of a contractor, subcontractor, materialman, workman or other person and no such claim shall be

considered to be an obligation of the Lessee within the meaning of this Section unless and until the same shall have been finally adjudicated. The Lessee shall use its best efforts to resolve any such claims and shall keep the Port Authority fully informed of its actions with respect thereto.

(12) (i) The Lessee in its own name as insured and with the Port Authority as an additional insured shall procure and maintain a policy or policies of Commercial General Liability Insurance, including but not limited to, coverage with a broad form property damage endorsement, premises-operations, products liability/completed-operations (for a minimum of 2 years after the Completion Date as defined in paragraph [i] of this Section) and explosion, collapse and underground property damages coverage, personal injury and independent contractors and providing for the coverage in the limit set forth below; and Contractors Pollution Liability Insurance coverage for both gradual and sudden and accidental occurrences with limits of not less than \$4,000,000 per claim subject to a deductible of not more than \$5,000 per claim, on an occurrence basis, including on-site and off-site clean-up, and being site specific; and Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles operated on the Airport, automatically covering newly acquired vehicles, and providing for coverage in the limit set forth below; with contractual liability endorsements covering the obligations assumed by the Lessee pursuant to subparagraphs (1) and (6) of this paragraph (c) and the obligations required of the Lessee's contractors pursuant to subparagraph (1) of this paragraph (c); and Workers' Compensation Insurance in accordance with the requirements of law; which insurance shall be in addition to all policies of insurance otherwise required by the Lease, or the Lessee may provide such insurance by requiring each contractor engaged by it for the Construction Work to procure and maintain such insurance in the contractor's name as insured and with the Port Authority and the Lessee as additional insureds including such contractual liability endorsements, said insurance not to 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 coverage under the contractual liability endorsement. The said policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the named insured thereunder with respect to any claim or action against the named insured by a third person shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority thereunder as an additional insured. In addition, said policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Port Authority thereunder with respect to any claim or action against the Port Authority by the Lessee or its contractor(s) shall be the same as the protections afforded the named insured thereunder with

respect to any claim or action against the named insured by a third person as if the Port Authority were the named insured thereunder. Said insurance shall be in not less than the following amounts:

Minimum Limits

- |   |                 |
|---|-----------------|
| (i) Commercial General Liability Insurance:<br>Combined single limit per occurrence for death, bodily injury and property damage liability  | \$50,000,000.00 |
| (ii) Commercial Automobile Liability Insurance: (covering owned, non-owned and hired vehicles)<br>Combined single limit per occurrence for death, bodily injury and property damage liability | \$25,000,000.00 |

(ii) The Lessee shall also procure and maintain in effect, or cause it to be procured and maintained in effect, Workers' Compensation Insurance and Employer's Liability Insurance in accordance with and as required by law.

(iii) The insurance required hereunder shall be maintained in effect during the performance of the Construction Work and shall be in compliance with and subject to the provisions of paragraphs (c) and (d) of Section 12 of the Lease.

(13) The Lessee shall be under no obligation to reimburse the Port Authority for expenses incurred by the Port Authority in connection with its normal review and approval of the original plans and specifications submitted by the Lessee pursuant to this Section, which review and approval process is generally described in the booklet entitled "Tenant Construction Review Manual", dated March 1997, a copy of which the Lessee hereby acknowledges it has received from the Port Authority. The Lessee, however, agrees to pay to the Port Authority upon its demand the expenses incurred by the Port Authority in connection with any additional review for approval of any changes, modifications or revisions of the original plans and specifications which may be proposed by the Lessee for the Port Authority's approval. The expenses of the Port Authority for any such additional review and approval shall be computed on the basis of direct payroll time expended in connection therewith plus 100%. Wherever in this Lease reference is made to "direct payroll time," costs computed thereunder shall include a pro rata share of the cost to the Port Authority of providing employee benefits, including but not limited to, pensions, hospitalization, medical and life insurance, vacations and holidays. Such computations shall be in accordance with the Port Authority's accounting

principles as consistently applied prior to the execution of this Lease.

(14) The Lessee shall, prior to the commencement of construction and at all times during construction, submit to the Port Authority all engineering studies with respect to construction and samples of construction materials as may be required at any time and from time to time by the Port Authority.

(15) The Lessee shall procure and maintain, or cause to be procured and maintained, Builder's Risk (all Risk) Completed Value Insurance on a complete value form covering the Construction Work during the performance thereof including material delivered to the premises but not attached to the realty, or existing property, until the Construction Work is completed. Such insurance shall be in compliance with and subject to the applicable provisions of Section 13 hereof and shall name the Port Authority, the City of New York, the Lessee and its contractors and subcontractors as additional insureds, as their respective interests may appear, and such policy shall provide that the loss shall be adjusted with and payable to the Lessee. Such proceeds shall be used by the Lessee for the repair, replacement or rebuilding of the Construction Work and any excess shall be paid over to the Port Authority.

(16) Upon the request of the Port Authority from time to time, the Lessee shall submit to the Port Authority its forecasts of the number of people who will be working at various times during the period of construction and the term of the letting hereunder at the premises, the expected utility demands, noise profiles and such other information as the Port Authority may reasonably require. The Lessee shall continue to submit its latest forecasts and such other information as may be required as aforesaid as the Port Authority shall from time to time and at any time request.

(17) The Lessee shall comply with all the terms and provisions of the approved Construction Application. In the event of any inconsistency between the terms of any Construction Application and the terms of this Lease, the terms of this Lease shall prevail and control.

(18) Without limiting any of the terms and conditions of this Agreement, the Lessee understands and agrees that it shall put into effect prior to the commencement of any 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 Schedules E and F, attached hereto and hereby made a part hereof. The provisions of said Schedules E and F shall be applicable to the Lessee's contractor or contractors and subcontractors at any tier of construction as well as the Lessee and the Lessee shall include the provisions of said Schedules E and F within all of its construction contracts so as to make said provisions and

undertakings the direct obligation of the construction contractor or contractors and subcontractors at any tier of construction. The Lessee shall and shall require its said contractor or 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 called for hereunder as the Port Authority may request at any time and from time to time regarding the affirmative action, MBE and WBE programs of the Lessee and its contractor or contractors and subcontractors at any tier of construction, and the Lessee shall and shall also require that its contractor or 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 hereof and said Schedules E and F to effectuate the goals of the affirmative action, MBE and WBE programs.

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

(i) 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;

(ii) 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;

(iii) 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;

(iv) The contractor will include the provisions of items (i) through (iii) 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;

(v) "Contractor" as used herein shall include each contractor and subcontractor at any tier of construction.

(20) The Lessee understands that there may be communications and utility lines and conduits located on or under the site which do not, and may not in the future, serve the premises. The Lessee agrees, at its sole cost and expense, if directed by the Port Authority to do so within a reasonable period of time following notice to the Port Authority of the existence thereof, but prior to the issuance by the Port Authority of the certificate as set forth in paragraph (h) hereof, to relocate and reinstall such communications and utility lines and conduits as may be deemed necessary by the Port Authority in connection with the Construction Work on the premises or off the premises as directed by the Port Authority and to restore all affected areas (such work being hereinafter collectively called "the relocation work"). The Lessee shall perform the relocation work subject to and in accordance with all the terms and provisions of this Section and the relocation work shall be and become a part of the Construction Work, it being understood, however, that the relocation work shall not be or become a part of the premises hereunder. The Lessee hereby acknowledges that there is a sanitary sewer and a storm sewer located on the site and that no building construction or any other portion of the Construction Work, other than paving, shall be permitted over said sanitary sewer. In the event the Lessee desires to place any building or any other portion of the Construction Work (other than paving) over the area presently occupied by said sanitary sewer, the Lessee, after approval has been received from the Port Authority, shall relocate, at its sole cost and expense, the said sanitary sewer as directed by the Port Authority and shall restore all affected areas. As part of the Construction Work, the Lessee, after approval has been received from the Port Authority, shall relocate, at its sole cost and expense, the said storm sewer as directed by the Port Authority and shall restore all affected areas. In the event there are utility lines located in the area shown in cross hatching on Exhibit A (Sheet 3 of 3), the Lessee shall relocate them as directed by the Port Authority at the sole cost and expense of the Port Authority.

(21) Nothing contained in the Lease shall grant or be deemed to grant any contractor, architect, supplier, subcontractor or any other person engaged by the Lessee or any of its contractors in the performance of any part of the Construction Work any right of action or claim against the Port Authority, its Commissioners, officers, agents and employees with respect to any

work any of them may do in connection with the Construction Work. Nothing contained herein shall create or be deemed to create any relationship between the Port Authority and any such contractor, architect, supplier, subcontractor or any other person engaged by the Lessee or any of its contractors in the performance of any part of the Construction Work and the Port Authority shall not be responsible to any of the foregoing for any payments due or alleged to be due thereto for any work performed or materials purchased in connection with the Construction Work.

(d) The Lessee may wish to commence construction of portions of the Construction Work prior to the approval by the Port Authority of the Lessee's plans and specifications therefor pursuant to paragraph (b) hereof and if it does it shall submit a written request to the Port Authority setting forth the work it proposes to then do, it being understood that the demolition work to be performed by the Lessee shall be performed without connection to plans and specifications for construction. The Port Authority shall have full and complete discretion as to whether or not to permit the Lessee to proceed with said work. If the Port Authority has no objection to the Lessee's proceeding with the work, it shall do so by writing a letter to the Lessee to such effect. If the Lessee performs the work covered by said letter it agrees all such work shall be performed subject to and in accordance with all of the provisions of the approval letter and subject to and in accordance with the following terms and conditions:

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

(2) Nothing contained in any approval hereunder shall constitute a determination or indication by the Port Authority that the Lessee has complied with the applicable governmental laws, ordinances, enactments, resolutions, rules and orders of Governmental Agencies, including but not limited to, those of the City of New York which may pertain to the work to be performed.

(3) The approved work will be performed in accordance with and subject to the terms, indemnities and provisions of the Lease covering the Construction Work and

with the terms and conditions of any Construction Application which the Port Authority may request the Lessee to submit even though such Construction Application may not have, at the time of the approval under this paragraph (d), been approved by the Port Authority. In the event of any inconsistency between the terms of any Construction Application and the terms of this Lease, the terms of this Lease shall prevail and control.

(4) No work under any such approval shall affect or limit the obligations of the Lessee under all prior approvals with respect to its construction of the Construction Work.

(5) The Lessee shall comply with all requirements, stipulations and provisions as may be set forth in the aforesaid letter of approval.

(6) In the event that the Lessee shall at any time during the construction of any portion of the Construction Work under the approval granted by the Port Authority pursuant to this paragraph (d) fail, in the opinion of the Resident Engineer of the Port Authority at the Airport, to comply with all of the provisions of this Lease with respect to the Construction Work, the Construction Application or the approval letter covering the same or be, in the opinion of the said Resident Engineer, in breach of any of the provisions of this Lease, the Construction Application or the approval letter covering the same, the Port Authority shall have the right, acting through said Resident Engineer, to cause the Lessee to cease all or such part of the Construction Work as is being performed in violation of this Lease, the Construction Application or the approval letter. Upon such written direction from the Resident Engineer specifying said non-conformance or breach, the Lessee shall promptly cease construction of the Construction 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 Construction Work that has been or is to be performed so that the same will comply with the provisions of this Lease, the Construction Application and the approval letter covering the Construction Work. The Lessee shall not commence construction of the portion of the Construction Work that has been halted until such written approval has been received.

(7) It is hereby expressly understood and agreed that neither the field engineer covered by paragraph (e) below nor the Resident Engineer mentioned in subparagraph (6) above has any authority to approve any plans and specifications of the Lessee with respect to the Construction Work, to approve the construction by the Lessee of any portion of the Construction Work or to agree to any variation by the Lessee from compliance with the terms of this Lease, or the Con-

struction Application or the approval letter with respect to the Construction Work. Notwithstanding the foregoing, should the field engineer or the Resident Engineer give any directions or approvals with respect to the Lessee's performance of any portions of the Construction Work which are contrary to the provisions of this Lease, the Construction Application or the approval letter, said directions or approvals shall not affect the obligations of the Lessee as set forth herein nor release or relieve the Lessee from the strict compliance therewith. It is hereby further understood and agreed that the Port Authority has no duty or obligation of any kind whatsoever to inspect or police the performance of the Construction 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 Resident Engineer has not exercised the Port Authority's right to require the Lessee to cease its construction of all or any part of the Construction 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 portion of the Construction Work in accordance with the terms of the Lease, the Construction Application or the approval letter nor shall such fact be or be deemed to be a waiver by the Port Authority from the requirement of strict compliance by the Lessee with the provisions of the Lease, the Construction Application and the approval letter with respect to the Construction Work.

(8) Without limiting the discretion of the Port Authority hereunder, the Port Authority hereby specifically advises the Lessee that even if the Port Authority hereafter in the exercise of its discretion wishes to grant approvals under this paragraph (d), it may be unable to do so, so as to permit the Lessee to continue work without interruption following its completion of the work covered by any prior approval hereunder. The Lessee hereby acknowledges that if it commences work pursuant to this paragraph (d), it shall do so with full knowledge that there may not be continuity by it in the performance of its Construction Work under the procedures of this paragraph (d).

(9) No prior approval of any work shall create or be deemed to create any obligation on the part of the Port Authority to permit subsequent work to be performed prior to the approval by the Port Authority of the Lessee's complete plans and specifications therefor.

(e) The Lessee will give the Port Authority fifteen (15) days' notice prior to the commencement of construction. The Port Authority will assign a field engineer to the Construction Work for such periods of time as the Port Authority, in its sole discretion, shall deem desirable from time to time up to and including five (5) days per week. The Lessee shall pay to the Port Authority for the services of said engineer at the following

daily rates (prorated approximately for periods of less than one day): the rate of (Ex. 2.a.)

Nothing herein shall prevent the Lessee from requesting the Port Authority to assign said engineer more frequently than as set forth herein, or the Port Authority from complying with such request, but the Port Authority shall not be obligated to do so. Nothing contained herein shall affect any of the provisions of paragraph (h) hereof or the rights of the Port Authority thereunder. This agreement for the services of said field engineer may be revoked at any time by either party on five (5) days' written notice to the other.

(f) (1) The Construction Work shall be constructed in such a manner so as to minimize (considering the nature of the Construction Work and of the Lessee's operations) air pollution, water pollution or any other type of pollution and a minimum of noise emanating from, arising out of or resulting from the operation, use or maintenance of the premises by the Lessee and from the operations of the Lessee under this Agreement. Accordingly, and in addition to all other obligations imposed on the Lessee under this Agreement and without diminishing, limiting, modifying or affecting any of the same, the Lessee shall be obligated to construct as part of the Construction Work hereunder such structures, fences, equipment, devices and other facilities as may be necessary or appropriate to accomplish the foregoing and each of the foregoing shall be and become a part of the Construction Work hereunder.

(2) Notwithstanding the provisions of subparagraph (1) above and in addition thereto, the Port Authority hereby reserves the right from time to time and at any time during the term of the Lease to require the Lessee subsequent to the completion of the Construction Work to design and construct at its sole cost and expense such further reasonable structures, fences, equipment, devices and other facilities as may be necessary or appropriate to accomplish the objectives as set forth in the first sentence of subparagraph (1) hereof. All locations, the manner, type and method of construction and the size of any of the foregoing shall be determined by the Port Authority, with the Lessee to have an opportunity to consult with the Port Authority with respect to the foregoing. Any requirements imposed by the Port Authority that would necessitate additional construction work under this subparagraph (f) (2) by the Lessee shall not be inconsistent with the requirements imposed by the Port Authority at that time on other tenants at the Airport. 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. All other provisions of this Section 2 with respect to the Construction Work shall apply and pertain with like effect to any work which the Lessee

is obligated to perform pursuant to this paragraph (f) and upon completion of each portion of such work it shall be and become a part of the premises. The obligations assumed by the Lessee under this paragraph (f) are a special inducement and consideration to the Port Authority in granting this Lease to the Lessee.

(g) Except as may be otherwise provided herein, title to all the Construction Work shall pass to The City of New York as the same, or any part thereof is erected, constructed or installed and the same shall be and become a part of the premises hereunder. For purposes of this paragraph, the phrase "the Construction Work" shall not include the Lessee's personal property or trade fixtures or equipment, but shall include such cargo handling system and equipment as are permanently affixed to the realty or are necessary for the proper operation of an air cargo facility.

(h) (1) When all the Construction Work is substantially completed and ready for use the Lessee shall advise the Port Authority to such effect and shall deliver to the Port Authority a certificate by an authorized officer of the Lessee and the Lessee's architect or engineer certifying that the Construction Work has been constructed to substantial completion strictly in accordance with the approved plans and specifications and the provisions of this Lease (as to the certificate from the Lessee) and in compliance with all applicable laws, ordinances and governmental rules, regulations and orders. Thereafter the Construction Work will be inspected promptly by the Port Authority and if the same has been constructed to substantial completion as certified by the Lessee and the Lessee's architect or engineer, a certificate to such effect shall be delivered to the Lessee by the Port Authority, subject to the condition that all risks thereafter with respect to the construction and installation of the same and any liability therefor for negligence or other reason shall, as between the Lessee and the Port Authority, be borne by the Lessee. Except as provided in subparagraph (2) hereof, the Lessee shall not use or permit the use of the Construction Work for the purposes set forth in the Lease until such certificate is received from the Port Authority.

(2) The Lessee may wish to occupy a portion of the Cargo Facility prior to the issuance by the Port Authority of the certificate referred to in subparagraph (1) above. In addition to and without affecting the obligations of the Lessee under the aforesaid subparagraph (1) and provided that the plans and specifications for the Construction Work set forth in paragraph (b) of this Section 2 shall have been approved by the Port Authority, when an integral and material portion of the Construction Work is substantially completed and is properly usable, the Lessee may advise the Port Authority to such effect and may deliver to the Port Authority (i) a certificate of an authorized officer of the Lessee certifying that such portion of the Construction Work has been constructed to substantial completion in accordance with the approved plans and specifications and the

provisions of this Lease and in compliance with all applicable laws, ordinances and governmental rules, regulations and orders and specifying that such portion of the Construction Work can be properly used even though the Construction Work has not been completed and that the Lessee desires such use and (ii) a certificate of the Lessee's architect or engineer registered in the State of New York certifying that such portion of the Construction Work has been constructed to substantial completion in accordance with the approved plans and specifications and in compliance with all applicable laws, ordinances and governmental rules, regulations and orders and specifying that such portion of the Construction Work can be properly used even though the Construction Work has not been completed and that the Lessee desires such use. Thereafter said portion of the Construction Work will be inspected by the Port Authority and if the same has been constructed to substantial completion as specified by the Lessee, the Port Authority may in its sole discretion deliver a certificate of the Port Authority to the Lessee with respect to each such portion of the Construction Work permitting the use of such portion of the Cargo Facility for the purposes set forth in the Lease (each such certificate being hereinafter referred to as a "partial occupancy certificate"), subject to the condition that all risks thereafter in connection with the construction and installation of the same and any liability therefor for negligence or other reason shall, as between the Lessee and the Port Authority, be borne by the Lessee and subject to such further conditions, restrictions and requirements as the Port Authority may at that time impose. Moreover, if at any time prior to the issuance of the certificate required in subparagraph (1) above the Port Authority determines that such portion of the Cargo Facility or the use thereof is unsafe or in violation of the law or the Lease remaining uncured beyond applicable notice and cure periods, the Lessee shall promptly upon receipt of a written notice from the Port Authority cease the use of such portion of the Cargo Facility which had been in use pursuant to permission granted in this subparagraph (2). For purposes of this Lease, the date specified in each said partial occupancy certificate shall be referred to as a "partial occupancy date" and the date specified in the first partial occupancy certificate shall be the "Initial Occupancy Date".

(i) The date specified in the Port Authority certificate referred to in subparagraph (h) (1) of this Section 2 covering the Construction Work shall be referred to in this Agreement of Lease as the "Completion Date."

(j) The Port Authority shall, at no cost or expense to the Lessee, if and to the extent required, bring appropriate roadway access stubs and service lines for the supply of cold water, electric power, natural gas, telephone, and sanitary and storm sewers (said service lines and sanitary and storm sewers being hereinafter collectively referred to as "utility service lines") to such locations at the perimeter of the site or to the nearest manhole or to other reasonable locations off the site as

the Port Authority, in consultation with the Lessee, shall determine. The Lessee at its sole cost and expense is hereby obligated to tie its utility lines and roadways into such locations at or near the perimeter of the site where such utility service lines and roadway access stubs will be brought by the Port Authority hereunder. The Port Authority shall have no obligation to make available any utility service lines or roadway access stubs to any location with respect to the Cargo Facility prior to receiving the certificate of the Lessee and of the Lessee's architect or engineer that all of the applicable Construction Work has been substantially completed or that a portion of the Construction Work is properly usable, all as provided in paragraph (h) hereof, and that the Lessee is ready to tie its utility lines and roadways into the utility service lines and roadway access stubs to be furnished by the Port Authority to the site.

(k) Notwithstanding anything to the contrary contained in the Lease and in addition to any easements and rights as may be elsewhere granted therein, the Port Authority hereby grants to and agrees to make available to the Lessee, as needed by the Lessee and as identified in the TAA process by the Lessee and approved by the Port Authority, temporary access and all temporary and permanent (but not beyond the expiration date or earlier termination of this Lease) utility accesses to those parts of the Airport (subject to the rights of others with respect thereto) necessary to carry out the Lessee's construction obligations hereunder as identified in the TAA process and approved by the Port Authority, including accesses for actual Construction Work and, as to the permanent utility accesses, those necessary to the Lessee to operate the premises.

### Section 3. Environmental Responsibilities

#### (a) Definitions:

(i) "Environmental Damages" shall mean any one or more of the following: (i) the presence on, about or under the premises of any Hazardous Substance (as hereinafter defined) whether such presence occurred prior to or during the term of the letting under this Agreement or resulted from any act or omission of the Lessee or others; (ii) the disposal, release or threatened release of any Hazardous Substance from the premises; (iii) the presence of any Hazardous Substance on, about or under other property at the Airport as a result of the Lessee's use and occupancy of the premises or a migration of a Hazardous Substance from the premises; (iv) any personal injury, including wrongful death, or property damage arising out of or related to any such Hazardous Substances; and (v) the violation of any Environmental Requirements, as hereinafter defined, pertaining to any such Hazardous Substance, the premises or the activities thereon.

(ii) "Environmental Requirements" or "Environmental Requirement" shall mean (A) all applicable present and future

laws, statutes, enactments, resolutions, regulations, rules, directives, ordinances, codes, licenses, permits, orders, memoranda of agreement or understanding, approvals, guidances, plans, authorizations, requirements and similar items, of all Governmental Authorities, (B) all pollution prevention programs, "best management plans" and other voluntary programs adopted and agreements made by the Port Authority with Governmental Authorities, as long as such do not provide for standards more stringent than those described in item (A) of this subparagraph (a) (ii), and (C) all applicable judicial, administrative, and regulatory decrees, judgments, and orders relating to the protection of human health or the environment, and in the event that there shall be more than one compliance standard, as among the various Governmental Authorities, the standard for any of the foregoing to be that which requires the lowest level of a Hazardous Substance, taking into account the nature and intended use of the property, the foregoing to include, without limitation:

(1) All requirements pertaining to reporting, licensing, permitting, investigation, and remediation 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 or the transfer of property on which Hazardous Substances exist; and

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

(iii) "Hazardous Substances" or "Hazardous Substance" 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 removal, containment or restriction 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.

(iv) "Governmental Authority" or "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 hereof, and except as may be otherwise provided herein, the Lessee hereby expressly agrees to assume all responsibility for and relieve the Port Authority from any and all risks of any kind whatsoever caused by, arising out of or in connection with, the conditions of the premises whether any such conditions existed prior to, on or after the effective date of the letting of the premises hereunder, including without limitation, all Environmental Requirements (including without limitation the Clean Air Act, CERCLA, RCRA, the Solid Waste Disposal Act, the Toxic Substances Control Act and the Federal Water Pollution Control Act) relating to the premises and all Environmental Damages and, except for Environmental Damages arising from the sole acts of the Port Authority and as may be otherwise provided herein, the Lessee shall indemnify, release and hold harmless the Port Authority, its Commissioners, officers, agents and employees from and against all such risks and responsibilities and all Environmental Damages and Environmental Requirements. 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) (1) In addition to and without limiting the generality of the obligations of the Lessee set forth above and elsewhere in this Agreement, including but not limited to its obligation to remediate Parcel B as set forth in subparagraph (a)(2) of Section 2 hereof (except as may be otherwise provided herein), the Lessee shall, at its sole cost and expense and in accordance with and subject to the provisions of Section 2 hereof, upon notice from the Port Authority, promptly take all actions to remove and remediate all Hazardous Substances which result from the Lessee's use and occupancy of the premises and all other Hazardous Substances on, about or under the premises or which have migrated from the premises to any adjoining property, which any Governmental Authority or any applicable Environmental Requirements require to be remediated, or which 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, risk assessments, reports and remedial plans, and the performance of any cleanup, remediation, containments, operation, maintenance, monitoring or restoration work; the standard for any of the foregoing to be that which requires the lowest level of a Hazardous Substance or such higher level as may be approved in writing by the Port Authority. Any such actions 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. Notwithstanding the foregoing or any other provision of this Agreement except the Lessee's remediation obligation set forth in subparagraph (a)(2) of Section 2 hereof, it is understood and agreed that the Lessee shall not be obligated or liable for the remediation of any Hazardous Substances or contamination of soil and ground water or for any Environmental Damages to the extent that same is caused by (1) the acts or omissions of the Port Authority or (2) the flow of ground water or the leaching soil from outside the premises or (3) any party other than the Lessee, it being understood that the Lessee shall have the burden of proof to establish to the satisfaction of the Port Authority that the same was not caused by the Lessee.

