

Torres Rojas, Genara

FOI #13871

**From:** nicole@city-journal.org  
**Sent:** Tuesday, March 26, 2013 3:43 PM  
**To:** Duffy, Daniel  
**Cc:** Torres Rojas, Genara; Van Duyne, Sheree  
**Subject:** Freedom of Information Online Request Form

Information:

First Name: Nicole  
Last Name: Gelinas  
Company: City Journal Manhattan Institute  
Mailing Address 1: 52 Vanderbilt Ave  
Mailing Address 2: 3rd Fl  
City: New York NY  
State: NY  
Zip Code: 10017  
Email Address: [nicole@city-journal.org](mailto:nicole@city-journal.org)  
Phone: 6468393353  
Required copies of the records: Yes

List of specific record(s):

Hello -- I hereby request copies of each of your lease agreements held with bus operators at the Port Authority Bus Terminal midtown. I also hereby request a copy of the tender documents and/or any master agreement you currently employ to solicit and assign new leases. Electronic copies are preferable however, I will take paper copies if necessary.

**THE PORT AUTHORITY OF NY & NJ**

*FOI Administrator*

April 22, 2013

Ms. Nicole Gelinas  
City Journal Manhattan Institute  
52 Vanderbilt Avenue  
New York, NY 10017

Re: Freedom of Information Reference No. 13871

Dear Ms. Gelinas:

This is a response to your March 26, 2013 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code"), for copies of each lease agreements held with the bus operators at the Port Authority Bus Terminal in midtown and copies of the tender documents and/or any master agreement currently employ to solicit and assign new leases.

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/13871-LPA.pdf>.

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

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

Very truly yours,



Ann L. Qureshi  
FOI Administrator



5. Set forth planned or proposed routes, and schedule(s).

6. Set forth the make, model, model year, and fuel type of each vehicle type planned for in use in the fleet to be operated at the PABT:

7. (a) Has the applicant, or if a partnership, any partner, applied for and been denied an E-Z Pass account by any member of the E-Z Pass Consortium?

Yes  No [Check "Yes" or "No"]

(b) If "Yes" has been checked, set forth all details:

8. Set forth the average lengths of service of the drivers currently in the applicant's employ:

9. Describe the training and safety program the applicant provides to its drivers:

10. Describe how your company collects or will collect trash from passengers onboard the bus:

Signed \_\_\_\_\_

Title \_\_\_\_\_

For: \_\_\_\_\_  
Company

Please return to:

Patrick McKeon  
The Port Authority of New York and New Jersey  
Tunnels, Bridges and Terminals Department  
2 Montgomery St. – 4<sup>th</sup> Floor  
Jersey City, NJ 07302

: For Port Authority Use Only :  
: TBT-ACD-BLA-001 :  
: Carrier License No. \_\_\_\_\_ :

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
225 Park Avenue South  
New York, New York 10003

**BUS CARRIER LICENSE AGREEMENT**

1. Carrier's Full Legal Name: ACADEMY LINES LLC
2. Carrier's Address: 111 PATERSON AVENUE  
HOBOKEN, NEW JERSEY 07030
3. Type of legal entity LIMITED LIABILITY COMPANY  
State of organization: NEW JERSEY
3. Carrier's Representative: KIM HANSEN CFO  
(name and title)
4. Effective Date: May 1, 2008

Dated: April 30, 2008

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By [Signature]  
name: CEDRICK T. FULTON  
title: DEPUTY DIRECTOR

Port Authority Use Only:	
Approval as to Terms:	Approval as to Form:
<u>[Signature]</u>	<u>NR</u>

ACADEMY LINES LLC (Carrier)

By [Signature]  
name: FRANCIS TEDESCO  
title: MANAGER

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Exhibit 3	Monthly Summary of Daily Departures
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## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "Port Authority"), and the bus carrier identified on the Cover Page hereof (the "Carrier"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "PABT").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "GWBS").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

**"Activity Fee Installment"** shall have the meaning set forth in Section 4.1(b).

**"Activity Fees"** shall have the meaning set forth in Section 4.1(a).

**"Audit Findings"** shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

"**Facility**" shall mean either or both of the PABT and the GWBBS, as the context requires.