(2) The parties acknowledge that there presently exists no State of New York standards with respect to the removal of subsurface ethylene glycol, but that standards are expected to be issued in the near future, and agree that for purposes of this Agreement ethylene glycol shall be deemed a Hazardous Substance. In connection with the removal of any storage tank at the premises, if there is soil, ground water or other subsurface matter showing visible signs (staining, etc.) of ethylene glycol contamination, the Lessee shall remove and dispose of such matter in a manner consistent with the disposal of a Hazardous Substance. When the relevant standards for removal of ethylene glycol are issued, the Lessee shall perform such further remediation at the premises as may be required in accordance with the Environmental Requirements.

(d) Without limiting any other of the Lessee's obligations under this Agreement, the Lessee shall provide the General Manager of the Airport, at the sole cost and expense of the Lessee, with such information, documentation, records, correspondence, notices, reports, test results, and certifications and any other information in the Lessee's possession 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 communications required pursuant to the Environmental Requirements and the Lessee shall promptly certify 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 body on behalf of the Lessee and at the Lessee's sole cost and expense. Further, the Lessee agrees unless directed otherwise by the Port Authority, to provide the General Manager of the Airport with copies of all information, documentation, records, correspondence, notices, certifications, reports, test results and all other submissions provided by the Lessee to a governmental body at the same time such are provided

to a governmental body and by a governmental body to the Lessee at the time the same are provided to the Lessee with respect to any Environmental Requirements.

(e) In addition to and without limiting the generality of the obligations of the Lessee set forth above, the parties hereby agree as follows:

(1) The Lessee hereby acknowledges that it has received from the Port Authority a copy of the following report, which shall be included herein by reference as if set forth herein in full, consisting of a "Final Baseline Site Assessment For John F. Kennedy International Airport, Jamaica, New York" prepared by Kemron Environmental Services, Inc. for the Lessee, dated April 2000 (hereinafter called the "Report");

(2) In addition to and without limiting the Lessee's remediation obligation set forth in subparagraph (a) (2) of Section 2 hereof, the Lessee shall be fully responsible, at its sole cost and expense, for the removal, clean-up, remediation, containment, restoration, final disposition of all Hazardous Substances (x) discovered subsequent to and (y) above the levels as shown in the Report or as required by Governmental Authorities; the standard for any of the foregoing to be that which requires the lowest level of a Hazardous Substance or such higher level as may be approved in writing by the Port Authority. Notwithstanding the foregoing but without limiting the Lessee's remediation obligation set forth in subparagraph (a) (2) of Section 2 hereof, it is understood and agreed that the Lessee shall not be obligated or liable for the remediation of any Hazardous Substances or contamination of soil and ground water or for any Environmental Damages in connection therewith to the extent that same (i) is caused by the acts or omissions of the Port Authority or (ii) is caused by the flow of ground water or the leaching of soil from outside the premises or (iii) is at or below the levels thereof as shown in the Report; and

(3) In the event that the Lessee fails to comply with or perform any of its obligations in subparagraph (a) (2) of Section 2 hereof or in this paragraph (e) within a reasonable time following the Port Authority's written notice and subject to the force majeure provisions of this Agreement, the Port Authority may elect (but shall not be required) to perform such obligations and, upon demand, the Lessee shall pay to the Port Authority as additional rent its costs thereof, including all overhead costs as reasonably determined by the Port Authority.

(f) Without limiting the generality of any other term or provision of this Agreement, the obligations of the Lessee pursuant to this Section 3 shall survive the expiration or termination of this Agreement.

(g) Nothing in this Section 3 shall limit, modify or otherwise alter the rights and remedies which the Port Authority

or Lessee may have against third parties at law, equity or otherwise.

Section 4. Term

(a) The term of the letting hereunder shall commence on November 1, 2000 (hereinafter called the "Execution Date") and, unless sooner terminated or extended as set forth below, the term of the letting shall expire on December 31, 2015.

(b) Contemporaneously with the execution and delivery of this Lease to the Lessee, the Port Authority is delivering possession of the premises to the Lessee, vacant and free of tenancies and rights of occupancy, other than the tenancy created by this Lease.

(c) Without limiting any other provision of this Section 4, or of Sections 30 and 33 hereof or any other term, provision, covenant and condition of this Agreement, the Port Authority, but only in the event there is a Basic Lease Extension Supplement (as hereinafter defined), hereby agrees to extend the term of the letting hereunder from the expiration date set forth in paragraph (a) hereof (December 31, 2015) to December 31, 2020 as shall be set forth in the Lease Supplement (as hereinafter defined), said latter date being herein referred to as the "Extension Date;" subject, however, to the following additional terms and conditions:

(1) The Lease shall immediately prior to the effective date of the Basic Lease Extension Supplement and immediately prior to the date of the Port Authority's execution and delivery of the Lease Supplement be in full force and effect;

(2) The Lessee immediately prior to the effective date of the Basic Lease Extension Supplement and immediately prior to the date of the Port Authority's execution and delivery of the Lease Supplement shall be in full compliance with all of the terms, provisions, covenants and conditions of this Agreement on its part to be kept, performed and observed and not be in default or breach of any of the same remaining uncured beyond any applicable notice and cure periods;

(3) There shall not have occurred any event of termination which is then still in effect under any term or provision of this Agreement including without limitation Sections 20, 22, or 39 hereof;

(4) The Lessee shall have completed the Construction Work as defined in and in accordance with Section 2 of the Lease;

(5) The Lessee shall submit to the Port Authority

such written representations, warranties and certifications, as may be requested by the Port Authority, which the Lessee shall then make as to each of the matters set forth in subparagraphs (1) through (4) above.

(6) (i) The Port Authority shall have no obligation whatsoever to the Lessee or to any other person or entity to extend the term of the letting hereunder to the Extension Date or to extend the term of the letting of the Basic Lease or to enter into the Lease Supplement unless the Basic Lease Extension Supplement is fully entered into and is in full force and effect prior to December 31, 2015.

(ii) As used herein the term "Basic Lease Extension Supplement" shall mean (x) an agreement fully and duly executed by the Port Authority and the City of New York in a form satisfactory to the Port Authority and the City of New York and which has been fully and duly authorized by the Board of Commissioners of the Port Authority and with the approval of the authorized officials and entities of the City of New York and which supplements and amends the Basic Lease whereby the Basic Lease and the term of the letting thereunder is extended from December 31, 2015 to a date through or beyond December 31, 2020 or (y) any other transaction, including without limitation, an agreement of lease, sale or other transfer of the Airport to the Port Authority, whereby the Port Authority would continue as the operator of the Airport after December 31, 2015 and through or beyond December 31, 2020; provided, however, that if pursuant to any agreement or transaction of the nature described above (including any which is an interim step toward a proposed Basic Lease Extension Supplement) the Port Authority obtains rights to continue as the operator of the Airport for a period of time from December 31, 2015 through a date which is earlier than December 31, 2020, the term of the letting hereunder shall be extended through such earlier date, and the provisions of this paragraph (c) shall continue to apply, in accordance with the provisions hereof.

(7) If and only in the event there is a Basic Lease Extension Supplement, as aforesaid, the Extension Date of the term of the letting hereunder shall be set forth in a supplement to this Agreement prepared by the Port Authority and sent to the Lessee for execution by it, which supplement shall be effective as of the day preceding the expiration date of the term of the letting hereunder, as set forth in Section 4 hereof, it being understood that such supplement shall not change the location or size of the premises, the rentals hereunder or any other material provisions hereof. Notwithstanding the foregoing, in the event the Basic Lease Exten-

sion Supplement requires increased costs to be paid at, or imposes on the Port Authority increased obligations with respect to, the Airport, such supplement may require the Lessee to pay to the Port Authority the Port Authority's increased costs, or to perform the Port Authority's increased obligations, under the Basic Lease Extension Supplement which are directly or proportionately attributable or related to the premises hereunder, the Lease or the Lessee, the Port Authority agreeing that all other lessees at the Airport similarly affected shall also be obligated to pay such direct or proportionate costs or perform such direct or proportionate obligations. Within thirty (30) days after the Port Authority has sent the said proposed supplement to the Lessee, the Lessee shall have the right, but not the obligation, to properly execute and return the said proposed supplement to the Port Authority for its execution and delivery. In the event the Lessee fails so to properly execute and return the said proposed supplement to the Port Authority then the Port Authority shall have no further obligation with respect to the proposed extension of the letting hereunder and there shall be no Extension Date. If the said supplement is fully executed and delivered by both the Port Authority and the Lessee, the same shall be deemed the "Lease Supplement" as such term is used herein;

(8) (i) Nothing herein shall impose or be deemed to impose any obligation, duty, responsibility or liability whatsoever on the Port Authority to enter into the Basic Lease Extension Supplement or to enter into, hold or continue any discussions or negotiations with the City of New York or any other person or entity with respect thereto or with respect to any extension of the Basic Lease. The Port Authority shall have full, complete and sole right and discretion to discuss, negotiate and to enter into or not enter into any agreement with the City of New York for the extension of the term of the Basic Lease and as to any and all of the terms and conditions of any such extension agreement, and neither this Section nor anything contained herein shall or shall be deemed to impair, limit or affect the said right and discretion of the Port Authority nor to grant to the Lessee or any other person or entity any right, claim or remedy hereunder or otherwise with respect to the Basic Lease or any extension or non-extension of the term thereof, or, except as specifically set forth herein, with respect to the extension of the term of this Agreement. The Lessee hereby expressly understands, acknowledges, agrees and accepts that the Port Authority hereby makes no promises, representations, assurances, agreements or commitments of any kind whatsoever that it will undertake or enter into any discussions, negotiations,

or agreements with the City of New York or any other person or entity with respect to the extension of the Basic Lease.

(ii) This Lease including the Lease Supplement shall at all times be subject and subordinate to the Basic Lease (as the same may be amended, supplemented and extended including without limitation the Basic Lease Extension Supplement) and to any and all terms and provisions thereof which affect or may affect the terms and provisions of this Lease, as the same may be amended, supplemented or extended (including without limitation the Lease Supplement); it being understood and agreed that nothing in this subparagraph (ii) shall alter or affect or be deemed to have altered or affected the terms and conditions of Section 30 of the Lease.

(iii) It is expressly understood and agreed that the Port Authority shall have no obligation hereunder or otherwise to make any payment to the Lessee, including without limitation any payment of the Lessee's Unamortized Capital Investment, in the event for any reason there is no extension of the term of the letting hereunder beyond the expiration date set forth in paragraph (a) hereof, and that neither this Section nor anything contained herein nor any action taken or not taken hereunder or as a result hereof shall or shall be deemed to impose any such obligation on the Port Authority or to constitute any agreement, duty, responsibility or liability of the Port Authority for any such payment.

(d) In the event the term of the letting hereunder is extended to December 31, 2020 as provided above, the Lessee shall have an option to extend the term of the letting hereunder, upon six (6) months' notice to the Port Authority, to and including December 31, 2025 at the then-existing rental and other rates for comparable space at the Airport.

(e) Neither this Section nor any action taken or not taken hereunder or as a result hereof shall or shall be deemed to release or relieve either party from any liability or obligation to the other party or to waive, alter, limit or restrict any of the rights or remedies of either party in law or in equity.

Section 5.     Rental and Abatement

(a) The Lessee agrees to pay to the Port Authority the following rentals for the premises:

For the portion of the term of the letting from

(Ex. 2.a.)

(Ex. 2.a.)

The following terms as used in this Section 5 shall have the respective meanings given below:

(1) "CPI" or "Consumer Price Index" shall mean the Consumer Price Index for all Urban Consumers, New York, N.Y. Northeastern, N.J., All Items (1982-84=100) published by the Bureau of Labor Statistics of the United States Department of Labor.

(2) The Port Authority shall ascertain the CPI for the month of October 2000 and for the month of September 2001 and for each such month in each twelve-month period thereafter during the term of the letting hereunder after the same have been published, and the Port Authority shall also determine the annual percentage increase, if any, for each such twelve month period after the same have been published (hereinafter called "the annual CPI percentage increase").

(3) Effective on November 1, 2001, the rental for the twelve-month period commencing November 1, 2001 shall be determined as follows: the annual rental rate as set forth in paragraph (a) hereof shall be multiplied by one hundred percent (100%) plus 1/2 of the annual CPI percentage increase, if any, from October 2000 to September 2001 and the product thereof shall be compared to the sum of the product obtained by multiplying the annual rental rate as set forth in paragraph (a) hereof by four percent (4%) plus 100%, and the greater of the two said sums so obtained shall be and become the annual rental in effect for the twelve-month period commencing November 1, 2001.

(4) Effective on November 1, 2002, the rental for the twelve-month period commencing November 1, 2002 and thereafter on November 1st of each succeeding year of the term of the letting, the appropriate rentals for each such period shall be determined as follows: the annual rental rates as set forth in paragraph (a) as the same may have been last adjusted as provided herein, shall be multiplied by one hundred percent (100%) plus 1/2 of the annual CPI percentage increase, if any, as determined for the latest period from the applicable November 1st to the next annual anniversary thereof, and the product thereof shall be compared to the sum of the product obtained by

multiplying the annual rental rate as set forth in paragraph (a) hereof as the same may have been last adjusted as provided herein, by four percent (4%) plus 100%, and the greater of the two said sums so obtained shall be and become the annual rental in effect for the subsequent annual period ending on the last day of the month prior to the next annual anniversary thereof.

(5) In the event that the Consumer Price Index is not available for any specified month as herein above set forth within the time set forth for payment such index for the latest month then published shall be used to constitute the Consumer Price Index. In the event of the change of basis or the discontinuance of the publication by the United States Department of Labor of the Consumer Price Index such other appropriate index or indexes shall be substituted as may be agreed by the parties hereto as properly reflecting changes in the value of the current United States money in a manner similar to that established in the said indexes used in the latest adjustment. In the event of the failure of the parties to so agree, the Port Authority may select and use such index or indexes as it deems appropriate, provided, however, that the foregoing shall not preclude the Lessee from contesting the Port Authority's selection.

(6) In no event shall any rental rate established under this paragraph (b) be less than the rental rate it supercedes.

(c) The Lessee shall pay the rental for each portion of the term commencing on November 1, 2000 in advance in equal monthly installments equal to one-twelfth (1/12th) of the annual rentals provided for in paragraphs (a) and (b) above on the first day of each such portion of the term and on the first day of each and every month thereafter during said portion of the term. If any installment of rental payable hereunder shall be for less than a full calendar month, or if any rental is adjusted during a calendar month, then the rental payment for the portion of the month for which said payment is due shall be the monthly installment prorated on a daily basis using the actual number of days in the said month.

(d) In the event that the Lessee shall at any time by the provisions of this Agreement become entitled to an abatement of rental, then said abatement shall be computed at the following daily rates for each square foot of the premises the use of which is denied to the Lessee:

(i) For the portion of the term from November 1, 2000 to and including October 31, 2001, at the daily rate of (Ex.2.a.)

(ii) For any twelve-month period thereafter, at a daily rate equal to the daily rate set forth in item (i) of this paragraph (d) as the same has been increased in the same proportion as the rental has been increased pursuant to

paragraph (b) hereof.

(e) Upon any termination of letting hereunder (even if stated to have the same effect as expiration), the Lessee shall within twenty (20) days after the effective date of such termination, make a payment of the rental computed as follows: if the letting hereunder is terminated effective on a date other than the last day of a month the rental for the portion of that month in which the letting remains effective shall be the amount of the monthly installment of rental prorated on a daily basis, and if the monthly installment due on the first day of that month has not been paid the Lessee shall pay the prorated part of the amount of that installment; if the monthly installment has been paid, then the excess thereof shall be credited to the Lessee's obligations or promptly refunded to the Lessee.

(f) Nothing contained in the foregoing shall affect the survival obligations of the Lessee as set forth in Section 25 hereof.

Section 6.      Use of Premises

The Lessee, in accordance with all of the terms, provisions and conditions of this Lease and in connection with its business of transportation of air cargo, shall use the premises for the operation of a facility for the reception, temporary storage, consolidation and distribution of air cargo transported or to be transported on aircraft or other equipment operated by or for the Lessee (herein called "air cargo"). The occasional transportation of air cargo on aircraft of other aircraft operators shall not be deemed a violation hereof, provided, however, that the Lessee shall not make continuing use of the premises for the reception, storage, consolidation or distribution of air cargo transported or to be transported on aircraft of such other aircraft operators or act as agent for such aircraft operations, except as may be otherwise provided in the Lease. The Lessee shall also use the premises for the following purposes and for no other purpose or purposes whatsoever.

(1) As to the enclosed portions of the premises:

(i) For clerical, administrative and operations offices of the Lessee in connection with the operations of the Lessee, and of persons described in item (4) (ii) hereof solely in connection with their permitted activities at the premises.

(ii) For the reception by the Lessee of bonded and non-bonded shipments of air cargo.

(iii) For the reception, storage and distribution of repair parts, supplies and other personal property owned by the Lessee and for the performance of minor repairs to

personal property of the Lessee.

(iv) For reception and rest lounges for employees, customers and other invitees of the Lessee engaged in performing the activities at the premises permitted by the Lease.

(v) For the training of personnel employed or to be employed by the Lessee in connection with its operations hereunder.

(vi) For ancillary uses related to the airline operations of the Lessee.

(2) As to the unenclosed paved portions of the premises:

(i) For the loading and unloading by the Lessee of shipments of air cargo on and from aircraft, automobiles and trucks.

(ii) For the parking of automobiles and trucks of employees and invitees of the Lessee.

(iii) For the parking and storage of aircraft, ramp equipment and other ground support equipment of the Lessee or of its customers.

(iv) For the fueling and servicing of aircraft, ramp equipment and other ground support equipment of the Lessee or of its customers used in connection with the Lessee's operations hereunder.

(v) For ancillary uses related to the airline operations of the Lessee.

(3) As to the unpaved portions of the premises:

For appropriate landscaping purposes.

(4) As to all or any part of the premises:

(i) For ancillary uses related to the airline operations of the Lessee and for any other purpose or activity for which the Port Authority, expressly in writing, authorizes all or said portion of the premises to be used.

(ii) With the prior written consent of the Port Authority, the reception and handling of cargo and other activities permitted above by persons other than the Lessee.

#### Section 7. Ingress and Egress

(a) The Lessee, its officers, employees, customers, patrons, invitees, contractors, suppliers of material and

furnishers of service, shall have the right of ingress and egress between the premises and a city street or public way outside the Airport by means of roadways which exist, not only now but in the future, and are used in common with others having rights of passage within the Airport, provided, however, that the Port Authority may from time to time substitute other reasonably equivalent means of ingress and egress.

(b) The Lessee shall have the right of ingress and egress between the premises and the Public Landing Area at the Airport by means of taxiways which exist, not only now but in the future, and are used in common with others having rights of passage thereon, provided, however, that the Port Authority may from time to time substitute other reasonably equivalent means of ingress and egress, subject to the provisions of Section 48 hereof.

(c) The use of all roadways and taxiways 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 Airport. In addition to the rights of closure granted above, the Port Authority may, at any time, temporarily or permanently close, or consent to or request the closing of, any such roadway and any other area at the Airport presently or hereafter used as such, so long as means of ingress and egress reasonably equivalent to that provided in paragraphs (a) and (b) above are concurrently made and remain available to the Lessee. The Lessee hereby releases and discharges the Port Authority, 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 street, roadway, taxiway or other area used as such whether within or outside the Airport, provided, that the Port Authority makes available to the Lessee a means of ingress and egress reasonably equivalent to that provided in paragraphs (a) and (b) above.

Section 8. Compliance with Governmental Requirements

(a) The Lessee shall comply with all laws and ordinances and governmental rules, regulations and orders now or at any time during the term of this Lease which as a matter of law are applicable to or which affect the operations of the Lessee at the premises hereunder or the occupancy or use of the premises, and the Lessee shall, in accordance with and subject to the provisions of Section 38 hereof, 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 law, rule, regulation, requirement, order or direction.

(b) The Lessee shall procure from all governmental authorities having jurisdiction over the operations of the Lessee

hereunder and shall maintain in full force and effect throughout the term of this Agreement all licenses, certificates, permits or other authorization which may be necessary for the conduct of such operations. "Governmental authority" shall not be construed as intending to include The Port Authority of New York and New Jersey, the Lessor under this Agreement.

(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 on the premises. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

(d) Since the Port Authority has agreed in the Basic Lease to conform to the enactments, ordinances, resolutions and regulations of The City of New York 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 shall comply with all such enactments, ordinances, resolutions and regulations which would be applicable to its operations hereunder if the Port Authority were a private corporation, except in cases where the Port Authority either notifies the Lessee that it need not comply with or directs it not to comply with any such enactments, ordinances, resolutions or regulations which are applicable only because of the Port Authority's agreement in the Basic Lease. The Lessee shall, for the Port Authority's information, deliver to the Port Authority promptly 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. Any direction by the Port Authority to the Lessee not to comply with any such enactment, ordinance, resolution or regulation shall be given only pursuant to a resolution duly adopted by the Board of Commissioners of the Port Authority or by an authorized committee of its Board and if any such direction is given by the Port Authority to the Lessee, the Port Authority, to the extent that it may lawfully do so, shall indemnify and hold the Lessee harmless from and against all claims, actions, damages, liabilities, fines, penalties, costs and expenses suffered or incurred by the Lessee as a result of non-compliance with such enactment, ordinance, resolution or regulation, and the Lessee shall have no indemnity obligation under Section 2 (c) (1) or Section 15 hereof with respect to the aforesaid damages, costs and expenses.

(e) 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 hereof respecting governmental requirements.

(f) The Lessee shall have such time within which to comply with the aforesaid laws, ordinances, rules and regulations as the authorities enforcing the same shall allow.

#### Section 9. Rules and Regulations

(a) The Lessee covenants and agrees to observe and obey (and to require its officers, employees, guests, invitees and those doing business with it to observe and obey) the Rules and Regulations of the Port Authority in effect as of the execution of this Agreement and such reasonable future Rules and Regulations and amendments and supplements to existing Rules and Regulations for the government of the conduct and operations of the Lessee and others on the premises as may from time to time during the letting be promulgated by the Port Authority for reasons of safety, health, sanitation or good order. The obligation of the Lessee to require such observance and obedience on the part of its guests, invitees and business visitors shall obtain only while such persons are on the premises. The Port Authority agrees that, except in cases of emergency, it will give notice to the Lessee of every such future rule or regulation adopted by it at least ten (10) days before the Lessee shall be required to comply therewith.

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

(c) Notwithstanding the foregoing, the failure of the Lessee, its officers, employees, guests, invitees and those doing business with it to observe and obey Port Authority Rules and Regulations shall not be a breach of this Agreement as and to the extent compliance therewith would constitute a violation of any governmental law, rule, regulation, requirement, order or direction.

#### Section 10. Various Obligations of the Lessee

(a) The Lessee shall conduct its operations hereunder (considering the nature of such operations) in an orderly and proper manner so as not to unreasonably annoy, disturb or be offensive to others at or off the Airport. The Lessee shall take all reasonable measures to eliminate or reduce as low as possible vibrations originating on the premises tending to damage any equipment, structure, building or portion of a building which is on the premises, or is a part thereof, or is located elsewhere on or off the Airport, and to keep the sound level of its operations audible off the premises as low as possible.

(b) The Lessee shall use its best efforts to conduct all its operations at the premises in a safe and careful manner.

(c) The Port Authority shall have the right to object to the Lessee regarding the conduct and demeanor of the employees of the Lessee whereupon the Lessee will take all steps reasonably necessary to remove the cause of the objection. If requested by the Port Authority the Lessee shall supply and shall require its employees to wear or carry badges or other suitable means of identification, which shall be subject to the prior and continuing approval of the General Manager of the Airport.

(d) The Lessee shall exercise reasonable control over all vehicular traffic on the roadways or other areas within the premises and shall take all precautions reasonably necessary to promote the safety of its customers, patrons, business visitors and all other persons. The Lessee shall employ such means as may be necessary to direct the movement of vehicular traffic within the premises to prevent traffic congestion on the public roadways leading to the premises.

(e) The Lessee shall remove from the Airport or otherwise dispose of in a manner approved by the General Manager of the Airport all garbage, debris, and other waste materials (whether solid or liquid) arising out of its occupancy of the premises or out of its operations. Any such waste materials which may be temporarily stored in the open shall be kept in suitable garbage and waste receptacles, the same to be made of metal or other suitable material and equipped with tightfitting covers and to be of a design safely and properly to contain whatever material may be placed therein. The Lessee shall use extreme care when effecting removal of all such waste materials and shall effect such removal at such times and by such means as first approved by the Port Authority. No such garbage, debris, or other waste materials shall be or be permitted to be thrown, discharged or deposited into or upon the waters at or bounding the Airport.

(f) From time to time and as often as reasonably required by the Port Authority and in accordance with the standards of the National Fire Protection Association, the Lessee shall conduct pressure, water-flow, and other appropriate tests of the fire-extinguishing system and apparatus, fire-alarm and smoke detection systems and any other fire protection systems which constitute a part of the premises. The Lessee shall keep in proper functioning order all fire-fighting equipment, fire-alarm and smoke detection equipment on the premises. The Lessee shall at all times maintain on the premises adequate stocks of fresh, usable chemicals for use in such systems and apparatus. The Lessee shall notify the Port Authority prior to conducting such tests. If requested by the Port Authority, the Lessee shall furnish the Port Authority with a copy of written reports of such tests.

(g) In addition to compliance by the Lessee with all laws, ordinances, governmental 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), the Lessee agrees that it shall exercise the highest standard of the industry pertaining to safety and care and shall conduct all its operations under the Agreement and shall operate, use and maintain the premises in accordance with the highest standards of the industry and in such manner that there will be at all times, considering the nature of the Lessee's operations, 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 the operation, use or maintenance of the premises by the Lessee and from the operations of the Lessee under this Agreement. The Port Authority hereby reserves the right from time to time and at any time during the term of the Lease 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 as set forth in the first sentence of this paragraph. All locations, the manner, type and method of construction, the size and cost/benefit analysis of any of the foregoing shall be determined by the Port Authority, with the Lessee to have an opportunity to consult with the Port Authority with respect to the foregoing. Any requirements imposed by the Port Authority that would necessitate additional construction work hereunder by the Lessee shall not be inconsistent with the requirements, if any, imposed by the Port Authority on other tenants at the Airport. 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.

(h) The obligations assumed by the Lessee under paragraph (g) hereof shall continue throughout the term of this Lease 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 the Lease consented to or approved any particular procedure or method of operation which the Lessee may have proposed or that the Port Authority may have itself prescribed the use of any procedure or method, and shall not be inconsistent with the obligations, if any, imposed by the Port Authority on other tenants at the Airport. The agreement of the Lessee to assume the obligations under paragraph (g) hereof is a special inducement and consideration to the Port Authority in entering into this Lease with the Lessee.

Section 11. Prohibited Acts

(a) The Lessee shall commit no unlawful nuisance, waste or injury on the premises or at the Airport and shall not do or permit to be done anything which may result in the creation or commission or maintenance of such nuisance, waste or injury on the premises or at the Airport.

(b) The Lessee shall not create nor permit to be caused or created upon the premises any obnoxious odors or smokes, or noxious gases or vapors. The creation of exhaust fumes by the operation of internal-combustion engines or aircraft engines of other types, so long as such engines are maintained and are being operated in a proper manner, shall not be a violation of this paragraph (b).

(c) 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 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.

(d) The Lessee shall not itself do nor shall the Lessee give its permission to any other to do any act or thing upon the premises or at the Airport (1) which will invalidate or conflict with any fire insurance, extended coverage or rental insurance policies covering the premises or any part thereof, or the Airport 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 contemplated by Section 6 hereof. 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 Offices of New York and the National Fire Protection Association, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Lessee on the premises and which are enforced by the Port Authority against all Airport tenants similarly situated, and the Lessee shall, subject to and in accordance with the provisions of Section 38 hereof, 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 reason of any failure on the part of the Lessee to comply with the provisions of this paragraph any fire insurance rate, extended coverage or rental insurance rate on the premises or any part thereof, or on the Airport or any part thereof, shall at any time be higher than it would be if the premises were properly used for the purposes permitted by Section 6 hereof, then the Lessee shall pay to the Port Authority, as an item of additional rental, that part of all insurance premiums paid by the Port Authority which

shall have been charged because of such violation or failure by the Lessee.

(e) 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 Airport except after treatment in installations or equipment included in plans and specifications submitted to and approved by the Port Authority.

(f) The Lessee shall not keep or store during any 24-hour period flammable liquids within any enclosed portion of the premises (other than in rooms or areas expressly constructed with the approval of the Port Authority for the storage of such liquids) in excess of the Lessee's working requirements during the said 24-hour period. Any such liquids having a flash point of less than 110°F. shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories or the Factory Mutual Insurance Association.

(g) 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.

(h) With the exception of a lunchroom for its employees and, with the approval of the Port Authority, the employees of others doing business with the Lessee, 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, unless the Lessee obtains the prior written consent of the Port Authority.

(i) Except as described in paragraph (h) above, the Port Authority, by itself or by contractors, lessees or permittees, shall have the exclusive right to install, maintain and receive the revenues from all coin-operated or other vending machines or devices installed by it and operated on the premises for the sale of merchandise of all types or for the rendering of services, provided, however, that no such machine or device shall be installed except upon the request of the Lessee. If the Port Authority does not install and maintain any such machine that the Lessee may reasonably request, the Lessee shall have the right to do so, provided, however, that, except with respect to the

vending-machines and devices described in paragraph (h) above, (1) the Lessee shall pay or cause to be paid to the Port Authority each month for each machine upon the same basis for the preceding month as any concessionaire, permittee or licensee of the Port Authority then operating machines at the Airport for the sale of similar merchandise or the rendering of similar services, and (2) in the event the Lessee exercises such right the Port Authority, at any time thereafter, may substitute for the Lessee's machines other machines selling similar merchandise or services operated by the Port Authority or by its licensee, permittee or concessionaire, and thereupon the Lessee shall remove its machines.

(j) 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 (j) or elsewhere in this Agreement shall be or be construed to be a representation by the Port Authority of the weight any floor or paved area will bear.

(k) The Lessee shall not fuel or defuel its automotive vehicles or other equipment in the enclosed portion of the premises without the prior approval of the General Manager of the Airport, and then in accordance with Port Authority Rules and Regulations, provided, however, that the Lessee shall not be prohibited from using gasoline or other fuel in such enclosed portions where necessary in repairing and testing component parts, and in such event the Lessee shall take all precautions reasonably necessary to minimize the hazard created by such use.

(l) The Lessee shall not use any cleaning materials having a harmful or corrosive effect, on any part of the premises.

(m) 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, without the prior written approval of the Port Authority by approving a TAA or otherwise.

## Section 12. Care, Maintenance, Rebuilding and Repair by Lessee

(a) The Lessee shall, throughout the term of this Lease, assume the entire responsibility and shall relieve the Port Authority from all responsibility for all repair, rebuilding and maintenance whatsoever in the premises, whether such repair, rebuilding or maintenance 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:

(1) Keep at all times in a clean and orderly

condition and appearance, the premises and all the Lessee's fixtures, equipment and personal property which are located in any part of the premises which is open to or visible by the general public;

(2) Remove all snow and ice to the extent deemed necessary by the Lessee, provided that no failure to remove snow and ice shall, in the opinion of the Port Authority, interfere with any other user of the Airport, and perform all other activities and functions necessary or proper to make the premises available for use by the Lessee;

(3) Take good care of the premises and maintain the same at all times in good condition, except for reasonable wear and tear, perform all necessary preventive maintenance, including but not limited to, painting (the exterior of the structures on the premises and areas visible to the general public to be painted only in colors which have been approved by the Port Authority); and make all repairs and replacements and, subject to and in accordance with the provisions of Section 38 hereof, do all rebuilding, inside and outside, ordinary and extraordinary, partial and entire, foreseen and unforeseen, structural or otherwise, which repairs, rebuilding and replacements by the Lessee shall be in quality and class not inferior to the original in materials and workmanship; and to pay promptly the cost and expense of such repairs, replacements and maintenance;

(4) Without limiting its obligations elsewhere in this Section, the Lessee agrees to perform all decorating and painting (including redecorating and repainting) so that at all times the premises and all parts thereof are in first class appearance and condition;

(5) Provide and maintain all obstruction lights and similar devices on the premises, and provide and maintain all fire-protection and safety equipment and all other equipment of every kind and nature required by any law, rule, ordinance, resolution or regulation of the type and nature described in Sections 8 and 9 of this Agreement;

(6) Take such anti-erosion measures and maintain the landscaping on the premises at all times in good condition, including but not limited to, periodic planting and replanting, as the Port Authority may require, and perform and maintain such other landscaping with respect to all portions of the premises not paved or built upon as the Port Authority may require, including the cross hatched area delineated on Exhibit A1 until such area is developed by the Port Authority;

(7) Be responsible for the maintenance and repair of all utility service lines, including but not limited to, service lines for the supply of low pressure water, gas

service lines, electrical power and telephone conduits and lines, sanitary sewers and storm sewers, located upon the premises and used by the Lessee exclusively or in common, or, subject to having access thereto, located off the premises and used by the Lessee exclusively or in common, provided that the Lessee shall not be prohibited from recovering the cost of any such repairs from the party making such repair work necessary; and

(8) Repair any damage to the paving or other surface of the premises caused by any oil, gasoline, grease, lubricants or other flammable liquids and substances having a corrosive or detrimental effect thereon.

(b) In the event the Lessee fails to commence so to maintain, clean, repair, replace, rebuild or paint within a period twenty (20) days after notice from the Port Authority so to do in the event that the said notice specifies that the required work to be accomplished by the Lessee includes maintenance or repair other than preventive maintenance, or within a period of one hundred eighty (180) days if the said notice specifies that the work to be accomplished by the Lessee involves preventive maintenance only, or once commenced fails diligently to continue to completion the repair, replacement, rebuilding or painting of all of the premises required to be repaired, replaced, rebuilt or painted by the Lessee under the terms of this Agreement, the Port Authority may, at its option upon five (5) days' notice to the Lessee and in addition to any other remedies which may be available to it, repair, replace, rebuild or paint all or any part of the premises included in the said notice, and the cost thereof shall be payable by the Lessee within thirty (30) days following demand.

### Section 13. Insurance

(a) The Lessee shall, during the term of this Agreement, insure and keep insured to the extent of the full Replacement Cost thereof, all buildings, structures, improvements, installations, facilities and fixtures now or in the future located on the premises when the same are located on the premises against all risks of physical loss or damage, if available, and if not available, then against such hazards and risks as may now or in the future be included under a standard form of fire and extended coverage insurance policy available in the State of New York including damage or loss by windstorm, cyclone, tornado, hail, explosion, riot, civil commotion, aircraft, vehicles, flood, earthquake and smoke, and, if the Port Authority so requests, also covering nuclear property losses and contamination hazards and risks (if such coverage is or becomes available within the commercial insurance marketplace at reasonable rates) and boiler and machinery hazards and risks in a separate insurance policy or policies or as an additional coverage endorsement to the aforesaid policies in the form as may now or in the future be prescribed as of the effective date of said insurance by the Rating

Organization having jurisdiction or the Superintendent of Insurance of The State of New York and the Lessee shall furthermore provide (if such coverage is or becomes available within the commercial insurance marketplace at reasonable rates) additional insurance with respect to the premises covering any similarly used property risk that the Port Authority may at any time during the term of this Agreement cover by carrier or self-insurance covered by appropriate reserves at other locations at the Airport upon written notice to the Lessee to such effect.

(b) In addition to all other policies of insurance required under this Lease, the Lessee shall also procure and maintain throughout the period of this Lease (including any and all extensions) Business Interruption Insurance in such amounts as shall be at least sufficient to cover, and applicable to, all fees, charges and other payments that are payable by the Lessee to the Port Authority under this Lease for a period of not less than one (1) year for any business interruption losses in business revenue that occur when the premises or any portion thereof is unusable or is out of operation due to a fire or for any other risks or hazards that are normally covered under a standard form of "All Risk" policy.

(c) The aforesaid insurance coverages and renewals thereof shall insure the Port Authority, the Lessee and The City of New York, as their interests may appear, and shall provide that the loss, if any, shall be adjusted with the Port Authority and the Lessee and that the proceeds shall be payable to the Port Authority to be held in trust by the Port Authority for the benefit of the Lessee. Said proceeds shall be used for the repair, replacement or rebuilding of the Cargo Facility, with any excess to be retained by the Port Authority. Said proceeds shall be disbursed by the Port Authority upon the Lessee's request, or upon the request of an entity obligated to repair, replace or rebuild, provided that the Lessee or such entity has obtained the necessary approvals to repair, replace or rebuild from the Port Authority and that all work completed to the date of such request has been completed in accordance with such approvals.

(d) In the event the premises or any part thereof shall be damaged by any casualty against which insurance is carried pursuant to this Section 13, the Lessee shall promptly furnish to the Port Authority such information and data as may be necessary to enable the Port Authority to adjust the loss.

(e) Copies of the policies or certificates representing insurance covered by this Section 13 shall be delivered by the Lessee to the Port Authority upon execution of this Agreement by the Lessee and the policies or certificates representing the insurance covered by Section 2 (c)(15) shall be delivered by the Lessee to the Port Authority prior to the commencement of the Construction Work and each policy or certificate delivered shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon and also contain a valid provision

obligating the insurance company to furnish the Port Authority and The City of New York thirty (30) days' advance notice of the cancellation, termination, change or modification of the insurance evidenced by said policy or certificate. Each such policy or certificate shall contain an additional endorsement providing that the insurance carrier 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. Any renewal policies or certificates shall be delivered to the Port Authority at least thirty (30) days before the expiration of the insurance which such policies are to renew.

(f) Regardless, however, of the persons whose interests are insured, the proceeds of all policies covered by this Section 13 shall be applied as provided in Section 14; and the word "insurance" and all other references to insurance in said Section 14 shall be construed to refer to the insurance which is the subject matter of this Section 13, and to refer to such insurance only.

(g) The insurance covered by this Section 13 and by Section 2 (c) (15) shall be written by companies approved by the Port Authority, the Port Authority covenanting and agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new and satisfactory policy in replacement, the Port Authority covenanting and agreeing not to act unreasonably hereunder. If the Port Authority at any time so requests, a certified copy of each of said policies shall be delivered to the Port Authority, provided that the Port Authority, if specifically requested by the Lessee to do so, shall keep such policies and the contents thereof confidential except to the extent required to respond to a loss or damage or otherwise required by law or Port Authority policy approved by its Board of Commissioners.

(h) With respect to the insurance required to be carried pursuant to subparagraph 2 (c) (15) hereof and this Section 13, the Lessee recognizes that the Port Authority is obligated under the Basic Lease to use the proceeds of such insurance in the manner set forth in Section 14. In the event that there shall be a casualty and (i) it shall become legally impossible to rebuild all or any portion of the Cargo Facility, or (ii) the Port Authority is enjoined from or restricted under the terms of any contract, law, judgment, ruling, rule, regulation, or order of any Governmental Authority or court of competent jurisdiction from rebuilding all or any portion of the Cargo Facility, or

(iii) the Port Authority shall determine that all or any portion of the Cargo Facility cannot be rebuilt, the Port Authority shall deliver to and only to such bond trustee as may have been involved in the financing or refinancing of the Cargo Facility, if there be one, to the extent of available insurance proceeds which the Port Authority is entitled to retain as its own, if any, under the Basic Lease or with the consent of the City of New York (the Port Authority being under no obligation whatsoever to seek such consent), an amount together with any other monies available for such purpose, including but not limited to, any monies of the Lessee set aside for the Construction Work or for the redemption of such bonds, funds held by such bond trustee, if any, surety bonds, or other insurance proceeds, sufficient to redeem then outstanding bonds issued in connection herewith, in proportion to the portion of the Cargo Facility that cannot be so rebuilt.

Section 14. Damage to or Destruction of Premises

(a) Removal of Debris. If the premises, or any part thereof, shall be damaged by fire, the elements, the public enemy or other casualty, the Lessee shall promptly remove all debris resulting from such damage from the premises, and to the extent, if any, that the removal of debris under such circumstances is covered by insurance, the proceeds thereof shall be available to and be used by the Lessee for that purpose.

(b) Minor Damage. If the premises, or any part thereof, shall be damaged by fire, the elements, the public enemy or other casualty and the cost to repair the same is estimated by the Port Authority and the Lessee to be not in excess of (Ex.2.a.)  
, the premises shall be repaired with due diligence in accordance with the plans and specifications for the premises as they existed prior to such damage or as otherwise approved by the Port Authority by and at the expense of the Lessee and if such damage is covered by insurance, the proceeds thereof shall be made available to and be used by the Lessee during the course of repair for that purpose.

(c) Major Damage to or Destruction of the Premises. If the premises, or any part thereof, shall be destroyed or so damaged by fire, the elements, the public enemy or other casualty and the cost to repair the same is estimated by the Port Authority and the Lessee to be in excess of (Ex.2.a.)  
, then the Lessee shall proceed with due diligence to make the necessary repairs or replacements to restore such premises in accordance with the plans and specifications for the premises as the same existed prior to such damage or destruction; or with the approval in writing of the Port Authority make such other repairs, replacements or changes as may be desired by the Lessee. If such destruction or damage was covered by insurance, the proceeds thereof shall be made available to and be used by the Lessee during the course of repair as set forth in Section 13 hereof for such restoration.

(d) Notwithstanding any other provision of this Agreement, the obligation of the Lessee to repair or replace shall be limited to the amount of the insurance proceeds provided the Lessee has carried insurance to the extent and in accordance with Section 13 hereof. Any excess of the proceeds of insurance over costs of the restoration shall be retained by the Port Authority.

(e) The parties hereby stipulate that 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.

Section 15. Indemnity and Liability Insurance

(a) (1) The Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's reasonable costs and expenses, including legal expenses, incurred in connection with the defense of) all claims and demands of third persons, including but not limited to, claims and demands for death or personal injuries, or for property damages, arising out of any default of the 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 of the acts or omissions of the Lessee, its officers, employees, guests, invitees and other persons who are doing business with the Lessee or who are at the premises with the consent of the Lessee or arising out of the acts or omissions of the Lessee, its officers and employees elsewhere at the Airport, including claims and demands of The City of New York from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or through agreement of the Port Authority with the said City; provided, however, that the Lessee shall not be required to indemnify the Port Authority against any claims or demands resulting solely from the wilful misconduct, or the sole negligence of, the Port Authority, its Commissioners, officers, agents and employees.

(2) If so directed, the Lessee shall at its own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in 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.

(b) In addition to the obligations set forth in paragraph (a) of this Section and all other insurance required under this Agreement, the Lessee during the term of this Agreement in

its own name as insured and including the Port Authority as an additional insured shall maintain and pay the premiums on a policy or policies of Commercial General Liability Insurance, including products liability/completed operations, premises-operations, and covering bodily injury, including death, and property damage liability, broadened to include or equivalent separate policies covering aircraft liability, Baggage Legal Liability, Cargo Legal Liability, Warehouseman's Legal Liability, and Real Property Liability, and providing for coverage in the limit set forth below; and Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles operated at the Airport and including automatic coverage for newly acquired vehicles and providing for coverage in the limit set forth below; and Workers' Compensation Insurance in accordance with the requirements of law. All the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority thereunder as an additional insured. In addition, all the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Port Authority thereunder with respect to any claim or action against the Port Authority by the Lessee shall be the same as the protections afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third person as if the Port Authority were the named insured thereunder. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Lessee under paragraph (a) hereof.

Minimum Limits

Commercial General Liability	
Combined single limit per occurrence for death, bodily injury and property damage liability:	\$100,000,000.00
Commercial Automobile Liability (covering owned, non-owned and hired vehicles)	
Combined single limit per occurrence for death, bodily injury and property damage liability:	\$25,000,000.00

(c) The minimum limits as to the aforesaid Baggage Legal Liability, Cargo Legal Liability and Real Property Legal Liability policy or policies shall be as follows:

Baggage Legal Liability	\$10,000,000.00
Cargo Legal Liability	\$10,000,000.00
Real Property Legal Liability (Fire Legal Liability)	\$10,000,000.00

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

(d) In addition, Contractors Pollution Liability Insurance coverage for both gradual and sudden and accidental occurrences shall be procured with limits of not less than \$4,000,000 per claim subject to a deductible of not more than \$5,000 per claim. The Contractors Pollution Liability policy must be procured on an occurrence basis, include on-site and off-site clean-up and be site specific. The Lessee shall also procure and maintain in effect, or cause it to be procured and maintained in effect, Workers' Compensation Insurance and Employer's Liability Insurance in accordance with and as required by law.

(e) All insurance coverages and policies required under this Section may be reviewed by the Port Authority for adequacy of terms, conditions and limits of coverage at any time and from time to time during the term of the letting hereunder. The Port Authority may, at any such time, require an increase in the minimum limits, or additions, deletions, amendments or modifications to the above-scheduled insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may reasonably deem required and the Lessee shall promptly comply therewith.

(f) As to the insurance required by the provisions of this Section, a certified copy of the policies, or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered by the Lessee to the Port Authority upon execution of this Lease and delivery thereof by the Lessee to the Port Authority and the policies or certificates representing the insurance covered by Section 2 (c) (12) shall be delivered by the Lessee to the Port Authority prior to the commencement of the Construction Work. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. In the event a 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 canceled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each such copy or certificate shall contain an additional endorsement providing that the insurance carrier 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. A certified copy of, or a certificate or certificates or binder evidencing the existence of any renewal policy shall be delivered to the Port Authority at least thirty (30) days prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of this Agreement. The aforesaid insurance shall be written by a company or companies approved by the Port Authority and have a Best's rating not lower than "A-", the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to the 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, the Port Authority covenanting and agreeing not to act unreasonably hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority, provided that the Port Authority, if specifically requested by the Lessee to do so, shall keep such policies and the contents thereof confidential except to the extent required to respond to a loss or damage or otherwise required by law or Port Authority policy approved by its Board of Commissioners.

Section 16. Signs

(a) Except with the prior written approval of the Port Authority, the Lessee shall not erect, maintain or display any signs or any advertising at or on the exterior parts of the premises or in the premises so as to be visible from outside the premises or at or on any other portion of the Airport outside the premises. Without in any way limiting the foregoing, the Lessee will be permitted to erect an exterior sign on the premises after the Lessee has received the prior written approval of the Port Authority to do so. Interior signs affecting public safety and security shall be in accordance with established Port Authority standards.

(b) Upon the expiration or termination of the letting, the Lessee shall remove, obliterate or paint out, as the Port Authority may direct, any and all signs and advertising on the premises or elsewhere on the Airport erected by the Lessee pertaining to the premises hereunder and in connection therewith shall restore the portion of the premises and the Airport affected by such signs or advertising to the same condition as existing prior to the installation of such signs and advertising. In the event of a failure on the part of the Lessee so to remove, obliterate or paint out each and every such sign or advertising and so to restore the premises and the Airport, the Port

Authority may perform the necessary work and the Lessee shall pay the cost thereof to the Port Authority on demand accompanied by a statement of costs.

Section 17. Obstruction Lights

The Lessee shall install, maintain and operate at its own expense such obstruction lights on the premises as the Federal Aviation Administration may direct or as the General Manager of the Airport may reasonably direct, and shall energize such 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 period as may be directed or requested by the Control Tower of the Airport.

Section 18. Additional Rent and Charges

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, prior notice and an opportunity to cure, if provided for in this Agreement, having been given to the Lessee by the Port Authority, or as a result of an act or omission of the Lessee contrary to the said conditions, covenants and agreements, the Lessee agrees to pay 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 rent as set forth in Section 5 hereof.

Section 19. 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. The Port Authority shall, except in emergencies, give reasonable prior notice to the Lessee of such entry by the Port Authority into areas of the premises not open to the general public or to air passengers.