"**Gate Fee**" shall have the meaning set forth in Section 4.1(a).

"**General Manager**" shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

"**GWBBS**" shall have the meaning set forth in Recital 2 above.

"**Holiday**" shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

"**Irregular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

"**Labor Trouble**" shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

"**Licensed Bus Carrier**" shall have the meaning set forth in Section 10.1.

"**Loading Position**" shall mean a location, on a Vehicular Level, designated for passengers to be loaded onto, or unloaded from, Buses.

"**Long Distance Service**" shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

"**Middle Distance Destination**" shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

"**Middle Distance Percentage Fee**" shall have the meaning set forth in Section 4.1(a).

"**Non-Revenue Departures**" shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

"**Northern Manhattan**" shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

"**Notice**" shall have the meaning set forth in Section 14.1(a).

"**PABT**" shall have the meaning set forth in Recital 1 above.

"**Peak Period**" shall have the meaning set forth in Section 10.2.

"**Quarterly Reconciliation Form**" shall have the meaning set forth in Section 4.1(b).

"**Regular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

"**Required Deposit Amount**" shall have the meaning set forth in Section 12.1(a).

"**Sharing Arrangement**" shall have the meaning set forth in Section 10.1.

"**Short Haul Service**" shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

"**Space**" shall have the meaning set forth in Section 2.1(a).

"**Surface Transportation Board**" shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

"**Term**" shall have the meaning set forth in Section 2.2(b).

"**Vehicular Level**" shall mean any floor or story at the Facility designed for use by Buses.

## **Article 2. License**

### **Section 2.1 Grant of License**

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions as shall be specified from time to time by the General Manager (collectively, the "Space") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the applicable terms and conditions of this Agreement and the rules and regulations of the Port

Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Sharing Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or providing transportation as a private carrier, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "Gate Fee"), which shall be payable as provided in the following paragraph (b) of this Section 4.1; provided, however, that where a Loading Position has been assigned to the Carrier to be shared with one or more other bus carriers, the Gate Fee with respect to such Loading Position shall be one hundred twenty percent (120%) of the amount set

the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "Activity Fees"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "Departure Fee") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "Middle Distance Percentage Fee"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable at in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(1) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "Activity Fee Installment") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(2) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(3) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "Quarterly Reconciliation Form") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank: Commerce Bank  
Bank ABA Number: 026013673  
Account Number: Ex. 1

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service, Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

### Article 5. Facility Services

#### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

#### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

#### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

(a) *Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

(b) *Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

(c) *Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "Dispatcher"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall schedule departure times to avoid simultaneous Departures from multiple gates. The Carrier shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this release shall invalidate any policy of insurance or shall increase the premium therefor, or shall

void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue; if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

- (1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

(a) *Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (unless resulting solely from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (unless resulting solely from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

(a) *Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Voluntary Sharing Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility (a "Licensed Bus Carrier"), to share use of any Loading Position that is a part of the Space (a "Sharing Arrangement").

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Sharing Arrangement, stating the details of such arrangement.

(c) *Gate Fee Recalculation.* Upon the effectiveness of and for the duration of any Sharing Arrangement, the Gate Fee with respect to the Loading Position that is the subject of the Sharing Arrangement shall be increased by twenty percent (20%); the total of such increased Gate Fee shall be shared equally by the Carrier and the other Licensed Bus Carrier that is party to the Sharing Arrangement, and each shall, accordingly, pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, change or affect any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof.

**Section 10.2 Performance Requirements**

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

<b>Type of Loading Position</b>	<b>Minimum Average Peak Period* Departures</b>	<b>Maximum Peak Period* Departures</b>
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon thirty (30) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## Article 11. Termination

### Section 11.1 Termination by Port Authority

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "Payment Default"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "Required Deposit Amount") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### **Section 14.1 Notices**

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

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

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Lessee and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

\* \* \* \* \*

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

**provided, however,** that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.

**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the Port Authority Bus Terminal**

2007

**Short Haul Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$2.10	\$0.00		\$0.00
2		\$2.10	\$0.00		\$0.00
3		\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>					<b>\$0.00</b>