(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 persons other than the Lessee at the Airport, to maintain existing and future sewerage, utility, mechanical, electrical and other systems or

portions thereof on the premises, including but not limited to, systems for the supply of heat, water, gas, fuel, electricity and for the furnishing of fire-alarm, fire-protection, sprinkler, sewerage, drainage, telegraph and telephone service, including all lines, pipes, mains, wires, conduits and equipment connected with or appurtenant to such systems, and to enter upon the premises at all reasonable times upon prior notice 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 Airport 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, and provided further, however, that the Lessee shall not be responsible (notwithstanding any other provision of the Agreement) for remediation of contamination associated with or encountered in connection with any such activities, unless the same was caused by the Lessee..

(c) In the event that any personal 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 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, accompanied by a statement of costs.

(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 during the letting and, except as expressly provided in this Lease, 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 which result solely from the wilful misconduct, or the sole negligence of, the Port Authority, its Commissioners, officers, agents and employees).

(e) At any time and from time to time during ordinary business hours within the six (6) months next preceding the expiration of the letting, the Port Authority, for and 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 provided that the Port Authority will use reasonable efforts not to interrupt or interfere with the operations of the Lessee.

(f) 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 20. Condemnation

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

(ii) As used in this Section with reference to the premises, the Public Landing Area, or the taxilane set forth in paragraph (b) of Section 1 hereof, the phrase "a material part" shall mean such a part of the premises or the Public Landing Area or said taxilane that the Lessee cannot continue to carry on the operations described in Section 6 hereof without using such part.

(b) (i) If, in the event of an acquisition by condemnation or the exercise of the power of eminent domain by any body having a superior power of eminent domain of a permanent interest in all or any part of the premises or any part of the Public Landing Area or of said taxilane (any such acquisition under this Section being hereinafter referred to as a "permanent taking"), the permanent taking covers all or a material part of the premises or the Public Landing Area or said taxilane, then the Port Authority shall purchase from the Lessee and the Lessee shall sell to the Port Authority, for the consideration provided for in this Section 20, the Lessee's leasehold interest (excluding any personal property whatsoever) in the premises and any facilities constructed thereon by the Lessee in compliance with this Agreement and this Agreement and the letting hereunder shall terminate and expire on the earlier of (i) the date the Lessee is deprived of physical possession thereof or (ii) the date of such taking; all rentals, fees and payments due under this Agreement shall be apportioned and paid by the Lessee to the date of such

termination.

(ii) In the event a permanent taking covers less than all or a material part of the premises, the Port Authority shall purchase and the Lessee shall sell, for the consideration provided for in this Section 20, only so much of the premises and facilities as are taken for an amount equal to the unamortized capital investment, as hereinafter defined, if any, of the Lessee in so much of the premises and facilities as are taken and this Agreement and the term of the letting hereunder shall be deemed terminated as to the part so taken as of the earlier of (i) the date the Lessee is deprived of physical possession of such part or (ii) the date of such taking; and with respect to the part not taken, the letting shall continue in full force and effect and the Lessee shall continue to pay all rentals and other sums, charges and fees provided to be paid by the Lessee under this Agreement without any reduction or abatement, provided, however, that, with respect to the part taken, the rental referred to in Section 5 hereof shall be abated as provided in said Section 5.

(iii) The sole and entire consideration to be paid by the Port Authority to the Lessee shall be an amount equal to the unamortized capital investment, as hereinafter defined, if any, of the Lessee in the premises or, in the event of a taking of less than all of the premises, an amount equal to the unamortized capital investment, as hereinafter defined, if any, of the Lessee in so much of the premises as are taken. However, the Port Authority shall purchase and the Lessee shall sell as aforesaid only if the amount to be paid by the Port Authority will constitute "unamortized Port Authority funds other than bond proceeds or Federal or State grants expended for capital improvements at the municipal air terminals" within the meaning of said phrase as used in Section 23, I, D of the Basic Lease or if a sum not less than said amount can be retained by the Port Authority (and not be required to be paid to The City of New York) out of the damages or award in respect to such taking without violation of any obligation of the Port Authority to The City of New York under the Basic Lease. Such payment shall be made as of the date upon which such body having superior power of eminent domain obtains possession of any such permanent interest in the demised premises or after receipt of said award by the Port Authority, whichever shall last occur, and, upon such payment, the Lessee (except with respect to its personal property) shall not have any claim or right to claim or be entitled to any portion of the amount which may be awarded as damages or paid as a result of such taking, and all rights to damages, if any, of the Lessee (except for damages to its personal property) by reason thereof are hereby assigned to the Port Authority.

(iv) If, however, the amount to be paid by the Port Authority (the unamortized capital investment, as hereinafter defined, if any, of the Lessee in the premises) for such leasehold interest will not constitute "unamortized Port Authority funds other than bond proceeds or Federal or State grants expen-

ded for capital improvements at the municipal air terminals," within the meaning of said phrase as used in Section 23, I, D of the Basic Lease or if a sum not less than such amount cannot otherwise be retained by the Port Authority (and not be required to be paid to The City of New York) out of the damages or award in respect to such taking without violation of any obligation of the Port Authority to The City of New York under the Basic Lease, then the aforesaid agreement to make such payment to the Lessee shall be null and void; and in any such event, or if the Lessee otherwise does not obtain full recovery of its unamortized capital investment in the premises, the Lessee shall have the right to appear and file its claim for damages in the condemnation or eminent domain proceedings, to participate in any and all hearings, trials and appeals therein, and to receive such amount as it may lawfully be entitled to receive as damages or payment as a result of such taking because of its leasehold interest in the premises up to, but not in excess of, an amount equal to the unamortized capital investment (as hereinafter defined), if any, of the Lessee in the premises.

(v) In the event of the taking of all of the premises and if the Lessee has no unamortized capital investment in the premises at the time of the taking, then the aforesaid agreement to make such payment to the Lessee shall be null and void; and in that event, this Lease and all rights granted by this Lease to the Lessee to use or occupy the premises for its exclusive use or for its use in common with others at the Airport and all rights, privileges, duties and obligations of the parties in connection therewith or arising thereunder shall terminate as of the date of the taking, and in that event, the Lessee (except with respect to its personal property) shall not have any claim or right to claim or be entitled to any portion of the amount which may be awarded as damages or paid as a result of such taking, and all rights to damages, if any, of the Lessee (except for damages to its personal property) by reason thereof are hereby assigned to the Port Authority.

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

(d) (i) In the event of a permanent taking of all or any part of the premises, the Port Authority and the Lessee shall

have the right to appear in the condemnation or eminent domain proceedings and to participate in any and all hearings, trials and appeals therein, for the purpose of protecting their respective interests hereunder. In any such proceeding to determine the value of the premises so taken, the Port Authority and the Lessee shall together make one claim for their combined respective interests in the premises and the building, fixtures, equipment, furnishings and other property constructed, installed or situated therein and thereon (to the extent compensable), and the net award received shall be paid as hereafter provided in this paragraph (d).

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

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

(1) The Port Authority shall be entitled to receive and retain an amount equal to its unamortized investment, if any, in the premises so taken, it being understood by the parties that such investment may only arise at the request of the Lessee and covered in a supplement to this Lease prepared by the Port Authority and executed by the parties hereto; and

(2) The Port Authority shall be entitled to receive and retain an amount equal to the residual value of the Cargo Facility, which value shall be based on the projected net operating revenue of the Cargo Facility to the Port Authority after the date set forth herein for the expiration of the Lease, with such net operating revenues escalating over the remaining useful life of the Cargo Facility for so long as the Port Authority maintains a leasehold interest covering the premises hereunder, with such valuation taking into account the date set forth herein for the expiration of the Lease.

(3) From the remainder of the award paid to the Port Authority, if any, the Lessee shall be entitled to receive from the Port Authority an amount up to its unamortized capital investment, as hereinafter defined.

(4) From the remainder of the award paid to the Port Authority, if any, the Port Authority shall be entitled to retain the same.

(iv) Upon a permanent taking of less than all or a material part of the premises, the award paid to the Port Authority shall be made available to the Lessee for the repair or

rebuilding of the buildings constructed thereon, and such portion of the award remaining after providing for the repair or rebuilding of the buildings constructed thereon shall be distributed in accordance with the provisions of subparagraph (iii) hereof.

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

(vi) In the event of a temporary taking of all or any part of the premises, the Port Authority and the Lessee shall each have the right to appear in the condemnation or eminent domain proceedings and to participate in any and all hearings, trials and appeals therein, for the purpose of protecting their respective interests hereunder.

(e) (i) "Unamortized capital investment" shall mean, for purposes of this Lease, the amount of the Lessee's investment in the premises (excluding any personal property, trade fixtures and any of the Lessee's cargo handling equipment not permanently affixed to the realty or necessary for the proper operation of an air cargo facility) arising out of the performance by the Lessee of the Construction Work pursuant to and as set forth in Section 2 of this Lease with respect to the Cargo Facility after deduction therefrom of an amount equivalent to an allowance for depreciation and amortization. Such allowance will be computed on a straight-line basis over a period commencing on the Completion Date to and including the day immediately prior to the Expiration Date or December 30, 2015, whichever first occurs. In the event that there is a Basic Lease Extension of the term of the letting hereunder as provided in Section 4 hereof, the aforesaid date "December 30, 2015" shall be changed to read "December 30, 2020." In the event that the Lessee exercises its option to extend the term of the letting hereunder for five years as provided in Section 4 hereof, the aforesaid date "December 30, 2020" shall be changed to read "December 30, 2025."

(ii) The foregoing computation to be made shall not take into consideration the effect of accelerated amortization, if any, granted to or taken by the Lessee on its books or otherwise under the provisions of Section 168(a) of Title 26 USCA or similar legislation hereafter enacted.

(iii) For purposes of this paragraph (e), the Lessee's investment in the premises shall be equal to the sum of: (1) the amounts paid by the Lessee to independent contractors for work actually performed and labor and materials actually furnished in connection with the Construction Work, including sales, use and similar taxes where applicable and appropriate; and (2)

the payments made and expenses incurred by the Lessee, in connection with such Construction Work, for engineering, architectural, professional and consulting services and the supervision of construction, provided, however, that such payments and expenses pursuant to this item (2) shall not exceed 15% of the amounts described in item (1) hereof; in each case, as the above-mentioned amounts, payments and expenses are evidenced, from time to time, by certificates of a responsible fiscal officer of the Lessee, sworn to before a Notary Public and delivered to the Port Authority, which certificates shall (a) set forth, in reasonable detail, the amounts paid to specified independent contractors, the payments made to other specified persons and other expenses incurred by the Lessee, which have not previously been reported in certificates delivered to the Port Authority, (b) have attached thereto reproduction copies or duplicate originals or such other proof of payment satisfactory to the Port Authority of the invoices of such independent contractors and other persons acknowledging the receipt by them of such amounts and payments, and (c) certify that the amounts, payments and expenses therein set forth constitute portions of the Lessee's investment in the premises for the purposes of this Lease.

(f) In the event of a taking hereunder, the Lessee hereby agrees to deliver possession of all or such portion of the premises so taken upon the effective date of such taking 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 hereunder. No taking by or conveyance to any governmental authority as described herein shall be or be construed to be an eviction of the Lessee or a breach of this Agreement or be made the basis of any claim by the Lessee against the Port Authority for damages, consequential or otherwise.

#### Section 21. Assignment and Sublease

(a) Except as otherwise permitted by the terms of this Agreement, the Lessee covenants and agrees that it will not sell, convey, transfer, mortgage, pledge or assign this Agreement or any part thereof, or any rights created thereby or the letting thereunder or any part thereof without the prior written consent of the Port Authority and the payment of the then-appropriate fee; provided, however, that this Agreement may be assigned in its entirety without such consent or payment of such fee to any successor in interest of the Lessee which is or is to be a Scheduled Aircraft Operator or an Air Cargo Service Organization, as defined in Section 57 hereof, and with or into which the Lessee may merge or consolidate, or which may succeed to the assets of the Lessee or to the major portion of its assets related to its air cargo transportation business, but in any such event, such assignment shall not take effect before the assignee is actually engaged in the business of cargo transportation by aircraft; and provided, further, that such succeeding entity or

purchaser executes and delivers to the Port Authority an instrument in a form satisfactory to the Port Authority assuming the obligations of the Lessee as if it were the original tenant hereunder.

(b) The Lessee shall not sublet the premises or any part thereof without the prior written consent of the Port Authority and, if the subletting is not to an affiliate of the Lessee (that is, an entity controlling, controlled by, or under common control with the Lessee), the payment of the then-appropriate fee, which fee is then being applied to other similarly situated lessees at the Airport on a non-discriminatory basis. In the event the Lessee sublets a portion of the premises or enters into a handling agreement to provide handling services at the premises requiring the consent of the Port Authority, such consent shall provide, among other things, that the Lessee agrees to the terms and provisions substantially set forth in the schedule attached hereto, hereby made a part hereof and marked Schedule A, including but not limited to, the payment of a fee with respect to any sublease, such fee being currently ten percent (10%) of amounts paid or payable to the Lessee, and to similar terms and the payment of a fee with respect to any handling agreement, such fee being currently five percent (5%) of amounts paid or payable to the Lessee.

(c) Except as otherwise provided in this Lease, any sale, assignment, transfer, sublease, 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 thereof, or any license or other interest of the Lessee therein not made in accordance with the provisions of this Agreement shall be null and void ab initio and of no force or effect.

(d) Except as otherwise provided in this Lease, if, without the prior written consent of the Port Authority, the Lessee assigns, sells, conveys, transfers, mortgages, pledges or sublets in violation hereof the Port Authority may collect rent from any assignee, sublessee or anyone who claims a right under this Agreement or letting or who occupies the premises, and the Port Authority 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 this Section or an acceptance by the Port Authority of any such assignee, sublessee, claimant or occupant as Lessee, nor a release of the Lessee by the Port Authority from the further performance by the Lessee of the covenants contained herein; nor shall the granting of the Port Authority's approval and consent pursuant to paragraph (a) or (b) of this Section be construed to be a waiver or release by the Port Authority from the further performance by the Lessee of the covenants contained herein.

(e) Any consent granted by the Port Authority to any assignment or subletting or to any sublessee pursuant to the

provisions hereof shall not be construed or deemed to release, relieve or discharge any succeeding assignee, successor or transferee of 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 in the event it wishes to sell, convey, transfer, mortgage, pledge, sublet or assign this Agreement or any part thereof, or any rights created thereby or the letting hereunder or any part thereof; and such assignee, successor or transferee or other person claiming any right, title or interest in this Agreement shall not sell, convey, transfer, mortgage, pledge, sublet or assign this Agreement or any part thereof, or any rights created thereby or the letting thereunder or any part thereof without such prior written consent of the Port Authority.

(f) The Lessee shall not use or permit any person to use the premises or any portion thereof except in accordance with the provisions of Section 9 hereof and this Section nor for any purpose other than the purposes stated in Section 6 hereof. Except as provided hereunder or otherwise 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, representatives, contractors, guests, visitors and business invitees.

(g) It is recognized by the parties that the Lessee presently intends to obtain financing from the New York City Industrial Development Agency through the issuance of bonds by said Agency. Such lender and such financing shall not be deemed to be a violation of any provision of this Section and are hereby approved as such.

Section 22. Termination by the Port Authority

(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 by any of the stockholders of the Lessee, 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, provided that if any such judgment or order is stayed or vacated within sixty (60) days after the entry thereof, any notice of cancellation shall be and become null, void and of no effect; or

(3) 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 having jurisdiction, 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 sixty (60) days; or

(4) The Lessee shall voluntarily abandon, desert or vacate the premises or discontinue its operations at the Airport (being, in each case, evidenced by the failure to have any activity at the premises for a continuous period of six [6] months and the Lessee's failure to cure such default within thirty [30] days after the Lessee has received notice thereof), or shall fail to provide a copy to the Port Authority of any filing of the certificate set forth in Section 8.1 (c) or shall fail to provide a copy to the Port Authority of the notification set forth in Section 8.4 (b) of that certain Lease Agreement by and between the New York City Industrial Development Agency and the Lessee dated as of March 1, 2001 within thirty (30) days after such filing or notification, 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 other than the Port Authority having jurisdiction thereof, from conducting its operations at the Airport, regardless of the fault of the Lessee; or

(5) Any lien is filed against the premises because of any act or omission of the Lessee and shall not be discharged of record, or by bonding through an insurance company duly authorized to write such bonds in New York State, within sixty (60) days after the Lessee has received notice thereof; or

(6) Except as expressly permitted in Section 21 of this Agreement, the letting hereunder or the interest or estate of the Lessee under this Agreement shall be transferred directly by the Lessee or shall pass to or devolve upon, by operation of law or otherwise, any other person, firm or corporation; or

(7) 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 or stayed within sixty (60) days after the filing thereof; or

(8) Except as otherwise provided in Section 21

hereof, the Lessee shall, without the prior written approval of the Port Authority, become a merged corporation in a merger, a constituent corporation in a consolidation, or a corporation in dissolution; or

(9) The Lessee shall fail duly and punctually to pay the rentals or to make any other payment required hereunder when due to the Port Authority and shall continue in its failure to pay rentals or fees or to make any other payment required hereunder for a period of fifteen (15) days after receipt of notice by it from the Port Authority to make such payment; or

(10) 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 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 upon thirty (30) days' notice terminate the rights of the Lessee hereunder and the letting, 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) 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.

(c) 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 23. Right of Re-entry

The Port Authority shall, as an additional remedy upon the giving of a notice of termination as provided in Section 22 hereof, 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 24. 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 25. 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 22 hereof, or the interest of the Lessee canceled 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 23 hereof, all the rental obligations of the Lessee under this Agreement shall survive such termination or cancellation, or re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of the letting under this Agreement, 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 rentals less the proper discount and the installments thereof payable prior to the effective date of termination except that the credit to be allowed for the installment payable 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 the actual number of days in said month, and

(2) An amount equal to all expenses reasonably incurred by the Port Authority in connection with regaining possession and restoring and reletting the premises, for legal expenses, putting the premises in order, including but not limited to, cleaning, decorating and restoring (on failure of the Lessee to restore), maintenance and brokerage fees.

(c) Without limiting any of the foregoing, the Port Authority may at any time bring an action to recover all the damages as set forth above not previously recovered in separate actions, or it may bring separate actions to recover the items of damages set forth in subparagraphs (1) and (2) of paragraph (b) above and separate actions periodically to recover from time to time only such portion of the damages set forth in subparagraphs (1) of subparagraph (b) above as would have accrued as rental up to the time of the action if there had been no termination. In any such action the Lessee shall be allowed a credit against its survived obligations equal to the amounts which the Port Authority shall have actually received from any tenant, licensee, permittee or other occupier of the premises or a part thereof during the period for which damages are sought, and if recovery is sought for a period subsequent to the date of suit a credit equal to the market rental value of the premises during such period (discounted to reflect the then present value thereof). If at the time of such action the Port Authority has used and occupied or relet the premises, the rental, if any, for the premises obtained through such use and occupancy or reletting shall be deemed to be the market rental value of the premises or be deemed to be the basis for computing such market rental value if less than the entire premises were used or occupied or relet. In no event shall any credit allowed to the Lessee against its damages for any period exceed the then present value of the annual rental which would have been payable under this Agreement during such period if a termination or cancellation had not taken place.

#### Section 26. Reletting by the Port Authority

The Port Authority upon termination or cancellation pursuant to Section 22 hereof, or upon any re-entry, regaining or resumption of possession pursuant to Section 23 hereof, 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 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 the said Section 22, or upon its re-entry, regaining or resumption of possession pursuant to the said Section 23, have the right to repair or to make structural or other changes in the premises, including changes which alter the character of the premises and the suitability thereof for the purpose 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 of the Port Authority 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 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 during such period actually use and occupy, all expenses, costs and disbursements incurred or paid by the Port Authority in connection therewith (except to the extent the same have been paid or reimbursed by the Lessee pursuant to subparagraph (b) (2) of Section 25 hereof). No such reletting shall be or be construed to be an acceptance of a surrender.

Section 27. Remedies to be Non-Exclusive

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 or to the Lessee 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 28. Surrender

The Lessee covenants and agrees to yield and deliver peaceably to the Port Authority possession of the premises on the date of cessation of the letting, whether such cessation be by termination, expiration or otherwise, promptly and in as good condition as of the Completion Date, except for (1) reasonable wear and tear resulting from the use of the premises to the extent permitted elsewhere in this Agreement or (2) conditions solely due to the aging of the premises (which aging does not adversely affect the efficient or proper utilization of the premises for the purposes permitted hereunder or affect the water-tightness or structural integrity of the premises), but (3) not resulting from any delay or failure to maintain and repair as required under this Agreement. In addition, all of the premises shall be free and clear of all liens, encumbrances, and security interests created by the Lessee and of any rights of any sublessees or other occupants of the premises.

Section 29. 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, 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 30. Effect of Basic Lease

(a) This Agreement and the letting hereunder shall, in any event, terminate with the termination or expiration of the Basic Lease with The City of New York which covers the premises, such termination to be effective on such date and to have the same effect as if the term of the letting had on that date expired; provided, however, that, as between the Port Authority and the Lessee, in the event the Basic Lease is replaced, amended, restated, supplemented, or extended, the term hereunder shall continue in accordance with this Agreement. Except as set forth in the foregoing proviso or otherwise in this Agreement, 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.

(b) The Port Authority agrees that during the term of the letting hereunder the Port Authority will not take any action the taking of which, or omit to take any action the failure of which to take, would amount to or have the effect of canceling, surrendering, terminating, modifying or amending the Basic Lease prior to the date specified in the Basic Lease for its expiration insofar as such cancellation, surrender, termination, modification, or amendment would in any manner deprive the Lessee of any of its rights, licenses or privileges under this Agreement.

(c) Nothing herein contained shall prevent the Port Authority from entering into an agreement with the City of New York pursuant to which the Basic Lease is canceled, surrendered, or terminated, provided that the City of New York, at the time of such agreement, assumes the obligations of the Port Authority under this Agreement.

Section 31. Removal of Property

The Lessee shall have the right at any time during the letting to remove its equipment, inventories, trade fixtures and other fixtures removable without material damage to the premises, and other personal property from the premises. If the Lessee shall fail to remove its 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 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 32. Brokerage

The Lessee and the Port Authority represent and warrant to each other that no broker has been concerned on its respective behalf 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 and the Port Authority shall indemnify and save each other harmless 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 or to the Port Authority, as the case may be, in connection with the negotiation and execution of this Agreement.

Section 33. Limitation of Rights and Privileges Granted

(a) 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 hereby.

(b) 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 now be subject, and rights of the public in and to any public street, which do not materially adversely affect the development and use of the premises as herein provided; (ii) rights, if any, of any enterprise, public or private, which is engaged in furnishing heating, light, power, telegraph, telephone, steam, or transportation services and of The City of New York and State of New York; and (iii) permits, licenses, regulations and restrictions, if any, of the United States, The City of New York or State of New York or other governmental authority.

Section 34. Notices

Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by certified or registered mail. The Lessee shall from time to time designate in writing an office

within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Port Authority hereby designates its Executive Director and the Lessee designates its representative named on the first page hereof (or such other authorized officer as may be designated by the Lessee by written notice to the Port Authority) as their respective officers 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 at 1600 Smith Street, Houston, Texas 77002 as their respective offices where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served upon the certified or registered mailing thereof. The Port Authority shall for informational purposes only send a copy of all such notices and requests to the Lessee in care of the Lessee's General Counsel at P.O. Box 4607, HQSEO, Houston, Texas 77210-4607. Failure on the part of the Port Authority to send the informational copy shall not, however, be or be deemed to be a breach of this Agreement or impair the validity of the notice given in accordance with the foregoing.

Section 35. Non-Discrimination

(a) Without limiting the generality of any of the provisions of the Agreement, the Lessee, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the grounds of race, creed, color, national origin, sex, age, disability or marital status shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the premises by it, (2) that in the construction of any improvements on, over, or under the premises and furnishing of services thereon by it, no person on the ground of race, creed, color, national origin, sex, age, disability or marital status shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and any other present or future laws, rules, regulations, orders or directions of the United States of America with respect thereto which from time to time may be applicable to the Lessee's operations at the Airport, whether by reason of agreement between the Port Authority and the United States Government or otherwise.

(b) The Lessee shall include the provisions of paragraph (a) of this Section in every agreement or concession it may make pursuant to which any person or persons, other than the Lessee, operates any facility at the Airport providing services to the

public and shall also include therein a provision granting the Port Authority a right to take such action as the United States may direct to enforce such covenant.

(c) The Lessee's non-compliance with the provisions of this Section shall constitute a material breach of this Agreement. In the event of the breach by the Lessee of any of the above non-discrimination provisions the Port Authority may take appropriate action to enforce compliance; or in the event such non-compliance shall continue for a period of twenty (20) days after receipt of written notice from the Port Authority, (except where remedying such non-compliance requires activity over a period of time, and the Lessee shall have commenced to perform whatever may be required for remedying such non-compliance within twenty [20] days after receipt of notice and continues such performance without interruption except for causes beyond its control), the Port Authority shall have the right to terminate the Agreement and the letting hereunder with the same force and effect as a termination under the Section of this Agreement providing for termination for default by the Lessee in the performance or observance of any other term or provision of this Agreement, or may pursue such other remedies as may be provided by law; and as to any or all the foregoing, the Port Authority may take such action as the United States may direct.