**Middle-Distance Ticket Sales**

Month	Ticket Sales Revenue	Commission	Actual Tickets Sales Fees	Amount Invoiced	Amount Due/Credit
1		13.5%	\$0.00		\$0.00
2		13.5%	\$0.00		\$0.00
3		13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>					<b>\$0.00</b>

**Long-Distance Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$38.00	\$0.00		\$0.00
2		\$38.00	\$0.00		\$0.00
3		\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>					<b>\$0.00</b>

**TOTAL DUE/CREDIT** **\$0.00**

**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the George Washington Bridge Bus Station**

2007

**Short Haul Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$2.10	\$0.00		\$0.00
2		\$2.10	\$0.00		\$0.00
3		\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>					<b>\$0.00</b>

**Middle-Distance Ticket Sales**

Month	Ticket Sales Revenue	Commission	Actual Tickets Sales Fees	Amount Invoiced	Amount Due/Credit
1		13.5%	\$0.00		\$0.00
2		13.5%	\$0.00		\$0.00
3		13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>					<b>\$0.00</b>

**Long-Distance Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$38.00	\$0.00		\$0.00
2		\$38.00	\$0.00		\$0.00
3		\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>					<b>\$0.00</b>

**TOTAL DUE/CREDIT** **\$0.00**

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22					
						<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_  
(accompanies this report)





**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

## EXHIBIT 6. LETTER OF CREDIT

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ (C)

At the request of \_\_\_\_\_ (A), we \_\_\_\_\_ (B) hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_ (C) in your favor up to an aggregate of \_\_\_\_\_ (D) U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at \_\_\_\_\_ (E)

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_ (B) Letter of Credit No. \_\_\_\_\_ (C) dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_ (F). This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

### LEGEND:

- A - INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B - INSERT NAME OF ISSUING BANK
- C - INSERT L/C IDENTIFICATION NUMBER
- D - INSERT DOLLAR VALUE OF INSTRUMENT
- E - INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F - INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval **PRIOR** to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

**SCHEDULE 1. GATE/PLATFORM POSITION FEES**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY				
YEAR	BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
2008	\$19,500	\$16,200	\$13,000	\$6,500
Subsequent Years	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2008,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b> For injury or wrongful death to one person	<u>\$2,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>
	<b>Property Damage Liability</b> For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b> For injury or wrongful death to one person	<u>\$5,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>
	<b>Property Damage Liability</b> For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

#### SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be three hundred forty thousand Dollars and No Cents (\$ 340,000.00).

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is Ex.1.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
225 Park Avenue South  
New York, New York 10003

**BUS CARRIER LICENSE AGREEMENT**

1. Carrier's Full Legal Name: ADIRONDACK TRANSIT LINES, INC
2. Carrier's Address: 499 HURLEY AVENUE  
HURLEY, NY 12443
3. Type of legal entity: CORPORATION  
State of organization: NEW YORK
4. Carrier's Representative: Eugene J. Berardi, Jr. - President
5. Effective Date: May 1, 2008

Dated: April 30, 2008

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By Victoria Cross Kelly

name: Victoria Cross Kelly

title: Director  
Tunnels, Bridges & Terminals  
Department

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

Adirondack Transit Lines, Inc.  
(Carrier)

By Eugene J. Berardi, Jr.

name: Eugene J. Berardi, Jr.

title: President

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### **EXHIBITS AND SCHEDULES**

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## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "Port Authority"), and the bus carrier identified on the Cover Page hereof (the "Carrier"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "PABT").
2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "GWBS").
3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"**Activity Fee Installment**" shall have the meaning set forth in Section 4.1(b).

"**Activity Fees**" shall have the meaning set forth in Section 4.1(a).

"**Audit Findings**" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

**"Facility"** shall mean either or both of the PABT and the GWBBS, as the context requires.

**"Gate Fee"** shall have the meaning set forth in Section 4.1(a).

**"General Manager"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

**"GWBBS"** shall have the meaning set forth in Recital 2 above.

**"Holiday"** shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

**"Irregular Route Operations"** shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

**"Labor Trouble"** shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

**"Loading Position"** shall mean a location on a Vehicular Level, including a gate or a platform position, designated for passengers to be loaded onto, or unloaded from, Buses.

**"Long Distance Service"** shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

**"Middle Distance Destination"** shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

**"Middle Distance Percentage Fee"** shall have the meaning set forth in Section 4.1(a).

**"Non-Revenue Departures"** shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

**"Northern Manhattan"** shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Notice"** shall have the meaning set forth in Section 14.1(a).

**"PABT"** shall have the meaning set forth in Recital 1 above.

**"Peak Period"** shall have the meaning set forth in Section 10.2.

**"Pooling Arrangement"** shall have the meaning set forth in Section 10.1.

"**Pooling Partner**" shall have the meaning set forth in Section 10.1.

"**Quarterly Reconciliation Form**" shall have the meaning set forth in Section 4.1(b).

"**Regular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

"**Required Deposit Amount**" shall have the meaning set forth in Section 12.1(a).

"**Short Haul Service**" shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

"**Space**" shall have the meaning set forth in Section 2.1(a).

"**Surface Transportation Board**" shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

"**Term**" shall have the meaning set forth in Section 2.2(b).

"**Vehicular Level**" shall mean any floor or story at the Facility designed for use by Buses.

## **Article 2. License**

### **Section 2.1 Grant of License**

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions (which may include Loading Positions to be shared with one or more other bus carriers) as shall be specified from time to time by the General Manager (collectively, the "**Space**") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the

applicable terms and conditions of this Agreement and the rules and regulations of the Port Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Pooling Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or providing transportation as a private carrier, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "Gate Fee"), which shall be payable as provided in the following paragraph (b) of this Section 4.1; provided, however, that where a Loading Position has been assigned to the Carrier to be shared with one or more other bus carriers, the Gate Fee with respect to such Loading Position shall be one hundred twenty percent (120%) of the amount set

forth in Schedule 1, and the total of such increased Gate Fee shall be shared equally by the Carrier and such other bus carrier(s); for example, if the Loading Position has been assigned to be shared by two bus carriers, each shall pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "**Activity Fees**"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "**Departure Fee**") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "**Middle Distance Percentage Fee**"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Fees.*

(1) *Gate Fee.* The Gate Fee shall be payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(i) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "**Activity Fee Installment**") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(ii) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from

time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(iii) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "Quarterly Reconciliation Form") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

#### Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

#### Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank:	Commerce Bank
Bank ABA Number:	026013673
Account Number:	Ex. 1

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

#### Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at

any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

## Article 5. Facility Services

### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

(a) *Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

(b) *Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

(c) *Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "Dispatcher"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall schedule departure times to avoid simultaneous Departures from multiple gates. The Carrier shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this release shall invalidate any policy of insurance or shall increase the premium therefor, or shall

void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### **Section 7.8 Governmental and Other Requirements**

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### **Section 7.9 Labor Provisions**

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

(1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier, provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

(a) *Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (unless resulting solely from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (unless resulting solely from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

(a) *Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Pooling Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility, to share use of any Loading Position that is a part of the Space (a "**Pooling Arrangement**"; and any such already licensed carrier, a "**Pooling Partner**" of the Carrier).

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Pooling Arrangement, stating the details of such arrangement and providing the Port Authority with a copy of the agreement covering such Pooling Arrangement.

(c) *Gate Fee and Other Responsibilities.* Notwithstanding any Pooling Arrangement, the Carrier shall continue to be wholly liable for the Gate Fee and all other obligations hereunder with respect to the Loading Position that is the subject of the Pooling Arrangement.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, limit or otherwise diminish any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof. The Carrier specifically acknowledges and agrees that the Carrier's Pooling Partners shall constitute persons using and occupying the Space with the Carrier's consent for purposes of Section 9.1 of this Agreement, entitled "Indemnity", and are accordingly covered by clauses (y) and (z) of paragraph (a) thereof.

**Section 10.2 Performance Requirements**

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

Type of Loading Position	Minimum Average Peak Period* Departures	Maximum Peak Period* Departures
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon thirty (30) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## **Article 11. Termination**

### **Section 11.1 Termination by Port Authority**

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "**Payment Default**"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

*(e) Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

*(f) No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### **Section 14.1 Notices**

*(a) Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "**Notice**") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

*(b) Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

*(c) Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

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

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Lessee and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

#### Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

\* \* \* \* \*

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

provided, however, that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.