(d) The Lessee shall indemnify and hold harmless the Port Authority from any claims and demands of third persons, including the United States of America, resulting from the Lessee's non-compliance with any of the provisions of this Section and the Lessee shall reimburse the Port Authority for any loss or expense incurred by reason of such noncompliance.

(e) Nothing contained in this Section shall grant or shall be deemed to grant to the Lessee the right to transfer or assign this Agreement, to make any agreement or concession of the type mentioned in paragraph (b) hereof, or any right to perform any construction on the premises.

Section 36. Affirmative Action

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

(b) 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 apprenticeships and on-the-job training;

(c) In addition to and without limiting the foregoing, and without limiting the provisions of subparagraphs (18) and (19) of paragraph (c) of Section 2 hereof and Schedules E and F hereof, it is hereby agreed that the Lessee, in connection with its continuing operation, maintenance and repair of the premises, or any portion thereof, and in connection with every award or agreement for concessions or consumer services at the Airport, shall throughout the term of the letting hereunder commit itself to and use good faith efforts to implement an extensive program of affirmative action, including specific affirmative action steps to be taken by the Lessee, to ensure maximum opportunities for employment and contracting by minorities and women. In meeting the said commitment the Lessee agrees to submit to the Port Authority for its review and approval its said extensive affirmative action program, including the specific affirmative action steps to be taken by the Lessee to meet its aforesaid commitment, within sixty (60) days after the execution of this Agreement and the delivery thereof by the Lessee to the Port Authority. The Lessee shall incorporate in its said program such revisions and changes which the Port Authority initially or from time to time may reasonably require. The Lessee throughout the term of the letting hereunder shall document its efforts in implementing the said program, shall keep the Port Authority fully advised of the Lessee's progress in implementing the said program and shall supply to the Port Authority such information, data and documentation with respect thereto as the Port Authority may from time to time and at any time request, including but not limited to, annual reports.

(d) "Minority" as used herein shall be as defined in paragraph II(c) of Part I of Schedule E.

(e) In the implementation of this Section 36 the Port Authority may consider compliance by the Lessee with the provisions of any federal, state or local law concerning affirmative action equal employment opportunity which are at least equal to the requirements of this Section, as effectuating the provisions of this Section. If the Port Authority determines that by virtue of such compliance with the provisions of any such federal, state or local law that the provisions hereof duplicate or conflict with such law the Port Authority may waive the applicability of the provisions of this Section to the extent

that such duplication or conflict exists.

(f) 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.

(g) Nothing in this Section 36 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 Airport.

Section 37. The Lessee's Ongoing Affirmative Action-  
Equal Opportunity Commitment

(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 any other provisions hereof, it is hereby agreed that the Lessee in connection with its continuing operation, maintenance and repair of the premises, or any portion thereof, as provided in this Agreement, and in connection with every award or agreement for concessions or consumer services at the Airport, shall throughout the term of the letting hereunder commit itself to and use good faith efforts to implement an extensive program of Affirmative Action, including specific affirmative action steps to be taken by the Lessee, to ensure maximum opportunities for employment and contracting by minorities and women, and by Minority Business Enterprises and Women-owned Business Enterprises. In meeting the said commitment the Lessee agrees to submit its said extensive Affirmative Action program, including the specific affirmative action steps to be taken by the Lessee to meet its aforesaid commitment, within eighteen (18) months after the execution of this Agreement by the Lessee and the delivery thereof to the Port Authority, to the Port Authority for its review and approval. The Lessee shall incorporate in its said program such revisions and changes which the Port Authority initially or from time to time may reasonably require. The Lessee throughout the term of the letting hereunder shall document its efforts in implementing the said program, shall keep the Port Authority fully advised of the Lessee's progress in implementing the said program and shall supply to the Port Authority such information, data and documentation with respect thereto as the Port Authority may from time to time and at any time request, including but not limited to, annual reports.

(c) (1) 'Minority' as used herein shall have the following meaning:

(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).

(2) 'Minority Business Enterprise' (MBE) as used herein shall have the following meaning: any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing.

(3) 'Women-owned Business Enterprise' (WBE) as used herein shall have the following meaning: any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by women and such ownership is real, substantial and continuing.

(4) Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

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

(ii) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female contractor associations. The Lessee shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation as called for in paragraph (b) above, 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.

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

(iv) 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.

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

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

(vii) Submitting quarterly reports to the Port Authority (Office of Business and Job Opportunity) detailing its compliance with the provisions hereof.

(d) The Lessee's non-compliance with the provisions of this Section shall constitute a material breach of this Agreement. In the event of the breach by the Lessee of any of the above provisions the Port Authority may take any appropriate action to enforce compliance; or in the event such non-compliance shall continue for a period of twenty (20) days after receipt of written notice from the Port Authority (except where remedying such non-compliance requires activity over a period of time, and the Lessee shall have commenced to perform whatever may be required for remedying such non-compliance within twenty [20] days after receipt of notice and continues such performance without interruption except for causes beyond its control), the Port Authority shall have the right to terminate this Agreement and the letting hereunder with the same force and effect as a termination under the Section of this Agreement providing for termination for default by the Lessee in the performance or observance of any other term or provision of this Agreement, or may pursue such other remedies as may be provided by law.

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

(f) 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.

(g) Nothing in this Section shall grant or be deemed to

grant to the Lessee the right to make any agreement or award for concessions or consumer services at the Airport.

Section 38. Other Construction by the Lessee

(a) Except as expressly provided in this Lease, 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 or improvements or repairs to or replacements of any structure now existing or built at any time during the letting, or install any fixture (other than trade fixtures, removable without material damage to the premises, any such damage to be immediately repaired by the Lessee) without the prior written approval of the Port Authority and in the event any construction, improvement, alteration, modification, repair, replacement or addition, is made without such approval then, upon reasonable notice so to do, the Lessee will remove the same or, at the option of the Port Authority, cause the same to be changed to the satisfaction of the Port Authority. 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 shall pay the cost thereof to the Port Authority.

(b) Without limiting the generality of the foregoing paragraph the Lessee acknowledges and agrees that any Notes and associated reference lines set forth on Exhibit A1 to the Lease shall not constitute or be deemed to constitute or imply that approval of the Port Authority will be granted to any proposed construction by the Lessee nor shall the same grant or be deemed to grant any right or permission to the Lessee now or in the future to erect any structures, make any improvements or to do any other construction in the premises, including but not limited to, paving or to 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 on the premises, and that the provisions of the foregoing paragraph of this Section shall be read and construed as if there were no Notes and associated reference lines on Exhibit A1 and that any which were placed on such Exhibit are solely and exclusively for the benefit of the Port Authority.

Section 39. Termination by the Lessee

(a) If any one or more of the following events shall occur:

(1) If the Lessee shall be prevented from operating its cargo or air transportation business to and from the Airport by reason of its inability to use a substantial part or all of the runways and taxiways, as hereinafter defined:

(i) for a period of longer than thirty (30) consecutive days resulting from any condition of the Airport not due to the fault of the Lessee; or

(ii) for a period of longer than ninety (90) consecutive days resulting from an injunction issued by any court of competent jurisdiction; or

(iii) for a period of longer than ninety (90) consecutive days resulting from any order, rule or regulation of the Federal Aviation Administration or other governmental agency having jurisdiction over the operations of the Lessee with which the Lessee is unable to comply at reasonable cost or expense; or

(2) The Port Authority shall fail to perform any of its obligations under this Lease within twenty (20) days after receipt of notice of default thereunder from the Lessee (except where fulfillment of its obligation requires activity over a period of time and the Port Authority shall commence to perform whatever may be required for fulfillment within twenty [20] days after the 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 of the condition, the Lessee may by twenty (20) days' notice terminate the letting, such termination to be effective upon the date set forth in such notice and to have the same effect as if the term of the letting had on that date expired. The foregoing shall not be deemed to be a limitation on the Lessee's remedies. No waiver by the Lessee of any default on the part of the Port Authority in performance of any of the terms, covenants or conditions hereof to be performed, kept or observed by the Port Authority shall be or be construed to be a waiver by the Lessee of any other or subsequent default in performance of any of the said terms, covenants and conditions.

(b) The payment of rentals by the Lessee for the period or periods after the Lessee shall have a right to terminate under this Section but before any default of the Port Authority has been cured shall not be or be construed to be a waiver by the Lessee of any such right of termination.

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

Section 40. Effect of Termination by the Lessee

(a) If the Lessee terminates the letting pursuant to the provisions of subparagraph (a) (1) of Section 39 hereof, then the Port Authority may at its option pay to the Lessee the Unamortized Capital Investment (as defined in Section 20 hereof), if

any, of the Lessee in the premises. Such option shall be evidenced by notice in writing to the Lessee by the Port Authority within sixty (60) days after the Lessee has given notice of termination. The failure of the Port Authority to exercise the said option will impose no obligation upon it to relet the premises.

(b) If the Lessee terminates the letting pursuant to the provisions of subparagraph (a) (2) of Section 39 hereof, then the Port Authority may at its option pay to the Lessee the Unamortized Capital Investment (as defined in Section 20 hereof), if any, of the Lessee in the premises. Such option shall be evidenced by notice in writing to the Lessee by the Port Authority within sixty (60) days after the Lessee has given notice of termination. If the Port Authority fails to exercise such option, then the Port Authority shall use its best efforts to relet the premises.

(c) If the Port Authority relets the premises prior to the date upon which this Lease would have expired but for such termination, then the net rent paid by the new tenant to the Port Authority (after deducting any costs or expenses incurred by the Port Authority in securing said new tenant and in complying with the terms of this Agreement which are applicable upon a surrender of the premises, including but not limited to, costs of alteration and decoration of such premises in the event of termination pursuant to the provisions of subparagraph [a] [1] of Section 39 hereof, and after deducting any costs or expenses incurred by the Port Authority for the maintenance of said premises or for services furnished to the new tenant and after deducting the amounts which would have been payable as rent by the Lessee but for such termination) shall be paid over by the Port Authority to the Lessee until said amounts paid over equal the Unamortized Capital Investment (as defined in Section 20 hereof) of the Lessee in the premises as of the date of termination. The obligation of the Port Authority to pay over to the Lessee any net rent received from such new tenant shall endure only while such new tenant continues to pay rent and occupy such premises, and only while the Unamortized Capital Investment (as defined in Section 20 hereof) of the Lessee in such premises is unamortized, and in no event is such obligation to pay over to endure beyond the date upon which this Lease would have expired but for such termination.

Section 41. Place of Payments

All payments required of the Lessee by this Agreement shall be made to The Port Authority of New York and New Jersey, P. O. Box 17309, Newark, New Jersey 07194, or to such other address as may be substituted therefor by notice by the Port Authority to the Lessee from time to time.

Section 42. Construction and Application of Terms

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

(b) The terms, provisions and obligations contained in the Exhibit attached hereto, whether there set out in full or as amendments of, or supplements to provisions elsewhere in the Agreement stated, shall have the same force and effect as if herein set forth in full.

Section 43. Non-liability of Individuals

No Commissioner, director, shareholder, officer, agent or employee of either party shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or of any supplement, modification or amendment to this Agreement or because of any breach thereof, or because of its or their execution or attempted execution.

Section 44. Services to the Lessee

(a) Except as provided in this Section 44 and in paragraph (j) of Section 2 hereof, the Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Lease or the use and occupancy of the premises hereunder.

(b) The Port Authority shall sell, furnish and supply to the Lessee in reasonable quantities and to the extent of the capability of existing facilities (or facilities to be installed by the Port Authority as described in paragraph [j] of Section 2 hereof) for use on the premises and the Lessee agrees to take from the Port Authority and pay for electricity of the same voltage, phase and cycle as supplied to the premises by the public utility in the vicinity, limited, however, to serve a maximum of 750 KVA installed transformer capacity with any upgrade thereof to be at the sole expense of the Lessee and upon the prior written consent of the Port Authority, through existing wires, conduits and outlets, if any, (or any to be installed by the Port Authority as described in paragraph [j] of Section 2 hereof) at the same charge which would be made by such public utility for the same quantity used under the same conditions and in the same service classification but in no event less than an amount that would reimburse the Port Authority for its cost of obtaining and supplying electricity to the Lessee hereunder; charges shall be payable by the Lessee when billed and the quantity of electricity consumed shall be measured by the meter or meters installed for the purpose; provided, however, that if for any reason, any meter or meters fail to record the consumption of electricity, the consumption during the period such meter or meters are out of service will be considered to be the same as

the consumption for a like period either immediately before or after the interruption as elected by the Port Authority. The Port Authority shall not discontinue the supply of electricity except upon fifteen (15) days' notice to the Lessee and unless a supply of electricity of the same voltage, phase and cycle shall be available from another supplier and upon any such discontinuance the Lessee shall be at liberty to contract or otherwise arrange for the supply of such current for the period after the expiration of said fifteen (15) days from any other person, firm or corporation. The Port Authority shall provide and install appropriate meters for the above purpose.

(c) The Port Authority agrees to sell, furnish and supply to the Lessee for use on the premises cold water (of the character furnished by The City of New York) in reasonable quantities through pipes, mains and fittings and the Lessee agrees to take such water from the Port Authority and to pay the Port Authority therefor an amount equal to that which would be charged by the municipality or other supplier of the same (whether or not representing a charge for water or other services measured by water consumption) for the same quantity, used under the same conditions and in the same service classification plus the cost to the Port Authority of supplying such water which shall not be less than ten percent (10%) nor in excess of fifty percent (50%) of the amount charged but in no event less than an amount which would reimburse the Port Authority for its costs of obtaining and supplying cold water to the Lessee hereunder. The charge therefor shall be payable by the Lessee when billed and the quantity of water consumed shall be measured by the meter or meters installed for the purpose; provided, however, that if for any reason, any meters or meters fail to record the consumption of water, the consumption during the period such meter or meters are out of service will be considered to be the same as the consumption for a like period immediately before or after the interruption, as elected by the Port Authority. The Lessee shall provide and install appropriate meters for the above purpose.

(d) The Lessee shall pay to the Port Authority such of the existing and future charges for sewerage services furnished by The City of New York as are presently or may hereafter be imposed or assessed against the Port Authority in respect of the Lessee's premises or its use and occupancy thereof. In the event that The City or The State of New York is now furnishing services with or without charge therefor, which are beneficial to the Lessee in its use of the premises, and shall hereafter impose charges or increase existing charges for such services, the Lessee agrees to pay to the Port Authority such of the charges or the increase in charges as may be imposed or assessed against the Port Authority in respect of the Lessee's premises or its use and occupancy thereof.

(e) In the event the Port Authority shall provide extermination service for the enclosed areas of the premises, the Lessee agrees to utilize the same and to pay its pro rata share

of the reasonable cost thereof, upon demand. This paragraph does not impose any obligation on the Port Authority to furnish such service.

(f) The Port Authority shall be under no obligation to supply services if and to the extent and during any period that the supplying of any such service 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 be obligated to perform or furnish any service whatsoever in connection with the premises at any time while the Lessee shall be in default hereunder or has breached any of the provisions hereof after the period, if any, herein granted to cure such default shall have expired. The Port Authority shall give the Lessee five (5) days' notice prior to terminating any service.

(g) No failure, delay or interruption in supplying agreed services (whether or not a separate charge is made therefor) shall be or be construed to be an eviction of the Lessee or grounds for any diminution or abatement of rental, or (unless resulting from the negligence or wilful failure of the Port Authority) shall be grounds for any claims by the Lessee for damages, consequential or otherwise.

#### Section 45. Condition of Premises

The Lessee hereby 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 determined them to be suitable for the Lessee's operations hereunder and the Lessee hereby agrees subject to the provisions of Section 3 hereof, to take the premises in the condition they are in as of the commencement of the term of the letting 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 in a manner which is unsafe or improper for the conduct of the Lessee's operations hereunder so as to endanger or damage life or property. It is hereby understood and agreed that whenever reference is made in this Lease to the condition of the premises as of the commencement of the term thereof, the same shall be deemed to mean with respect to the portion of the premises not altered or improved after the date of this Agreement, the condition of said portion of the premises as of the date of this Agreement and with respect to any portion of the premises altered or improved pursuant to the Construction

Work performed under Section 2 hereof or during the term of the Agreement, the same shall be deemed to mean the condition existing after the completion of the same.

Section 46. Late Charges

If the Lessee should fail to pay, after all applicable notice and grace periods, any amount required under this Agreement when due to the Port Authority, including but not limited to, any payment of rental or any payment of utility or other charges, 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 (as 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 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. Notwithstanding the foregoing, there shall be no late charges due in the event the Lessee pays amounts due the Port Authority in accordance with invoices from the Port Authority, which amounts are thereafter adjusted in accordance with this Lease. 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 rent, 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 the Section of this Agreement entitled "Rental and Abatement Rates." 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 but not limited to, the Port Authority's rights set forth in Section 22 of this Agreement 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 charges then, in such event, each such late charge payable under this Agreement shall be payable instead at such legal maximum.

Section 47. Force Majeure

Neither the Port Authority nor the Lessee shall be deemed to be in violation of this Lease if it is delayed in or prevented from performing any of its obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortages of material, acts of God, acts of the public enemy, any law, rule, regulation, order or other acts of any superior government-

tal authority, weather conditions, tides, riots, rebellion, sabotage or any other circumstances for which it (or its contractors or subcontractors) is not responsible and which are not within its (or its contractors' or subcontractors') reasonable control; provided, however, that this provision shall not apply to failures by the Lessee to pay the rentals specified in Section 5 hereof and shall not apply to any other charges or money payments by either party; and, provided, further, that this provision shall not prevent either party from exercising any right of termination hereunder, and shall not prevent the Lessee from exercising any right it has hereunder to an abatement of rental.

Section 48. Use of Airport Prohibited

If the Port Authority shall, for safety or other reasons, prohibit the use of the Public Landing Area at the Airport or of any substantial part thereof for domestic or foreign air passenger or cargo transport operations for a period covering more than sixty (60) consecutive days and the Lessee shall thereby be prevented from conducting those operations at the premises enumerated in Section 6 hereof, then upon the occurrence of such event, the Lessee at its option shall be entitled to abatement of ground rental, if any is then otherwise payable, during such period of prohibition and prevention. In the event that the Lessee shall exercise such option the Lessee shall be deemed to have released and discharged the Port Authority of and from all claims and rights which the Lessee may have hereunder arising out of or consequent upon such closing and the subsequent interrupted use of such Public Landing Area or part thereof during the period of prohibition.

Section 49. Automobile Parking

Except as provided in Section 6 hereof, the Lessee shall prevent all persons (other than the officers, employees, contractors and agents of the Lessee) from parking automobiles on the premises, except that automobiles may be permitted to be on the premises for a reasonable period of time for the purpose of discharging or picking up cargo and for official and special purposes.

Section 50. Obligations in Connection with the Conduct of the Lessee's Business

(a) Subject to the provisions of subparagraph (a)(4) of Section 22 of this Agreement, the Lessee shall:

(1) Endeavor in good faith in every proper manner to develop and increase the business conducted by it hereunder;

(2) Set up, keep and maintain in accordance with accepted accounting practice, reasonable records and books of account recording all transactions at, through or in any wise

connected with the Lessee's operations hereunder, including but not limited to, an accounts receivable ledger and a general ledger and all applicable agreements the Lessee has entered into with respect to the premises and such additional information and other records and books of account as the Port Authority may from time to time and at any time reasonably request with respect to any matter covered by this Section 50, all of which records and books of account, to the extent the same are both related to the Lessee's operations at the premises and necessary to confirm the Lessee's compliance with its obligations under the Lease other than this item 3, shall be kept for a period of at least five (5) years and shall be kept at all times within the Port of New York District, which records shall show (i) the basis and supporting documents for each and every statement to be furnished hereunder by the Lessee and (ii) the revenues of whatever kind or nature received by the Lessee by or from its or any other operations hereunder (whether in the form of rental payments or otherwise). Notwithstanding the foregoing, the Lessee may produce all such records and books to the satisfaction of the Port Authority in the Port of New York District, or, on the condition that the Lessee shall pay to the Port Authority all travel costs and expenses as determined by the Port Authority for Port Authority auditors and other representatives in connection with an audit at locations outside the Port of New York District, the Lessee may maintain said records and books and make them available to the Port Authority at the Lessee's principal office, which currently is located at 1600 Smith Street, Houston, Texas 77002. The Lessee shall furnish such other information and comply with any further reasonable directions or requirements of the Port Authority relating to the keeping and transmitting of forms, reports or other procedures covering the Lessee's operations hereunder, including but not limited to, the billing of Handled Airlines; and

(4) Permit in ordinary business hours upon reasonable prior notice during the term of this Agreement and for one year thereafter and during such further period as is mentioned in the preceding paragraph, the examination and audit by the officers, employees, agents and representatives of the Port Authority of such agreements and records and books of account set forth in subparagraph (3) above, any similar records and books of account of any company which is owned or controlled by the Lessee or which owns or controls the Lessee, if said company performs services, similar to those performed by the Lessee, anywhere in The Port of New York District or performs or provides any services in connection with the premises or the Cargo Facility, and any agreement or contract between the Lessee and any Handled Airlines.

(b) In the event the Lessee enters into any agreement for other parties, except an affiliate as provided in Section 21 hereof, to use and occupy the premises as may be contemplated under Section 6 hereof which requires the prior written consent of the Port Authority, then:

(1) Effective from and after the respective effective dates of such agreements and throughout the effective period of such agreements, in addition to the rentals set forth in Section 5 hereof, the Lessee shall pay to the Port Authority a percentage rental equivalent to the applicable percentage of the Lessee's gross receipts, as hereinafter defined; and

(2) The Lessee shall pay the percentage rental as follows: on or before the twentieth (20th) day of the month following the month during which the said respective effective dates occur and on or before the twentieth (20th) day of each month thereafter including the month following the expiration, termination or cancellation of the Lease, the Lessee shall render to the Port Authority a sworn statement showing all its gross receipts for the preceding month; the Lessee shall pay at the time of rendering each such statement an amount equal to the applicable percentage applied to such gross receipts.

(3) Upon any termination of the letting hereunder (even if stated to have the same effect as expiration), the Lessee shall, within twenty (20) days after the effective date of such termination, make a payment of percentage rental computed as follows: first, the Lessee shall within twenty (20) days after the effective date of termination, render to the Port Authority a sworn statement of gross receipts for the monthly period in which the effective date of termination happens to fall; and second, the payment then due shall be an amount equal to the applicable percentage applied to the Lessee's gross receipts for such monthly period.

(4) From time to time during the term of the letting hereunder the Port Authority may request and the Lessee shall provide with its said monthly statement further details with respect to its operations hereunder, including but not limited to, the number of aircraft operations per month, the type of aircraft involved, the services performed by the Lessee, the type of airline being handled by the Lessee, the services performed by any sublessees or other users of the premises, the form of agreement used by the Lessee or any sublessees or other parties and its or their customers, and the rates charged by the Lessee and any sublessees or other parties for its or their services.

(5) The term "gross receipts" as used in this Agreement shall mean the total of all monies, revenues, receipts and income of every kind paid or payable to the Lessee or otherwise derived by the Lessee from or in connection with the premises, including but not limited to, rentals, percentage rentals, compensation, license or privilege fees or shares of income or revenue paid or payable to the Lessee from sublessees, handled airlines, licensees, concessionaires or others who are not affiliates of the Lessee but who occupy space or conduct any business or perform any service in, at or from the premises., including but not limited to, monies paid or payable to any sublessee or other party by or on behalf of an airline or other

customer for sales made or services rendered by such sublessee or other party on behalf of the Lessee, or other monies paid or payable to the Lessee for sales made and for services rendered hereunder at or from the premises regardless of when or where the order therefor is received, and outside the Airport, if the order therefor is received at the Airport, and any other revenues of any type arising out of or in connection with the Lessee's operations hereunder, provided, however, that any taxes imposed by law which are separately stated to and paid by the customer and directly payable to the taxing authority by the Lessee, shall be excluded therefrom.

(6) It is recognized that the Port Authority may hereafter issue to the Lessee various permits and agreements granting to the Lessee the privilege of conducting activities at the Airport for which the Lessee has agreed to pay to the Port Authority percentage rentals or fees based on the Lessee's gross receipts derived from such activities as are covered in said various permits and agreements as may be issued by the Port Authority. It is hereby agreed that the gross receipts under item (5) above shall not include any gross receipts of the Lessee on which the Lessee has agreed to pay a percentage rental or fee to the Port Authority under any Port Authority permit or pursuant to any agreement between the Port Authority and the Lessee other than this Agreement of Lease, it being understood that, in the event the Port Authority shall permit the Lessee to use the premises to conduct any activity which is rental or fee payable under such permit or other agreement, nothing contained herein shall prevent or in any way affect the obligation of the Lessee to pay to the Port Authority the rentals and fees required to be paid by the Lessee under such permit or other agreement.