**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the George Washington Bridge Bus Station**

2007

**Short Haul Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$2.10	\$0.00		\$0.00
2		\$2.10	\$0.00		\$0.00
3		\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>					<b>\$0.00</b>

**Middle-Distance Ticket Sales**

Month	Ticket Sales Revenue	Commission	Actual Tickets Sales Fees	Amount Invoiced	Amount Due/Credit
1		13.5%	\$0.00		\$0.00
2		13.5%	\$0.00		\$0.00
3		13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>					<b>\$0.00</b>

**Long-Distance Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$38.00	\$0.00		\$0.00
2		\$38.00	\$0.00		\$0.00
3		\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>					<b>\$0.00</b>

**TOTAL DUE/CREDIT** **\$0.00**

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22					
						<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_





**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

**EXHIBIT 6. LETTER OF CREDIT**

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_

At the request of \_\_\_\_\_ (A) \_\_\_\_\_, we \_\_\_\_\_ (B) \_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_ (D) \_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at

\_\_\_\_\_ (E) \_\_\_\_\_  
on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_ (B) \_\_\_\_\_ Letter of Credit No. \_\_\_\_\_ (C) \_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_ (F) \_\_\_\_\_  
This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

LEGEND:

- A - INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B - INSERT NAME OF ISSUING BANK
- C - INSERT L/C IDENTIFICATION NUMBER
- D - INSERT DOLLAR VALUE OF INSTRUMENT
- E - INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F - INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval PRIOR to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

**SCHEDULE 1. GATE/PLATFORM POSITION FEES**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY				
YEAR	BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
2008	\$19,500	\$16,200	\$13,000	\$6,500
Subsequent Years	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007.

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2008,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$2,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$5,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

**SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER**

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be ~~six hundred sixty five thousand dollars and No Cents~~ <sup>one hundred thirty five thousand dollars</sup> (~~\$ 665,000.00~~ and no cents *EM*).  
135,000.00

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is \_\_\_\_\_ Ex.1 \_\_\_\_\_.

#### SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be one hundred thirty-five thousand Dollars and No Cents (\$ 135,000.00).

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is \_\_\_\_\_ Ex.1

#### SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be one hundred thirty-five thousand Dollars and No Cents (\$ 135,000.00).

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is \_\_\_\_\_

Ex. 1 \_\_\_\_\_

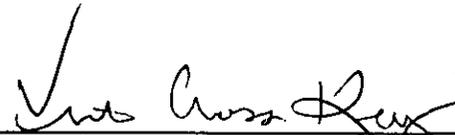
: For Port Authority Use Only :  
:  
: Carrier License No. TBT-AIR-BLA-020

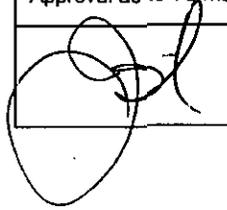
**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
**225 Park Avenue South**  
**New York, New York 10003**  
**BUS CARRIER LICENSE AGREEMENT**

1. **Carrier's Full Legal Name:** Air Brook Limousine, Inc.
2. **Carrier's Address:** 115 W. Passaic Street  
Rochelle Park, NJ 07662
3. **Type of legal entity** Corporation  
**State of organization:** New Jersey
3. **Carrier's Representative:** Donald M. Petroski, President  
(name and title)
4. **Effective Date:** 5/±/2008, 2008

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

Dated: 4/30/2008

By   
name: Victoria Cross Kelly  
title: Director  
Tunnels, Bridges and Terminals Department  
Air Brook Limousine, Inc.

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

Air Brook  
(Carrier)  
By   
name: Donald M. Petroski  
title: President

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Schedule 3	Insurance
Schedule 4	Security Deposit and Tax I.D. Number

## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "Port Authority"), and the bus carrier identified on the Cover Page hereof (the "Carrier"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "PABT").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "GWBBS").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"Activity Fee Installment" shall have the meaning set forth in Section 4.1(b).

"Activity Fees" shall have the meaning set forth in Section 4.1(a).

"Audit Findings" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

"**Facility**" shall mean either or both of the PABT and the GWBBS, as the context requires.

"**Gate Fee**" shall have the meaning set forth in Section 4.1(a).