(7) It is hereby understood and agreed that upon request of the Lessee if the Port Authority prepares a Consent Agreement granting its consent to an agreement of sublease or other use between the Lessee and sublessees, handled airlines, licensees, concessionaires or others who occupy space or conduct any business or perform any service in, at or from the premises, as the case may be, such Consent Agreement shall provide that the other party shall prepare and submit directly to the Port Authority monthly reports as required by paragraph (b) hereof covering percentage rentals and fees paid or payable by the other party to the Lessee as well as gross receipts of the other party includable in the gross receipts of the Lessee which shall include but not be limited to monies paid or payable to the other party by or on behalf of an airline or other customer for sales made or services rendered by the other party on behalf of the Lessee, and the other party shall pay the percentage rentals and fees due the Port Authority on that portion of the Lessee's gross receipts constituting the other party's gross receipts so reported by the other party. The submission of said reports and the payment of said percentage rentals and fees are and shall remain the responsibility of the Lessee and shall in no way limit the Lessee's obligation to submit its own monthly reports and pay

the percentage rentals on the Lessee's gross receipts as set forth herein.

(8) It is hereby understood that any Consent Agreement prepared by the Port Authority, as aforesaid, shall provide that such other party shall pay the percentage rentals as are set forth in this paragraph (b) and upon the actual payment of the percentage rental to the Port Authority by the other party, the gross receipts upon which such payment is made shall not be included in the Lessee's gross receipts for such period.

(9) Notwithstanding any of the foregoing, it is agreed and understood that the premises shall be used only as set forth in Section 6 hereof and that this paragraph (b) does not nor shall it be deemed to grant any rights, express, implied or otherwise, to use the premises for purposes other than as set forth in Section 6 hereof nor to grant any rights, express, implied or otherwise, to sublet the premises or any portion thereof.

(10) In the event such other party so uses or occupies the premises, the provisions of paragraph (a) hereof shall apply to such use and occupancy.

(c) The Port Authority shall keep confidential any information described in this Section 50 furnished or provided to, examined or audited by, or otherwise obtained by the Port Authority, except as otherwise authorized by the Board of Commissioners of the Port Authority or to the extent required by law.

(d) Nothing contained in the foregoing shall affect the survival obligations of the Lessee as set forth in Section 25 hereof.

Section 51. Federal Airport Aid

(a) Subject to the provisions of subparagraph (a)(4) of Section 22 of this Agreement, the Lessee shall:

(1) Furnish service hereunder on a fair, equal and non-discriminatory basis to all users thereof; and

(2) Charge fair, reasonable and non-discriminatory prices for each unit of sale or service, provided that reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions may be made to volume purchasers, affiliates and parties to code share or other contractual arrangements with the Lessee.

(b) As used in paragraph (a) above, "service" shall include furnishing parts, materials and supplies (including sale thereof).

(c) The Port Authority has applied for and received a grant or grants of money from the Administrator of the Federal Aviation Administration pursuant to the Airport and Airways Development Act of 1970, as the same has been and may hereafter be amended and supplemented or superseded by similar federal legislation, and under prior federal statutes which said Act superseded and the Port Authority may in the future apply for and receive further such grants: In connection therewith, the Port Authority has undertaken and may in the future undertake certain obligations respecting its operation of the Airport and the activities of its contractors, lessees and permittees thereon. The performance by the Lessee of the covenants, promises and obligations contained in this Section 51 and in Section 52 hereof, is therefore a special consideration and inducement to the execution of this Lease by the Port Authority, and the Lessee further covenants and agrees that if the Administrator of the Federal Aviation Administration or any other governmental officer or body having jurisdiction over the enforcement of the obligations of the Port Authority in connection with the Federal Airport Aid, shall make any orders, recommendations or suggestions respecting the performance by the Lessee of such covenants, promises and obligations, the Lessee will promptly comply therewith, at the time or times when and to the extent that the Port Authority may reasonably direct.

Section 52. Method of Operation

(a) The principal purpose of the Port Authority in the making of this Agreement is to make available on the Airport a cargo reception, storage and distribution facility for the better accommodation, convenience and benefit of the air cargo industry and in fulfillment of the Port Authority's obligation to operate the Airport for the use and benefit of the public. Consistent with the provisions of Section 6 hereof, the Lessee hereby warrants and agrees that it will conduct a first class operation and will furnish all necessary or proper fixtures, equipment, personnel (including licensed personnel as necessary), supplies, materials and facilities, for the operation of a first class cargo facility and that it will furnish the foregoing promptly, efficiently and adequately to meet all demands therefor, on a fair, reasonable and not unjustly discriminatory basis to all users thereof, and at charges which are fair, reasonable and non-discriminatory, provided that reasonable and not unjustly discriminatory discounts, rebates, or other similar types of price reductions may be made to volume purchasers.

(b) As used hereunder, "services" shall include the furnishing of parts, materials and supplies (including the sale thereof).

(c) The Lessee shall be open for and provide services at the premises during regular business hours.

(d) The Lessee covenants and agrees that it will not

enter into any agreement or understanding, express or implied, binding or non-binding, with any person, firm, association, corporation or other entity, which will have the effect of fixing rates, of lessening (in an unlawful way) or preventing competition, or of creating or tending to create a monopoly, at the Airport, relating to the services, products, or articles furnished or sold by the Lessee under this Agreement, unless such agreement or understanding would be approved by the applicable Governmental Authority, the Lessee bearing the burden to prove the same.

(e) With respect to its operations hereunder, the Lessee shall at all times during the letting hereunder cause to be maintained a full, adequate, experienced and proficient management staff all of whom (as well as other employees of the Lessee at the premises) shall be reputable and of good character. No individual shall be knowingly employed or retained by or on behalf of the Lessee at the premises if he or she has been convicted of a serious misdemeanor or a felony.

(f) The provisions of this Section are subject to subparagraph (a) (4) of Section 22 of this Agreement.

Section 53. Additional Provisions Concerning the Cargo Facility

(a) Except as specifically provided in this Agreement, the Port Authority shall have no responsibility or obligation in connection with the Cargo Facility except for the leasing of the premises hereunder to the Lessee for the operation by the Lessee of the Cargo Facility.

(b) The Lessee shall use every commercially reasonable effort to enter into, obtain, procure and maintain any and all agreements, permissions, approvals or other authority necessary for the operation of the Cargo Facility and shall upon request from the Port Authority furnish to the Port Authority a copy of any and all such agreements, permissions and approvals as requested by the Port Authority, which shall be subject to the confidentiality provisions of paragraph (c) of Section 50 hereof.

(c) The Lessee agrees to assume all financial risks associated with the operation of the Cargo Facility and the fact that the Lessee loses or has lost money or is not making a profit on the Cargo Facility shall in no event excuse the performance or observance by the Lessee under the Lease or be the basis for any claim or action against the Port Authority under the Lease or otherwise.

(d) The Lessee hereby acknowledges and agrees that the terms and provisions of this Section are of the essence of this Lease and are a special consideration to the Port Authority in entering into this Lease.

(e) The provisions of this Section are subject to the provisions of subparagraph (a) (4) of Section 22 of this Agreement.

Section 54. Relationship of the Parties

Notwithstanding any other term or provision hereof, this Agreement does not constitute the Lessee as the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is hereby created.

Section 55. Lessee's Rights Non-Exclusive

Except as expressly provided herein with respect to the premises, neither the execution of this Lease by the Port Authority nor anything contained herein shall grant or be deemed to grant to the Lessee any exclusive rights or privileges.

Section 56. Quiet Enjoyment

The Port Authority covenants and agrees that as long as it remains the lessee of the Airport the Lessee, upon paying all rentals hereunder and performing all the covenants, conditions and provisions of this Agreement on its part to be performed, shall and may peacefully and quietly have and enjoy the premises free of any act or acts of the Port Authority except as expressly agreed upon in this Agreement.

Section 57. Definitions

The following terms, when used in this Agreement, shall, unless the context shall require otherwise, have the respective meanings given below.

(a) "Airport" shall mean the land and the premises in The City of New York, in the County of Queens and State of New York, which are shown in green upon the Exhibit attached to the Basic Lease between The City of New York and the Port Authority referred to in subdivision (b) below, said Exhibit being marked "Map II", and lands contiguous thereto which may have been heretofore or may hereafter be acquired by the Port Authority to use for air terminal purposes.

(b) "Basic Lease" shall mean the agreement between The City of New York and the Port Authority dated April 17, 1947, as the same from time to time may have been or may be supplemented or amended. Said agreement dated April 17, 1947 has been recorded in the Office of the Register of The City of New York, County of Queens, on May 22, 1947, in Liber 5402 of Conveyances, at pages 319, et seq.

(c) "Agreement" shall mean this agreement of lease.

(d) "Lease" shall mean this agreement of lease.

(e) "Letting" shall mean the letting under this Agreement for the original term stated herein, and shall include any extension thereof.

(f) "Premises" as defined in Section 1 hereof shall without limiting the generality of said Section include the land, buildings, structures and other improvements located or to be located or to be constructed therein or thereon, the equipment permanently affixed or permanently located therein, such as electrical, plumbing, sprinkler, fire protection and fire alarm, heating, steam, sewage, drainage, refrigeration, communications, gas and other systems, and their pipes, wires, mains, lines, tubes, conduits, equipment and fixtures, and all paving, drains, culverts, ditches and catch-basins.

(g) "General Manager of the Airport" 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 General Manager by this Agreement; but until further notice from the Port Authority to the Lessee it shall mean the General Manager (or the temporary or acting General Manager) of the Airport for the time being, or his duly designated representative or representatives.

(h) "Governmental Authority", "Governmental Board", "Governmental Agency" shall mean federal, state, municipal and other governmental authorities, boards and agencies of any state, nation or government, except that it shall not be construed to include The Port Authority of New York and New Jersey, the lessor under this Lease.

(i) "Aircraft Operator" shall mean (a) a person owning one or more aircraft which are not leased or chartered to any other person for operation, and (b) a person to whom one or more aircraft are leased or chartered for operation whether the aircraft so owned, leased or chartered are military or non-military, or are used for private business, pleasure or governmental business, or for carrier or non-carrier operations, or for scheduled or non-scheduled operations or otherwise. Said phrase shall not mean the pilot of an aircraft unless he is also the owner or lessee thereof or a person to whom it is chartered.

(j) "Civil Aircraft Operator" shall mean a person engaged in civil transportation by aircraft or otherwise operating aircraft for civilian purposes, whether governmental or private. If any such person is also engaged in the operation of aircraft for military, naval or air force purposes, he shall be deemed to be a Civil Aircraft Operator only to the extent that he engages in the operation of aircraft for civilian purposes.

(k) "Scheduled Aircraft Operator" shall mean a Civil Aircraft Operator engaged in transportation by aircraft operated wholly or in part on regular flights in accordance with published schedules; but so long as the Federal Aviation Act of 1958, or

any similar federal statute providing for the issuance of Foreign Air Carrier Permits or Certificates of Public Convenience and Necessity or similar permits or certificates, is in effect, no person shall be deemed to be a Scheduled Aircraft Operator within the meaning of this Lease unless he also holds such a permit or certificate.

(l) "Person" shall mean not only a natural person, corporation or other legal entity, but also two or more natural persons, corporations or other legal entities acting jointly as a firm, partnership, unincorporated association, consortium, joint venturers or otherwise.

(m) "Public Landing Area" shall mean the area of land at the Airport including runways, taxiways and the areas between and adjacent to runways and taxiways, designated and made available from time to time by the Port Authority for the landing and taking off of aircraft.

(n) "Taxiways" shall mean the portion of the Airport used for the purpose of the ground movement of aircraft to, from and between the runways, the public ramp and apron area, the aircraft parking and storage space and other portions of the Airport (not including, however, any taxiways the exclusive use of which is granted to the Lessee or any other person by lease, permit or otherwise).

(o) "Public Ramp and Apron Area" shall mean the area adjacent to the Public Landing Area designated and made available from time to time by the Port Authority for common use for the loading and unloading of passengers or cargo to or from aircraft using the Public Landing Area.

(p) "Runways" (including approaches thereto) shall mean the portion of the Airport used for the purpose of the landing and taking-off of aircraft.

(q) As used in this Agreement, "Air Cargo Service Organization" shall mean an individual or entity engaged in the business of providing freight forwarding, custom house brokering, the reception, temporary storage, consolidation and distribution of air cargo transported by aircraft, and such other types of services related to the transportation or handling of cargo transported by aircraft as may be approved by the Port Authority.

#### Section 58. No Third-party Beneficiary

There shall be no third-party beneficiaries of this Agreement. This Agreement shall be effective only as between the parties hereto (and their successors and assigns, if, as and to the extent permitted under this Agreement), and shall not be construed as creating or conferring upon any person or entity any right, remedy or claim under or by reason of this Agreement.

Section 59. Entire Agreement

This Agreement consists of the following: Sections 1 through 59, inclusive, Exhibits A (Sheet 1 of 3), A (Sheet 2 of 3), A (Sheet 3 of 3) and Schedules A, E and F.

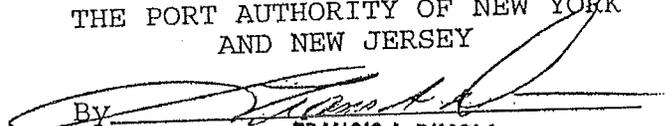
It constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended except by written instrument duly executed by the Port Authority and the Lessee. The Lessee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written.

ATTEST:

  
Secretary

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

By   
(Title) FRANCIS A. DIMOLA  
ASSISTANT DIRECTOR  
AVIATION DEPT.

ATTEST:

  
Secretary  
**Scott R. Peterson**  
Assistant Secretary

CONTINENTAL AIRLINES, INC.

By  T.D.  
(Title) Holden Shannon President  
Vice President (Corporate Seal)  
Corporate Real Estate  
& Environmental Affairs

APPROVED:  
FORM TERMS  


FORM E - Acknowledgment (N.Y. Corp.) 6/24/72

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

On the 11<sup>th</sup> day of May, 2001, before me came *Marco A. Mohr* to me known, who, being by me duly sworn, did depose and say that he resides at that he is the *Asst. Director* of The Port Authority of New York and New Jersey, one of the corporations described in, and which executed the foregoing instrument; that he knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Commissioners of the said corporation; and that he signed his name thereto by like order.

*Linda C. Handel*  
(notarial seal and stamp)

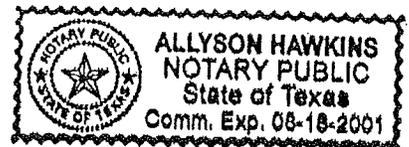
LINDA C. HANDEL  
Notary Public, State of New York  
No. 01HA6035589  
Qualified in New York County  
Commission Expires January 3, 2002

STATE OF *Texas* )  
 ) ss.  
COUNTY OF *Harris* )

On the 1<sup>st</sup> day of *March*, 2001, before me personally came *Hot* to me known, who being by me duly sworn, did depose and say, that he resides at (Ex. 1)

that he is the *VICE* President of *Continental Airlines, Inc.*, one of the corporations described in and which executed the foregoing instrument; that he knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of the said corporation; and that he signed his name thereto by like order.

*Allyson Hawkins*  
(notarial seal and stamp)



**(EXEMPTION 4 – DRAWINGS OF SECURE AREAS)**

## SCHEDULE A

### Terms and Conditions for Consent to Sublease Agreement

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

2. (a) Neither this Consent Agreement nor anything contained herein nor the consent granted hereunder shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, variation or change in the rights and privileges granted to the Lessee under the Lease, nor consent to the granting or conferring any rights, powers or privileges to the Sublessee as may be provided by the Sublease if not granted to the Lessee under the Lease, nor shall they impair or affect any of the duties, liabilities and obligations imposed on the Lessee under the Lease. The Sublease is an agreement between the Lessee and the Sublessee with respect to the various matters set forth therein. Neither this Consent Agreement nor anything contained herein nor the consent granted hereunder shall constitute an agreement between the Port Authority and the Lessee that the provisions of the Sublease shall apply and pertain as between the Lessee and the Port Authority, it being understood that the terms, provisions, conditions and agreements of the Lease shall, in all respects, be controlling, effective and determinative. It is the intention of the Port Authority hereunder merely to permit the exercise of the Lessee's rights and privileges thereunder by the Lessee (to the extent permitted by the Lease and this Consent Agreement). The specific mention of or reference to the Port Authority in any part of the Sublease including without limitation thereto any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent Agreement or shall hereafter grant its consent or approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion as to granting any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provision of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Lease shall in all respects be controlling, effective and determinative.

(b) No provisions of the Sublease, including but not limited to those imposing obligations on the Sublessee with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering action which may be undertaken by the Lessee or the Sublessee including but not limited to those involving signs, construction, insurance, assignment and subletting, be deemed to imply or infer that Port Authority consent or approval thereto has or will be given or that Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions as contained in the Sublease shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to granting or withholding approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) With respect to this Consent Agreement, the Lessee and the Sublessee understand and agree that although the Lessee is permitted under the Lease to perform services and functions for itself the Lessee may not and is expressly prohibited from performing any services or functions at the Airport for the Sublessee (even though the Lessee may perform the same for itself pursuant to the Lease) which are performed by organizations at the Airport authorized by permit from the Port Authority to perform such services or functions, unless the Lessee is specifically authorized by permit to perform such services or functions for other aircraft operators at the Airport and the Premises and in such event said services and functions shall be performed pursuant thereto. The Lessee, however, may make the necessary arrangements with the authorized organizations performing such services or functions at the Airport to have such services or functions performed for the Sublessee by such organizations or the Sublessee may perform such services and functions itself.

3. (a) (1) "Sublease Payments" shall include all amounts, monies, revenues, receipts and income of every kind paid or payable to the Lessee by the Sublessee, and if and to the extent that the full fair market rental value is not charged to or payable by the Sublessee, then the fair market rental value as determined by the Port Authority, arising out of or in connection with the Sublessee's use and/or occupancy of space in the Premises; and if the Sublease Payments are not separately stated from other charges paid or payable by the Sublessee to the Lessee, then the fair market rental value, as determined by the Port Authority, for that portion of the Premises used and/or occupied by the Sublessee shall be deemed to have been paid or payable to the Lessee by the Sublessee and shall constitute Sublease Payments hereunder.

(2) Effective as of the Effective Date, the Lessee and the Sublessee as a joint and several obligation shall pay to the Port Authority a fee (hereinafter called the "Consent Fee") at the times set forth in and in accordance with subparagraph (3) below.

(3) The Consent Fee shall be paid to the Port Authority by the Lessee and the Sublessee as a joint and several obligation as follows: On the 20th day of each and every calendar month during the time this Consent Agreement shall remain in effect and including the calendar month following the expiration or earlier termination of this Consent Agreement, the Lessee or the Sublessee shall render to the Port Authority a statement sworn to by a responsible fiscal or executive officer of the Lessee or the Sublessee showing all the Sublease Payments paid or payable for the preceding month and the Lessee or the Sublessee shall pay to the Port Authority at the time of rendering such statement an amount equal to ten percent (10%) (or the then-current Port Authority fee) applied to the Sublease Payments paid or payable for such preceding month, provided, however, if this Consent Agreement shall expire or be terminated effective on a day other than the last day of a calendar month, the final payment of the Consent Fee shall be due and payable within five (5) days after the effective date of such expiration or termination. Payments made hereunder shall be made to the Port Authority of New York and New Jersey, P.O. Box 17309, Newark, New Jersey 07194 or to such other address as may hereafter be substituted therefor by the Port Authority, from time to time, by notice to the Lessee and the Sublessee. If the Lessee or the Sublessee have not rendered the aforesaid monthly statement(s) as of the time of execution of this Consent Agreement, and without limiting the generality of any other term or provision hereof, the Lessee or the Sublessee shall submit the monthly statement(s) provided for above and pay, at the time of execution and delivery of this Agreement to the Port Authority, an amount equal to the Consent Fee payable for the period from the Effective Date, to the time of delivery of this Consent Agreement to the Port Authority executed by the Lessee and the Sublessee.

(4) There shall be excluded from Sublease Payments any sum paid by the Sublessee to the Lessee for building janitorial services provided said sum is separately stated to and paid by the Sublessee and there shall be excluded from Sublease Payments any sum paid by the Sublessee to the Lessee for building maintenance services provided said sum is separately stated to and paid by the Sublessee and, provided further, the Sublessee and the Lessee each acknowledge and agree that the Port Authority does and shall continue to have the right at any time and from time to time to withdraw the foregoing exclusions from Sublease Payments, in whole or in part, or to establish a separate fee for each such service, which may be a percentage fee other than ten percent (10%), upon sixty (60) days' prior written notice to the Sublessee and the Lessee.

(5) (i) It is understood and agreed by the Lessee that the Consent Fee shall be additional rent under the Lease.

(ii) The obligation of the Sublessee to pay the Consent Fee shall be and be deemed a promise to pay a sum of money by the Sublessee to the Port Authority and shall be recoverable by the Port Authority from the Sublessee in the same manner and with like remedies as a sum of money owed to the Port Authority, provided, however, nothing herein shall preclude the Port Authority from joining the Sublessee in a summary proceeding against the Lessee.

(6) In connection with the payment of the Consent Fee hereunder the Lessee and the Sublessee shall each, from and after the Effective Date through the remainder of the time this Consent Agreement shall remain in effect, maintain in accordance with accepted accounting practice, for one (1) year after expiration or earlier termination thereof, and for a further period extending until the Lessee shall receive written permission from the Port Authority to do otherwise, records and books of account recording all transactions in any wise connected with the Sublease and the Sublessee's use and occupancy of the Premises, which records and books of account shall be kept at all times within the Port of New York District. Further the Lessee and the Sublessee shall each permit in ordinary business hours during the time the Sublease shall remain in effect, and for one year thereafter, the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account.

(7) Neither a partnership nor any joint adventure is hereby created or implied notwithstanding the fact that the Consent Fee to be paid hereunder is an obligation of the Sublessee and the Lessee and shall be determined based upon a percentage of the Sublease Payments.

(8) Neither the Lessee nor the Sublessee shall divert or allow to be diverted from payment under the Sublease any revenues arising out of or in connection with the Sublease or the Sublessee's use and occupancy of the Premises.

(b) Nothing contained herein including without limitation the obligation of the Sublessee to pay the Consent Fee nor the payment thereof by the Sublessee nor the acceptance thereof by the Port Authority shall create or be deemed to have created a landlord tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Premises shall in all events be and remain subject and subordinate to the Lease.

4. If the Lessee or the Sublessee should fail to pay any amount required under this Consent Agreement when due to the Port

Authority, including without limitation any payment of the Consent Fee, or any other fees, or any payment of utility or other charges, 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 amounts remain unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this Paragraph, with respect to such unpaid amount. Nothing in this Paragraph is intended to, or shall be deemed to affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Consent Agreement, including without limitation the Port Authority's rights set forth in paragraph 8 hereof or (ii) any obligations of the Lessee or the Sublessee under this Consent Agreement. In the event that any late charge imposed pursuant to this Paragraph shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Consent Agreement shall be payable instead at such legal maximum.

5. The Consent Fee payable under this Consent Agreement shall be subject to increase from time to time upon thirty (30) days' notice from the Port Authority to the Lessee and the Sublessee and upon the effective date of the increase set forth in said notice (which date is herein called the "Fee Increase Date"), the Consent Fee payable by the Lessee and the Sublessee under this Consent Agreement shall be as set forth in said notice. This Consent shall be canceled and the Sublease shall be terminated effective as of the date immediately preceding the Fee Increase Date without notice to the Lessee or the Sublessee in the event that either (1) the Port Authority shall have received a notice from the Lessee prior to the Fee Increase Date that the Lessee does not wish to pay the increased Consent Fee, or (2) the Port Authority shall have received a notice from the Sublessee prior to the Fee Increase Date that the Sublessee does not wish to pay the increased Consent Fee. If the Port Authority does not receive such a notice from the Lessee or the Sublessee then the increased Consent Fee will become effective on the Fee Increase

Date as set forth in the Port Authority's notice. No cancellation of this Consent Agreement pursuant to this Paragraph shall or shall be construed to relieve the Lessee or the Sublessee of any obligations or liabilities hereunder which shall have accrued on or before the effective date of such cancellation.