"**General Manager**" shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

"**GWBBS**" shall have the meaning set forth in Recital 2 above.

"**Holiday**" shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

"**Irregular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

"**Labor Trouble**" shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

"**Licensed Bus Carrier**" shall have the meaning set forth in Section 10.1.

"**Loading Position**" shall mean a location, on a Vehicular Level, designated for passengers to be loaded onto, or unloaded from, Buses.

"**Long Distance Service**" shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

"**Middle Distance Destination**" shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

"**Middle Distance Percentage Fee**" shall have the meaning set forth in Section 4.1(a).

"**Non-Revenue Departures**" shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

"**Northern Manhattan**" shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

"**Notice**" shall have the meaning set forth in Section 14.1(a).

"**PABT**" shall have the meaning set forth in Recital 1 above.

"**Peak Period**" shall have the meaning set forth in Section 10.2.

"Quarterly Reconciliation Form" shall have the meaning set forth in Section 4.1(b).

"Regular Route Operations" shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

"Required Deposit Amount" shall have the meaning set forth in Section 12.1(a).

"Sharing Arrangement" shall have the meaning set forth in Section 10.1.

"Short Haul Service" shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

"Space" shall have the meaning set forth in Section 2.1(a).

"Surface Transportation Board" shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

"Term" shall have the meaning set forth in Section 2.2(b).

"Vehicular Level" shall mean any floor or story at the Facility designed for use by Buses.

## Article 2. License

### Section 2.1 Grant of License

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions as shall be specified from time to time by the General Manager (collectively, the "Space") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the applicable terms and conditions of this Agreement and the rules and regulations of the Port

Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Sharing Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or providing transportation as a private carrier, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "Gate Fee"), payable in advance in equal monthly instalments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be

the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "**Activity Fees**"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "**Departure Fee**") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "**Middle Distance Percentage Fee**"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable at in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(1) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "**Activity Fee Installment**") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(2) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(3) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "**Quarterly Reconciliation Form**") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank: Commerce Bank  
Bank ABA Number: 026013673  
Account Number: Ex. 1

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

*(b) Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

*(a) Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge*. In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "*Audit Findings*"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

### **Article 5. Facility Services**

#### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs*. Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

#### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

#### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### Article 6. Services Provided on Behalf of Carrier

#### Section 6.1 Schedule Information

(a) *Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

(b) *Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

(c) *Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "Dispatcher"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall schedule departure times to avoid simultaneous Departures from multiple gates. The Carrier shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this release shall invalidate any policy of insurance or shall increase the premium therefor, or shall

void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

(1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

*(a) Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (unless resulting solely from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (unless resulting solely from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

*(a) Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Voluntary Sharing Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility (a "Licensed Bus Carrier"), to share use of any Loading Position that is a part of the Space (a "Sharing Arrangement").

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Sharing Arrangement, stating the details of such arrangement.

(c) *Gate Fee Recalculation.* Upon the effectiveness of and for the duration of any Sharing Arrangement, the Gate Fee with respect to the Loading Position that is the subject of the Sharing Arrangement shall be increased by twenty percent (20%); the total of such increased Gate Fee shall be shared equally by the Carrier and the other Licensed Bus Carrier that is party to the Sharing Arrangement, and each shall, accordingly, pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, change or affect any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof.

**Section 10.2 Performance Requirements**

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

Type of Loading Position	Minimum Average Peak Period* Departures	Maximum Peak Period* Departures
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon thirty (30) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## Article 11. Termination

### Section 11.1 Termination by Port Authority

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "Payment Default"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "Required Deposit Amount") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### **Section 14.1 Notices**

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

**Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims**

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

**Section 15.7 Construction and Application of Terms**

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

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

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Lessee and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

#### Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

\* \* \* \* \*

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

**provided, however,** that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.

**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the Port Authority Bus Terminal**

2007

**Short Haul Departures**

	Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1			\$2.10	\$0.00		\$0.00
2			\$2.10	\$0.00		\$0.00
3			\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>						<b>\$0.00</b>

**Middle-Distance Ticket Sales**

	Month	Ticket Sales Revenue	Commission	Actual Tickets Sales Fees	Amount Invoiced	Amount Due/Credit
1			13.5%	\$0.00		\$0.00
2			13.5%	\$0.00		\$0.00
3			13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>						<b>\$0.00</b>