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

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

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

8. (a) In addition to the insurance required to be maintained by the Lessee under the Lease, the Sublessee during the period the Sublease shall remain in effect shall in its own name as insured and including the Port Authority and the Lessee as additional insureds obtain, maintain and pay the premiums on a policy or policies of Commercial General Liability Insurance, covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limit set forth below. All the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority or the Lessee, or both, but such endorsement shall not limit, vary, change or affect the protections afforded the Port Authority and the Lessee as additional insureds. In addition, the insurance required hereunder shall provide or contain an endorsement providing that the protections afforded the Port Authority or the Lessee, or both, thereunder as additional insureds with respect to any claim or action against the Port Authority or the Lessee, or both, by the Sublessee shall be the same as the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person as if the Port Authority and the Lessee were the named insureds thereunder. Further, the said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Sublessee under subparagraphs (a) and (b) hereof.

Minimum Limit

Commercial General Liability:	\$50,000,000
Combined single limit per occurrence for death, bodily injury and property damage liability	

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

(c) All insurance coverages and policies required under this Paragraph may be reviewed by the Port Authority for adequacy of terms, conditions and limits of coverage at any time and from time to time during the period the Sublease remains in effect. The Port Authority at any such time may make additions, deletions, amendments to or modifications of the above-scheduled insurance requirements, including an increase in such minimum limits, and may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, in the Port Authority may deem advisable and the Sublessee shall promptly comply therewith.

(d) As to the insurance required by the provisions of this paragraph, a certified copy of the policies or a certificate or certificates or binders satisfactory to the Port Authority evidencing the existence thereof, shall be delivered by the Lessee to the Port Authority within fifteen (15) days after delivery of this Consent Agreement to the Port Authority. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. In the event a 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, unqualifiedly committing the insurer not to cancel, terminate, change or modify the policy without giving thirty (30) days' written advance notice thereof to the Port Authority. Each such copy or certificate shall contain an additional endorsement providing that the insurance carrier 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. Any renewal policy shall be delivered to the Port Authority at least thirty (30) days prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of this Consent. The aforesaid insurance shall be written by a company or companies approved by the Port Authority, the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall be or become unsatisfactory to the Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement thereof. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

9. This Consent Agreement may be revoked at any time by the Port Authority without cause on thirty (30) days' notice to the Lessee and the Sublessee and no such revocation shall be deemed to affect the Lease or the continuance thereof, but the Sublease shall be deemed terminated thereby.

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

11. Reference herein to the "Lessee" or the "Sublessee" shall mean and include as to the Lessee and the Sublessee, their

respective officers, agents, employees and also others at the Premises or the Airport with the consent of either the Lessee or the Sublessee.

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

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

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

15. The Sublease shall not be changed, modified or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

16. If the Sublessee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Sublessee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Sublessee's operations at the Airport pursuant to any such other agreement or otherwise, then

all such obligations under such other agreement and any deposit pursuant thereto and any interest thereon also shall be deemed obligations of the Sublessee under this Consent Agreement and as security hereunder as well as under any other agreement, all provisions of such agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit hereby being incorporated herein by this reference as though fully set forth herein and hereby made a part hereof. The termination, revocation, cancellation or expiration of any other agreement to which such security shall apply or any permitted assignment of such other agreement shall not affect such obligations as to such security which shall continue in full force and effect hereunder and additionally as therein provided.

17. Anything in the Sublease to the contrary notwithstanding, this Consent Agreement and the interpretation, validity and enforceability thereof shall be governed by the laws of the State of New York.

18. It shall be understood that any capitalized terms not defined herein shall have the meaning as such terms are defined in the Lease.

19. 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.

  
\_\_\_\_\_  
For the Port Authority

Initialed:

  
\_\_\_\_\_  
For the Lessee

SCHEDULE E

PART I

Affirmative Action Guidelines - Equal Employment Opportunity

(I) As a matter of policy the Port Authority hereby requires the Lessee and the Contractor shall require the Contractor, as hereinafter defined, to comply with the provisions set forth hereinafter in this Part I and in Section 37 of Port Authority Agreement No. AYD-123 (hereinafter called "the Lease") with Continental Airlines, Inc. (herein called "the Lessee"). These provisions 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 as well as each bidder, contractor or subcontractor of the Lessee (herein collectively referred to as the "Contractor") must fully comply with the following conditions set forth in this Part I as to each construction trade to be used on the Construction Work or any portion thereof (said conditions being herein called "Bid Conditions"). The Lessee hereby commits itself to the goals for minority and female utilization set forth below and all other requirements, terms and conditions of the Bid Conditions. The Lessee shall likewise require the Contractor to commit itself to the said goals for minority and female utilization set forth below and all other requirements, terms and conditions of the Bid Conditions by submitting a properly signed bid.

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

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

<u>Trade</u>	
Electricians	9.0% - 10.2%
Carpenters	27.6% - 32.0%
Steamfitters	12.2% - 13.5%
Metal Lathers	24.6% - 25.6%
Painters	22.8% - 26.0%
Operating Engineers	25.6% - 26.0%
Plumbers	12.0% - 14.5%
Iron Workers (Structural)	25.9% - 32.0%
Elevator Constructors	5.5% - 6.5%
Bricklayers	13.4% - 15.5%
Asbestos Workers	22.8% - 28.0%
Roofers	6.3% - 7.5%
Iron Workers (Ornamental)	22.4% - 23.0%
Cement Masons	23.0% - 27.0%
Glaziers	16.0% - 20.0%

Plasterers	15.8% - 18.0%
Teamsters	22.0% - 22.5%
Boilermakers	13.0% - 15.5%
All other	16.4% - 17.5%*

Women 6.9%\*

\*(In the event that during the performance of this contract the Office of Federal Contract Compliance establishes different goals for the New York City area, the Contractor shall be deemed bound to such different goals and this Schedule shall be deemed amended to substitute such goals for the goals set forth above.)

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

The Contractor's specific affirmative action obligations required herein of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort 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 these provisions. Compliance with the goals will be measured against the total work hours performed.

(b) The Contractor shall provide written notification to the Lessee and the Lessee shall provide written notification to the Manager of the 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, Cuban, Central or South American origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asian, 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 to either minorities or women shall excuse the Contractor's obligations hereunder.

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

(h) The Contractor shall take specific affirmative actions to ensure equal employment opportunity ("EEO"). The evaluation of the Contractor's compliance with these provisions shall be based upon its effort 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 portions of the premises 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 or participate in training programs for the area which expressly include minorities and women, or both, including upgrading programs and apprenticeship and trainee 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 the 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, 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 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 non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

(15) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least every six months, of all supervisors' adherence to and performance under the 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 every effort 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 a good faith effort 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) Goals 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 under-utilized).

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

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

(m) The Contractor shall carry out such sanctions and penalties for violation of these provisions including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by the Port Authority. 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), date 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.

SCHEDULE E

PART II

Minority Business Enterprises Program

As a matter of policy the Port Authority requires the Lessee and the Contractor shall itself and shall require the general contractor or other construction supervisor to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) in the Construction Work. A Minority Business Enterprise shall mean a company or firm at least 51% of which is owned and controlled by a minority or minorities or women. A minority shall be as defined in paragraph II(c) of Part I hereof. "Meaningful participation" shall mean that at least ten percent (10%) of the total dollar value of the construction contracts (including subcontracts) covering the Construction Work are for the participation of firms owned and controlled by minorities and one percent (1%) of the total dollar value of the construction contracts (including subcontracts) are for the participation of firms owned and controlled by women. Good faith efforts to include meaningful participation by MBEs 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, including circulation of solicitations to minority and female contractor associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE participation in the Construction Work, including the names and addresses of all MBEs contacted and, if any such MBE 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 in sufficient time for review.

(d) Utilizing the list of eligible MBEs maintained by the Port Authority or seeking minorities 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 on a timely basis.

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

\_\_\_\_\_  
For the Port Authority

Initialed:

\_\_\_\_\_  
For the Lessee

## SCHEDULE F

### LOCAL BUSINESS ENTERPRISES PROGRAM

As a matter of policy the Port Authority hereby requires the Lessee and the Lessee shall require any Contractor, as hereinafter defined, employed in the future by the Lessee to perform construction work on the premises, to comply with the provisions set forth hereinafter in this Schedule F.

(1) The Lessee and each contractor and subcontractor of the Lessee (herein collectively called 'Contractor') shall use every good faith effort to maximize the participation of Local Business Enterprises (LBEs) in the construction work. In order to assure familiarity with the services and materials provided by LBEs, the Contractor shall attend such meetings as may be called by the General Manager of the Airport at which all bidders will be given a directory of LBEs. The Port Authority has not checked the references, capabilities or financial background of the firms listed in the directory, but will be making such directory available to the bidders solely for the purpose of advising the bidders of LBEs who may be interested in providing services and/or materials to the successful bidder.

(2) Good faith efforts to include participation by LBEs in the construction work shall include at least the following:

(i) Dividing the work to be subcontracted and services and materials to be procured into small portions, where feasible.

(ii) Meeting on a regular basis with and giving reasonable advance written notice on a monthly basis of specific subcontracting and purchasing opportunities to the Council for Airport Opportunity (CAO), Queens Air Service Development Office, and such other local business and community organizations as may be appropriate. Such notice shall be sent in sufficient time for such organizations to advise their membership and other LBEs of such opportunities.

(iii) Soliciting bids on portions of the work to be subcontracted and services and materials to be procured from firms listed in the Local Business Enterprises Directory referred to above and such other LBEs as the Lessee deems appropriate.

(3) The Port Authority is committed to making employment opportunities available to local residents and expects that the Contractor will work with the CAO to utilize the labor talent available in the local communities.

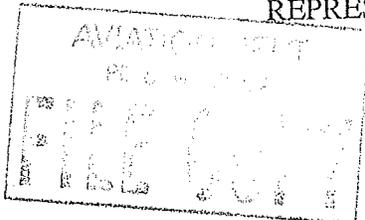
(4) It is specifically understood and agreed that the requirements set forth herein for the participation of LBEs shall not alter, limit, diminish or modify any of the obligations under this Lease including, without limitation, the obligation to put into effect the affirmative action program and the MBE and WBE programs in accordance with the provisions set forth above in Schedule E hereof.

Jg  
For the Port Authority

Initialed:

AS  
For the Lessee

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



John F. Kennedy International Airport  
Port Authority Lease No. AYD-123  
Supplement No. 1

### SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT made as of August 1, 2002, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority"), having an office at 225 Park Avenue South, New York, New York 10003 and CONTINENTAL AIRLINES, INC. (hereinafter called the "Lessee"), having an office at 1600 Smith Street HQSVP, Houston, Texas 77002, whose representative is Holden Shannon;

WITNESSETH, That:

WHEREAS, by a lease agreement dated as of November 1, 2000, (hereinafter called the "Lease") the Port Authority let to the Lessee, and the Lessee hired and took from the Port Authority certain premises at John F. Kennedy International Airport, all as more particularly described in the Lease; and

WHEREAS the Port Authority and the Lessee desire to amend the Lease in certain respects as hereinafter set forth;

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

1. Effective as of November 1, 2000, Section 4 of the Lease is amended as follows:
  - (a) In paragraph (a), the words "December 31, 2015" shall be deemed deleted in the fourth line and shall be deemed substituted by the words "December 30, 2015".
  - (b) In paragraph (c), the words "December 31, 2015" shall be deemed deleted in the seventh line and shall be deemed substituted by the words "December 30, 2015".
  - (c) In paragraph (c), the words "December 31, 2020" shall be deemed deleted in the seventh line and shall be deemed substituted by the words "December 30, 2020".
  - (d) In paragraph (d), the words "December 31, 2020" shall be deemed deleted in the second line and shall be deemed substituted by the words "December 30, 2020".
  - (e) In paragraph (d), the words "December 31, 2025" shall be deemed

deleted in the fifth line and shall be deemed substituted by the words "December 30, 2025".

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

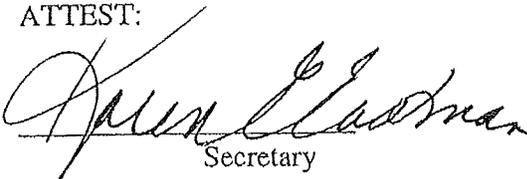
3. Each party represents and warrants that no broker has been concerned in the negotiation of this Supplemental Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. Each party shall indemnify and save harmless the other party of and from all claims for commission or brokerage made by any and all persons, firms or corporations whatsoever for services provided to or on behalf of the indemnifying party in connection with the negotiation and execution of this Supplemental Agreement or the extension hereunder.

4. No Commissioner, director, officer, agent or employee of either party to this Supplemental Agreement, shall be charged personally or held contractually liable by or to the other party under any term or provision of this Supplemental Agreement, or because of its or their execution or attempted execution or because of any breach or attempted or alleged breach thereof. The Lessee agrees that no representations or warranties with respect to this Supplemental Agreement shall be binding upon the Port Authority unless expressed in writing herein.

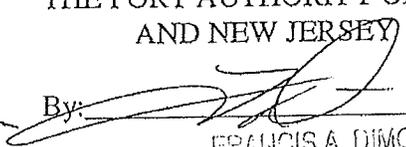
5. This Supplemental Agreement, together with the Lease which it amends constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of both the Port Authority 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 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: 

FRANCIS A. DIMOLA  
ASSISTANT DIRECTOR  
AVIATION DEPT.

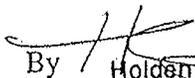
(Title)

(Seal)

ATTEST:

  
\_\_\_\_\_  
Secretary

CONTINENTAL AIRLINES, INC.

By   
Holden Shannon  
Vice President  
Corporate Real Estate  
& Environmental Affairs  
(Title) \_\_\_\_\_ President  
(Corporate Seal) T.O.

 **APPROVED:**  
**FORM TERMS**  


For The Port Authority of NY & NJ

STATE OF NEW YORK )

) ss.

COUNTY OF NEW YORK )

On the 5 day of ~~October~~ November (PS) in the year 2002, before me, the undersigned, a Notary Public in and for said state, personally appeared FRANCIS A. D. MOLA, 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.

PEGGY M. SPINELLI  
Notary Public, State of New York  
No. 01SP6057870  
Qualified In New York County  
Commission Expires April 30, 2003

*Peggy M. Spinelli*  
(Notarial seal and stamp)

For Continental Airlines, Inc.

PEGGY M. SPINELLI  
Notary Public, State of New York  
No. 01SP6057870  
Qualified In New York County  
Commission Expires April 30, 2003

STATE OF TEXAS )

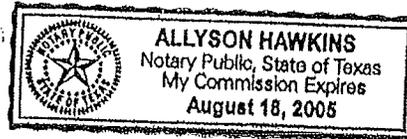
) ss.

COUNTY OF HARRIS )

On this 9th day of Sept., 2002, before me, the subscriber, a notary public of the State of Texas, personally appeared Holden Shannon

the vice President of Continental Airlines, Inc. 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 the Board of Directors.

*Allyson Hawkins*  
(Notarial seal and stamp)



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



John F. Kennedy International Airport  
Port Authority Lease No. AYD-123  
Supplement No. 2

### SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT made as of October 31, 2003, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority") and CONTINENTAL AIRLINES, INC. (hereinafter called the "Lessee");

WITNESSETH, That:

WHEREAS, by a lease agreement dated as of November 1, 2000, (which agreement of lease, as the same has been supplemented and amended is hereinafter called the "Lease") the Port Authority let to the Lessee, and the Lessee hired and took from the Port Authority certain premises at John F. Kennedy International Airport, all as more particularly described in the Lease; and

WHEREAS the Port Authority and the Lessee desire to amend the Lease in certain respects as hereinafter set forth;

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

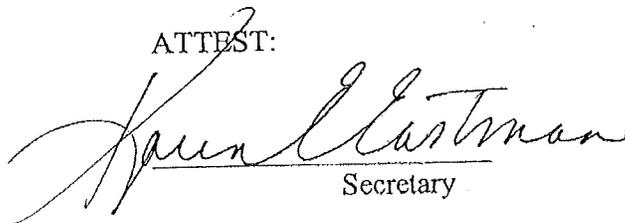
1. Effective as of October 31, 2003, Section 2 of the Lease is amended as follows: In subparagraph (c)(2), the words "October 31, 2003" shall be deemed deleted in the fourteenth line of page 9 and shall be deemed substituted by the words "October 31, 2005".
2. Except as hereby amended, all of the terms, covenants, provisions, conditions and agreements of the Lease shall be and remain in full force and effect.
3. Each party 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. Each party shall indemnify and save harmless the other party of and from all claims for commission or brokerage made by any and all persons, firms or corporations whatsoever for services provided to or on behalf of the indemnifying party in connection with the negotiation and execution of this Supplemental Agreement or the extension hereunder.
4. No Commissioner, director, officer, agent or employee of either party to this

Supplemental Agreement, shall be charged personally or held contractually liable by or to the other party under any term or provision of this Supplemental Agreement, or because of its or their execution or attempted execution or because of any breach or attempted or alleged breach thereof. The Lessee agrees that no representations or warranties with respect to this Supplemental Agreement shall be binding upon the Port Authority unless expressed in writing herein.

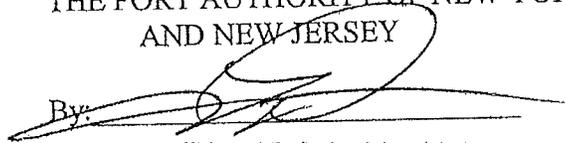
5. This Supplemental Agreement, together with the Lease which it amends constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of both the Port Authority 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 this Supplemental Agreement.

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

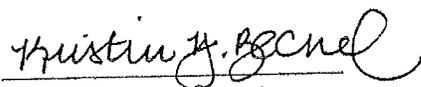
ATTEST:

  
Secretary

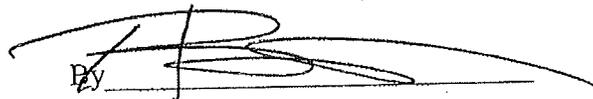
THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

By:   
FRANCIS A. DIMOLA  
ASSISTANT DIRECTOR  
(Title) AVIATION DEPT.  
(Seal)

ATTEST:

  
ASSISTANT Secretary

CONTINENTAL AIRLINES, INC.

By:   
Holden Shannon  
Vice President  
(Title) Corporate Real Estate & Environmental Affairs  
President  
(Corporate Seal)

APPROVED:  
FORM / TERM:  


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

For the Port Authority of NY & NJ

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

On the 14 day of April in the year 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared FRANCIS A. Di MOLA, 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.

*Peggy M. Spinelli*  
(notarial seal and stamp)

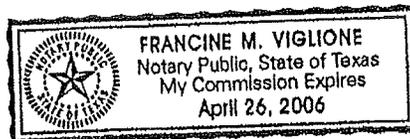
PEGGY M. SPINELLI  
Notary Public, State of New York  
No. 01SP6057870  
Qualified in New York County  
Commission Expires April 30, 2008

For Continental Airlines, Inc.

STATE OF TEXAS )  
 ) ss.  
COUNTY OF HARRIS )

On the 19th day of March in the year 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared HOLDEN SHANNON, VP of CRE, 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.

*Francine M. Viglione*  
(notarial seal and stamp)



LEASE FILE

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

C 181661-3

Port Authority Lease No. AYD-123  
Supplement No. 3  
John F. Kennedy International  
Airport

THIRD SUPPLEMENTAL AGREEMENT

THIS AGREEMENT (this "Third Supplemental Agreement"), made as of April 1, 2010 by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (the "Port Authority") and CONTINENTAL AIRLINES, INC. (the "Lessee"),

WITNESSETH, That:

WHEREAS, the Port Authority and the Lessee as of the first day of November 2000 entered into an agreement of lease bearing Port Authority agreement number AYD-123 covering certain premises at John F. Kennedy International Airport as therein set forth (the "Lease"); and

WHEREAS, the Port Authority and the City of New York have entered into an Amended and Restated Agreement of Lease of the Municipal Air Terminals dated as of November 24, 2004 (the "Amended and Restated Basic Lease"), which, *inter alia*, extends the term of the Basic Lease through December 31, 2050; and

WHEREAS, the Port Authority and the City of New York having so extended the Basic Lease, the Port Authority and the Lessee desire, pursuant to Section 4(c) of the Lease, to extend the term of the letting to December 31, 2020; and

WHEREAS, Section 4(d) of the Lease further provides that in the event of such extension of the Basic Lease, the Lessee shall have the option to extend the term of the letting through December 31, 2025 at the then-existing rental and other rates for comparable space at the Airport, and the parties desire that such further extension be effectuated; and

WHEREAS, as of January 16, 2006, a minor reduction was made to the metes and bounds of the premises; and

WHEREAS, the Amended and Restated Basic Lease imposes certain requirements with respect to the Port Authority's subleases at the Airport, and the Parties desire to amend the

Lease to reflect the terms of the Amended and Restated Basic Lease; and

WHEREAS, Section 1(f) of the Lease provides that Exhibit A attached thereto is a preliminary exhibit, which will be replaced by a final version following the Port Authority's determination of the actual metes and bounds of the premises, and the Port Authority, in furtherance thereof, has made such determination, and the parties desire to replace such preliminary exhibit with a final Exhibit A; and

WHEREAS, the Port Authority and the Lessee desire further to amend the Lease as provided herein;

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. Extension of Lease.

The term of the letting under the Lease is hereby extended through December 31, 2025.

2. Amendments to Lease.

The Lease, as hereby extended, is hereby amended as follows:

(a) *Replacement of Exhibit A.* The preliminary Exhibit A heretofore attached to the Lease is deemed deleted, and the final form of Exhibit A, attached hereto, is substituted in its place.

(b) *Taxilane Easement.* Paragraph (b) of Section 1, entitled "Letting", is deleted in its entirety, and the following is substituted in its place:

(b) (1) The Port Authority hereby agrees that the strip of land lying along and within the eastern boundary line and continuing generally in an arc to the west thereof within the premises covered by that certain agreement of lease entered into by the Port Authority and Northwest Airlines, Inc. ("NWA") dated as of October 1, 1974 and bearing Port Authority file number AYA-850, which strip of land is shown in honeycomb hatching on Exhibit A (Sheet 1 of 2), shall be subject to an easement for use as a taxilane (the "Taxilane Easement") in favor of the Lessee for the purposes of ingress to and egress from the premises hereunder, and in favor of the tenant or permittee occupying Building 73 (the "Building 73 Occupant") for the purposes of ingress to and egress from its leasehold premises, and may be used jointly by the Lessee and the Building 73 Occupant, the successors in interest of either of the foregoing, the Port Authority and any other entity to whom the Port Authority may grant the right to use the Taxiway Easement.

(2) (Ex. 2.a.)

(3) The Building 73 Occupant shall have the sole responsibility for the maintenance and repair (including without limitation snow and ice removal) of the Taxilane Easement area; provided, however, that effective as of March 1, 2007, the Lessee shall share equally, with the Building 73 Occupant, in the cost of such maintenance and repair, and shall enter into an agreement with the Building 73 Occupant so providing, such agreement to be subject to the Port Authority's consent; provided, further, that notwithstanding the foregoing, so long as there is no tenant or permittee of the Port Authority occupying Building 73, the Lessee shall be responsible, at its own cost and expense, for the maintenance and repair of the Taxilane Easement area.

(c) *Roadway Easement*. Paragraph (c) of Section 1, entitled "Letting", is deleted in its entirety, and the following is substituted in its place:

(c) (1) The parties hereby agree that the strip of land lying along and within the eastern boundary line of the premises hereunder, which strip of land is shown in stepped hatching on Exhibit A (Sheet 1 of 2), shall be subject to an easement (the "Roadway Easement") in favor of the Building 73 Occupant and the tenant or permittee occupying Building 74 (the "Building 74 Occupant") for the purposes of ingress to and egress from their respective leasehold premises, and may be used jointly by the Lessee, the Building 73 Occupant, the Building 74 Occupant, the successors in interest of any of the foregoing, the Port Authority and any other entity to whom the Port Authority may grant the right to use the Roadway Easement. In granting to others such right to use the Roadway Easement, the Port Authority shall, except in emergencies, give reasonable prior notice thereof to the Lessee and take reasonable steps to minimize or avoid interference with the Lessee's operations hereunder.

(2) (Ex. 2.a.)

through the expiration date of the term of the letting, at the annual rate payable during the previous twelve-month period multiplied by the greater of (x) one hundred percent (100%) (Ex. 2.a.) (y) one hundred percent (100%) plus one-half the percentage increase in the CPI, to be determined as hereinafter provided in Section 5, Paragraph (b) below.

(3) Effective as of May 23, 2002, the Lessee shall have the sole responsibility for the maintenance and repair (including without limitation snow and ice removal) of the Roadway Easement area; provided, however, that the Building 73 Occupant and the Building 74 Occupant shall each be responsible for an equitable share of the cost of such maintenance and repair, and the Building 73 Occupant and the Building 74 Occupant shall each be required to enter into, with the Lessee, an agreement providing for each such party's obligation to pay for its respective equitable share of such cost, such agreement to be subject to the consent of the Port Authority; provided, further, that notwithstanding the foregoing, if and so long as there is no tenant or permittee of the Port Authority occupying one or both of Building 73 and Building 74, the Lessee shall be responsible for either or both, as the case may be, of the respective equitable shares that would have been the responsibility of the Building 73 Occupant or the Building 74 Occupant, or both.

(d) *Rental.* Section 5, entitled "Rental and Abatement", is amended as follows, effective as of November 1, 2000:

(1) Paragraph (a) is deleted in its entirety, and the following new Paragraph (a) is substituted in its place:

(a) The Lessee agrees to pay to the Port Authority the following rentals for the premises:

(1) (Ex. 2.a.)

(i) for the portion of the term of the letting from and including (Ex. 2.a.) a rental at the rate of per annum, to be paid in advance in equal monthly installments of (Ex. 2.a.) commencing on (Ex. 2.a.) and on the first day of each and every calendar month thereafter, and

(ii) for the portions of the term of the letting during each twelve-month period thereafter to and including a rental at the annual rate payable during the previous twelve-month period multiplied by the greater of (Ex. 2.a.)

the percentage increase in the CPI, to be determined as hereinafter provided in paragraph (b) hereof.

(2) For the portion of the term of the letting from to and including the expiration date of the term of the letting:

(i) for the portion of the term of the letting from to and including a rental at the rate

of

(Ex. 2.a.)

(iii) for the portions of the term of the letting during each twelve-month period thereafter through the expiration date of the term of the letting, a rental at the annual rate payable during the previous twelve-month period multiplied by the greater of (x) one hundred percent (100%) plus four percent (4%) or (y) one hundred percent (100%) plus one-half the percentage increase in the CPI, to be determined as hereinafter provided in paragraph (b) hereof.

(2) There is added a new Paragraph (g), as follows:

(g) 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, such continuation of possession shall not be deemed to operate as a renewal or extension of this Agreement but shall only create a month-to-month extension of this Agreement, which extension shall be terminable on thirty (30) days' notice. 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.

(e) Section 13, "*Insurance*" and Section 15, "*Indemnity and Liability Insurance*". Notwithstanding anything to the contrary in Section 13 of the Lease, entitled "*Insurance*", or Section 15 of the Lease, entitled "*Indemnity and Liability Insurance*", The City of New York shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Lessee pursuant to the Lease, as hereby extended and amended.

(f) *Section 20, "Condemnation"*. In Section 20 of the Lease, entitled "Condemnation", Paragraphs (e) and (f) are redennominated "(f)" and "(g)", respectively; and Paragraphs (a) through (d) are deleted in their entirety, and the following is substituted in place of such deleted paragraphs:

Section 20. Condemnation

(a) *Definitions.*

The following terms, when used in this Section 20, shall, unless the context shall require otherwise, have the respective meanings given below:

"Date of Taking" shall mean the date on which title to all or any portion of the Premises, as the case may be, has vested in any lawful power or authority pursuant to a Taking.

"Material Part" with reference to the Premises or with reference to the Public Landing Area shall mean such portion of the Premises or the Public Landing Area as when so taken would leave remaining a balance of the Premises, due either to the area so taken or the location of the part so taken in relation to the part not so taken, that would not under economic conditions and after performance by the Lessee of all covenants, agreements, terms and provisions contained herein or required by law to be observed or performed by the Lessee, permit the restoration of the Premises so as to enable the Lessee to operate, maintain and develop the Premises in accordance with Sections 2 and 5 of this Agreement and to continue to carry on its normal operations at the Airport without using such part taken.

"Taking" shall mean the acquisition of a real property interest, through condemnation or the exercise of the power of eminent domain, by any body having a superior power of eminent domain.

(b) *Permanent Taking of All or a Portion of the Premises and the Public Landing Area.*

(1) If a Taking is permanent and covers the entire Premises, then this Agreement shall, as of the Date of Taking, cease and determine in the same manner and with the same effect as if such date were the original date of expiration hereof.

(2) If a Taking is permanent but covers less than all of the Premises, this Agreement and the term hereof shall continue as to the portion of the Premises not so taken, and the letting as to the part of the Premises so taken shall, as of the Date of Taking, 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 rentals shall be abated as provided in Section 4 hereof.

(3) If a Taking is permanent and covers a Material Part of the Premises or of the Public Landing Area, then the Lessee and the Port Authority shall each have an option exercisable by notice given within ten (10) days after the Date of Taking to terminate the letting hereunder with respect to the Premises not taken, as of the Date of Taking, and such termination shall be effective as if the Date of Taking were the original date of expiration hereof. If the Port Authority exercises this option, it shall purchase from the Lessee the Lessee's leasehold interest (excluding any personal property whatsoever) in the

Premises not taken for a consideration equal to the unamortized capital investment (as defined below), if any, of the Lessee in the Premises not taken. If the letting of the entire Premises is not terminated, the rentals shall be abated in accordance with Section 4 hereof after the date of surrender of possession of the portion of the Premises taken.

(4) If a Taking is permanent but covers less than the entire Premises and the letting of the portion of the Premises not taken is not terminated pursuant to paragraph (b)(3) of this Section, the Lessee shall proceed diligently to restore the remaining part of the Premises not so taken so that the Premises shall be a complete, operable, self-contained architectural unit in good condition and repair and the proceeds of that portion of any award paid in trust to the Port Authority pursuant to Section 23.3 of the Basic Lease attributable to the improvements on the Premises not so taken shall be made available by the Port Authority to be used by the Lessee for that purpose. The Port Authority shall retain any excess of such award over the costs of the restoration.

(5) If a Taking (x) covers all or "substantially all of a Municipal Air Terminal", as defined in the Basic Lease, and (y) the Basic Lease (with respect to the Airport) and this Agreement are consequently terminated, then the Port Authority shall pay to the Lessee its unamortized capital investment, if any, in the Premises, provided, however, that the Port Authority's foregoing payment obligation to the Lessee shall be limited to a proportionate share (as determined by the Port Authority in its sole discretion following consultation with all of the Port Authority's tenants at the Airport) of the condemnation proceeds available to be paid to the Lessee and the Port Authority's other tenants at the Airport, and provided, further, that such available condemnation proceeds shall be limited to the amount of the condemnation proceeds received from the City remaining after the Port Authority has been compensated for (p) the value of its leasehold interest in the Airport or (q) the sum of the unamortized portion of the Port Authority's investment in improvements at the Airport and any remaining deferred charges for equipment acquired by the Port Authority for use at or in connection with its operation of the Airport, whichever of (p) or (q) is greater (such greater amount, the "Port Authority Share"). In making the determination of "proportionate share" provided in the first proviso of the preceding sentence, the Port Authority shall in no event be liable, in any respect, to the Lessee or any other party by reason of such determination or the resulting distribution of proceeds, and the Lessee shall, prior to receipt of any such distribution, execute and deliver to the Port Authority such form of waiver, release and indemnification as the Port Authority may request. The Lessee understands and accepts that after payment of the Port Authority Share, there may be insufficient condemnation proceeds (or none at all) remaining to pay all or any portion of the Lessee's unamortized capital investment.

(c) *Temporary Taking of All or Any Part of the Premises or the Public Landing Area.*

(1) If the temporary use of the whole or any part of the Premises shall be taken for any public or quasi-public purpose by any lawful power or authority pursuant to a Taking or by agreement between the Port Authority and such lawful power or authority, (w) the Lessee shall give prompt notice thereof to the Port Authority, (x) the Term shall not be reduced or affected in any way and (y) the Lessee shall continue to pay in full all rentals payable by

the Lessee hereunder without reduction or abatement except as set forth in paragraph (c)(2) below.

(2) If a temporary Taking covers all or a Material Part of the Premises or the Public Landing Area, then the Lessee and the Port Authority shall each have an option, exercisable by notice given within ten (10) days after the Date of Taking, to suspend the term of the letting of such of the Premises as are not so taken during the period of the Taking, and, in that event, the rentals for such portion of the Premises not so taken shall abate for the period of the suspension in accordance with Section 4 hereof. If the Port Authority exercises this option, it shall purchase from the Lessee the Lessee's leasehold interest (excluding any personal property whatsoever) in the Premises not taken for the period of suspension for a consideration equal to the unamortized capital investment, if any, of the Lessee in such Premises which is to be amortized over the period of such suspension.

(d) *Lessee's Cooperation.*

The Lessee shall execute any and all documents that may be reasonably required in order to facilitate collection by the appropriate party of awards or payments covered by this Section.

(e) *Condemnation Claims by the Lessee.*

To the extent a condemnation claim by the Lessee shall not diminish any claim, award, compensation or damages of or to the City or of or to the Port Authority on account of any condemnation and such condemnation claim is permitted by Section 23 of the Basic Lease, the Lessee may file a claim in a condemnation proceeding.

(g) *Counterclaims in Summary Proceeding.* There is added to Section 22, entitled "Termination by the Port Authority", a new Paragraph (e), as follows:

(e) The Lessee 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.

(h) *Amendment to Section 25.* Subparagraph (b)(2) of Section 25, entitled "Survival of the Obligations of the Lessee", is deleted in its entirety and the following new subparagraph (b)(2) is substituted in its place:

(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, 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 in-house legal services), repairing and restoring the premises and putting the premises in order (such as but not limited to cleaning and decorating the premises).

(i) *Place of Payments.* Section 41, entitled "Place of Payments", is deleted in its entirety, and the following is substituted in its place:

Section 41. Place of Payments

All payments required of the Lessee by this Agreement shall be sent to the following address:

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

or made via the following wire transfer instructions:

Credit Bank Name: TD BANK  
Credit Bank Address: 6000 Atrium Way, Mount Laurel, NJ 08054  
Credit Bank ABA #: 031201360  
Beneficiary Account/ID #: (Ex. 2.a.)  
Beneficiary Name: THE PORT AUTHORITY OF NY & NJ

or sent to such other address as may hereafter be substituted therefor by the Port Authority, from time to time, by notice to the Lessee.

(j) [Intentionally omitted]

(k) *Definitions.* In Section 57, Paragraph (b), the definition of "Basic Lease" is deleted in its entirety and the following is substituted in its place:

(b) "Basic Lease" shall mean the Amended and Restated Agreement of Lease between the City of New York, as landlord, and the Port Authority, as tenant, dated as of November 24, 2004, as the same from time to time may be supplemented or amended and/or restated. Said agreement dated as of November 24, 2004, has been recorded in the Office of the Register of The City of New York, County of Queens, on December 3, 2004 with a City Register File Number of 2004000748687.

3. Letter of Credit Requirement

(a) Upon the Lessee's execution and delivery of this Agreement to the Port Authority, the Lessee shall deliver to the Port Authority, and shall maintain throughout the term of the Lease, as hereby amended and extended, as security for the Lessee's full, faithful and prompt performance of and compliance with all of its obligations under the Lease, as hereby amended and extended, and as security for the payment of all rentals, fees, charges and obligations of the Lessee owed or which may become due and owing to the Port Authority, a clean irrevocable letter of credit in favor of the Port Authority, issued by a banking institution acceptable to the Port Authority and having its main office within the Port of New York District, in the

amount, initially, of One Hundred Sixty Thousand Nine Hundred Twenty-Five Dollars and No Cents (\$160,925.00) and, thereafter, escalated annually in accordance with the schedule set forth in the form of letter of credit attached hereto and hereby made a part hereof as Exhibit B.

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

(c) Upon notice of cancellation of a letter of credit, the Lessee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof and thereafter the Port Authority will hold the same as cash security as set forth in paragraph (g) of this Section. If at any time any bank shall fail to make any payment to the Port Authority in accordance with a letter of credit issued by such bank, the Lessee shall cause to be delivered to the Port Authority on demand a replacement letter of credit issued by a different bank satisfactory to the Port Authority, so that at all times the Port Authority shall have one or more letters of credit in the amount set forth in paragraph (a) of this Section.

(d) 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 each letter of credit 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 a letter of credit or any cash security shall cure any default or breach of the Lease, as hereby amended and extended, on the part of the Lessee. No action by the Port Authority pursuant to the terms of any letter of credit, or receipt by the Port Authority of funds from any bank issuing any letter of credit, shall constitute a waiver of any breach or default by the Lessee of its obligations under the Lease, as hereby amended and extended; and the existence of or recourse to

any such letter of credit shall not limit the Port Authority's rights and remedies otherwise available under the Lease, as hereby amended and extended, upon any such breach or default.

(e) Any failure of the Lessee at any time during the term of the letting under the Lease, as hereby amended and extended, to provide such letter of credit which is valid and available to the Port Authority, and any failure of any banking institution issuing any such letter of credit to make one or more payments as provided in such letter of credit, shall constitute a material breach on the part of the Lessee of the Lease, as hereby amended and extended.

(f) If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Lessee, within two (2) days after demand of the Port Authority therefor, shall bring the letter of credit back up to its full amount.

(g) In the event that the Port Authority shall have drawn down the letter of credit referred to in paragraph (a) of this Section, 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 amount held, or any part thereof, as cash security 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 such cash security itself shall cure any default or breach, on the part of the Lessee, of the Lease, as hereby amended and extended. The Lessee agrees that it will not assign, mortgage or encumber such cash security. The Port Authority shall not pay or allow interest thereon; but the Lessee may collect or receive annually any 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 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. Upon the Port Authority's acceptance of a substitute letter of credit, and upon request by the Lessee made thereafter, the Port Authority will return any cash security deposit resulting from the drawing down of the original letter of credit. The Lessee shall have the same rights to receive any such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the letting and fulfillment of the obligations of the Lessee under the Lease, as hereby amended and extended.

(h) After the expiration of the letting and upon written request therefor by the Lessee, the Port Authority will return to the Lessee any valid letters of credit and any cash security delivered to the Port Authority by the Lessee hereunder, less the amount of any and all unpaid claims and damages of the Port Authority under this Agreement. Upon a termination of the letting, the Port Authority may, at its option, retain the letter of credit and any cash security until the date set forth in paragraph (b) of this Section (as such date may be extended in connection with any extended term of the letting hereunder) and shall thereafter upon demand of the Lessee return the same to the Lessee less the amount of any and all unpaid claims and damages, including but not limited to estimated damages of the Port Authority under the Lease, as hereby amended and extended.

(i) For purposes of the foregoing, the Lessee hereby certifies that its I.R.S. Employer Identification Number is (Ex.1)

4. Effect of Amendments. Except as hereby amended, all of the terms, covenants, provisions, conditions and agreements of the Lease, as hereby extended, shall be and remain in full force and effect.

5. No Broker. Each party represents and warrants to the other that no broker has been concerned in the negotiation of this Third Supplemental Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. Each party shall indemnify and save harmless the other party of and from any and all claims for commissions or brokerage made by any and all Persons, firms or corporations whatsoever for services provided to or on behalf of the indemnifying party in connection with the negotiation and execution of this Third Supplemental Agreement.

6. No Personal Liability. No Commissioner, director, officer, agent or employee of either party shall be charged personally or held contractually liable under any term or provision of this Third Supplemental Agreement or because of its execution or attempted execution or because of any breach or alleged or attempted breach hereof.

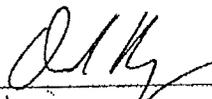
7. Entire Agreement. This Third Supplemental Agreement, and the Lease which it amends and extends, together constitute the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of both the Port Authority and the Lessee. The Lessee and the Port Authority each agree that no representations or warranties shall be binding upon the other unless expressed in writing in the Lease or in this Third Supplemental Agreement.

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

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

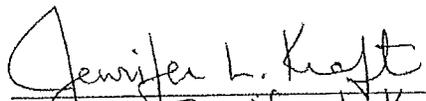
ATTEST:

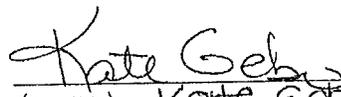
  
Secretary

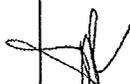
  
\_\_\_\_\_  
(name) David Kagan  
(title) Assistant Director  
Business, Properties & Airport Development

CONTINENTAL AIRLINES, INC.

ATTEST:

  
\_\_\_\_\_  
(name) Jennifer L. Kraft  
(title) Assistant Secretary

  
\_\_\_\_\_  
(name) Kate Geba  
(title) Vice President  
Corporate Real Estate  
(Corporate Seal)

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

JJL

EXHIBIT A

THE PREMISES

**EXEMPTION (4) – DRAWINGS OF NON-PUBLIC AREAS**

**EXHIBIT B**

**FORM OF LETTER OF CREDIT**

# JPMorganChase

JPMorgan Chase Bank, N.A.  
Global Trade Services  
300 South Riverside Plaza  
Mail Code IL1-0236  
Chicago, IL 60606-0236

JUN 9, 2010  
OUR L/C NO.: TFTS-523761  
APPLICANT REF. NO.: 523761

**BENEFICIARY:**

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY  
ATTENTION: CREDIT MANAGER  
225 PARK AVENUE SOUTH, 12TH FLOOR  
NEW YORK, NY 10003

**APPLICANT:**

CONTINENTAL AIRLINES, INC.  
1600 SMITH STREET  
HOUSTON, TX 77002

EXPIRY: MAY 21, 2011  
AT OUR COUNTERS

AMOUNT: USD160,925.00

AT THE REQUEST OF CONTINENTAL AIRLINES, INC., WE, JPMORGAN CHASE BANK, N.A., HEREBY OPEN THIS CLEAN IRREVOCABLE LETTER OF CREDIT NO. TFTS-523761 IN YOUR FAVOR UP TO AN AGGREGATE OF USD160,925.00 (ONE HUNDRED SIXTY THOUSAND NINE HUNDRED TWENTY FIVE AND 00/100 UNITED STATES DOLLARS), AVAILABLE BY YOUR DRAFT(S) ON US AT SIGHT WHEN PRESENTED TO US AT JPMORGAN CHASE BANK, N.A., C/O JPMORGAN TREASURY SERVICES, STANDBY LETTER OF CREDIT DEPT., 4TH FL., 10420 HIGHLAND MANOR DRIVE, TAMPA, FLORIDA 33610, ON OR BEFORE THE EXPIRATION SET FORTH BELOW OR ANY FUTURE EXPIRATION DATE AS INDICATED BELOW.

THE AGGREGATE AMOUNT AVAILABLE FOR DRAWING UNDER THIS LETTER OF CREDIT SHALL BE AUTOMATICALLY INCREASED OR DECREASED IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

DATE	AMOUNT CHANGE (USD)	NEW L/C AMOUNT (USD)
NOV 01, 2010	+6437.00	167362.00
NOV 01, 2011	+6695.00	174057.00
NOV 01, 2012	+6962.00	181019.00
NOV 01, 2013	+7241.00	188260.00

# JPMorganChase

JPMorgan Chase Bank, N.A.  
Global Trade Services  
300 South Riverside Plaza  
Mail Code H,1-0236  
Chicago, IL 60606-0236

JUN 9, 2010

OUR L/C NO.: TFTS-523761

APPLICANT REF. NO.: 523761

NOV 01, 2014	+7530.00	195790.00
NOV 01, 2015	+7832.00	203622.00
NOV 01, 2016	+8145.00	211767.00
NOV 01, 2017	+8470.00	220237.00
NOV 01, 2018	+8810.00	229047.00
NOV 01, 2019	+9162.00	238209.00
NOV 01, 2020	+9528.00	247737.00
NOV 01, 2021	+9910.00	257647.00
NOV 01, 2022	+10306.00	267953.00
NOV 01, 2023	+10718.00	278671.00
NOV 01, 2024	+11146.00	289817.00

NOTWITHSTANDING THE INFORMATION CONTAINED IN THE ABOVE SCHEDULE, IN THE EVENT ONE OR MORE CREDIT CONFORMING DRAWING(S) IS RECEIVED BY US PRIOR TO A SCHEDULED INCREASE, AS PROVIDED FOR HEREIN, AND SUCH DRAWING(S) IS SUBSEQUENTLY PAID HEREUNDER, THE SCHEDULED INCREASE(S) SHALL OCCUR AS PROVIDED FOR IN THE ABOVE STATED SCHEDULE, HOWEVER THE RESULTING AMOUNT AVAILABLE UNDER THE LETTER OF CREDIT WILL BE DECREASED BY THE AMOUNT OF ANY PAID DRAWINGS.

OUR OBLIGATION UNDER THIS LETTER OF CREDIT IS THE INDIVIDUAL OBLIGATION OF JPMORGAN CHASE BANK, N.A., AND IS IN NO WAY CONTINGENT UPON REIMBURSEMENT WITH RESPECT THERETO, OR UPON OUR ABILITY TO PERFECT ANY LIEN OR SECURITY INTEREST.

ANY DRAFT(S) MUST BE MARKED: 'DRAWN UNDER JPMORGAN CHASE BANK, N.A., CLEAN IRREVOCABLE LETTER OF CREDIT NO. TFTS-523761'.

PARTIAL DRAWINGS UNDER THIS LETTER OF CREDIT ARE PERMITTED.

THIS CLEAN IRREVOCABLE LETTER OF CREDIT EXPIRES AT THE CLOSE OF BUSINESS ON MAY 21, 2011. THIS CLEAN IRREVOCABLE LETTER OF CREDIT SHALL BE AUTOMATICALLY EXTENDED, WITHOUT AMENDMENT, FOR ADDITIONAL PERIOD(S) OF ONE (1) YEAR FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE UNLESS WE HAVE NOTIFIED YOU IN WRITING AT LEAST SIXTY (60) DAYS BEFORE SUCH DATE THAT WE

**JPMorganChase** 

JPMorgan Chase Bank, N.A.  
Global Trade Services  
300 South Riverside Plaza  
Mail Code 1L1-0236  
Chicago, IL 60606-0236

JUN 9, 2010  
OUR L/C NO.: TETS-523761  
APPLICANT REF. NO.: 523761

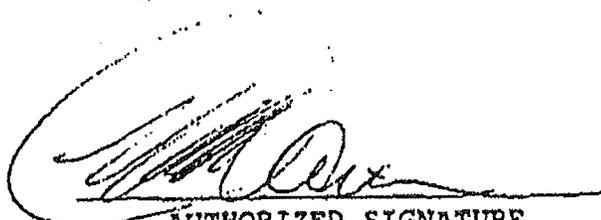
ELECT NOT TO EXTEND THE LETTER OF CREDIT FOR SUCH ADDITIONAL PERIOD, SUCH NOTICE TO BE SENT BY REGISTERED OR CERTIFIED MAIL OR COURIER SERVICE TO YOU AT THE ADDRESS HEREIN. UPON RECEIPT BY YOU OF SUCH NOTICE YOU MAY DRAW ON US AT SIGHT FOR THE BALANCE REMAINING IN THIS LETTER OF CREDIT WITHIN THE THEN APPLICABLE EXPIRATION DATE, NO STATEMENT REQUIRED.

WE HEREBY ENGAGE WITH YOU THAT DRAFTS DRAWN IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT WILL BE DULY HONORED.

ALL CORRESPONDENCE AND ANY DRAWINGS PRESENTED IN CONNECTION WITH THIS LETTER OF CREDIT MUST ONLY BE PRESENTED TO US AT JPMORGAN CHASE BANK, N.A., C/O JPMORGAN TREASURY SERVICES, 10420 HIGHLAND MANOR DRIVE, 4TH FLOOR, TAMPA, FLORIDA 33610, ATTENTION: STANDBY LETTER OF CREDIT DEPARTMENT. CUSTOMER INQUIRY NUMBER IS 800-634-1969 CHOOSE OPTION 1. CUSTOMER INQUIRY E-MAIL ADDRESS IS: GTS.CLIENT.SERVICES@JPMCHASE.COM

EXCEPT AS OTHERWISE STATED HEREIN, THIS IRREVOCABLE LETTER OF CREDIT SHALL BE SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (2007 REVISION) INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 600.

THIS LETTER OF CREDIT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS.



AUTHORIZED SIGNATURE  
RALPH T. DAVIS  
ASSISTANT VICE PRESIDENT



ACKNOWLEDGEMENT

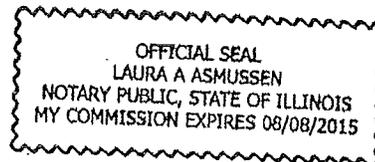
FOR CONTINENTAL AIRLINES, INC.

STATE OF (ILLINOIS)

) ss.

COUNTY OF (DUPAGE)

On the 31<sup>st</sup> day of October in the year 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared Kate Gebro, 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 executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Laura Asmussen

Notary Public

**EXEMPTION (4) – DRAWINGS OF NON-PUBLIC AREAS**