**Long-Distance Departures**

	Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1			\$38.00	\$0.00		\$0.00
2			\$38.00	\$0.00		\$0.00
3			\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>						<b>\$0.00</b>

**TOTAL DUE/CREDIT** **\$0.00**



**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22					
						<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)





**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

## EXHIBIT 6. LETTER OF CREDIT

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_

At the request of \_\_\_\_\_ (A) \_\_\_\_\_, we \_\_\_\_\_ (B) \_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_ (D) \_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at \_\_\_\_\_ (E) \_\_\_\_\_

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_ (B) \_\_\_\_\_ Letter of Credit No. \_\_\_\_\_ (C) \_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_ (F) \_\_\_\_\_ This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

### LEGEND:

- A - INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B - INSERT NAME OF ISSUING BANK
- C - INSERT L/C IDENTIFICATION NUMBER
- D - INSERT DOLLAR VALUE OF INSTRUMENT
- E - INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F - INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval PRIOR to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

**SCHEDULE 1. GATE/PLATFORM POSITION FEES**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2007	\$ 1,234.00 / year	\$ 3,292.00 / year
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY			
BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
\$18,500	\$15,400	\$12,300	\$6,150

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

Long-Distance Departure Fees:

\$38 per Revenue Departure<sup>1</sup>

Short Haul Departure Fees:

2007: \$2.10 per Revenue Departure

2008: \$2.20 per Revenue Departure

2009: \$2.30 per Revenue Departure

Subsequent years: Annual CPI Adjustment<sup>2</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2008,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

### SCHEDULE 3. INSURANCE

<u>POLICY</u>	<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)	
<b>Bodily Injury Liability</b> For injury or wrongful death to one person  For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>  <u>\$2,000,000</u>
<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>	
<b>Bodily Injury Liability</b> For injury or wrongful death to one person  For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>  <u>\$5,000,000</u>
<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

**SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER**

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be ~~eight thousand five hundred Dollars and No Cents (\$ 8,500.00)~~. *\$3,000.00* *JH*

Three Thousand Dollars and No Cents

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is \_\_\_\_\_ Ex. 1 \_\_\_\_\_.

: For Port Authority Use Only :

: Carrier License No. \_\_\_\_\_ :

*TBT-BAL-BLA-002*

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
225 Park Avenue South  
New York, New York 10003

**BUS CARRIER LICENSE AGREEMENT**

1. Carrier's Full Legal Name: BONANZA ACQUISITION, LLC

2. Carrier's Address: C/O PETER PAN BUS LINES, INC.  
1776 MAIN ST - PO BOX 1776  
SPRINGFIELD, MA 01102-1776

3. Type of legal entity LIMITED LIABILITY COMPANY  
State of organization: DELAWARE

3. Carrier's Representative: BRIAN R STEFANO EXECUTIVE VICE PRESIDENT/TREASURER  
(name and title)

4. Effective Date: May 1, 2008

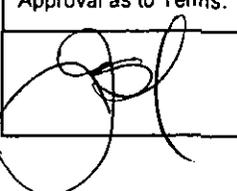
Dated: April 30, 2008

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By *Victoria Cross Kelly*

name: *Victoria Cross Kelly*

title: *Director, Tunnels, Bridges and  
Terminals Department*

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

BONANZA ACQUISITION, LLC

(Carrier)

By *Brian R Stefano*

name: BRIAN R STEFANO

title: EXECUTIVE VICE PRESIDENT/TREASURER

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#### **EXHIBITS AND SCHEDULES**

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Schedule 4	Security Deposit and Tax I.D. Number

## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "**Port Authority**"), and the bus carrier identified on the Cover Page hereof (the "**Carrier**"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "**PABT**").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "**GWBBS**").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"**Activity Fee Installment**" shall have the meaning set forth in Section 4.1(b).

"**Activity Fees**" shall have the meaning set forth in Section 4.1(a).

"**Audit Findings**" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

**"Facility"** shall mean either or both of the PABT and the GWBBS, as the context requires.

**"Gate Fee"** shall have the meaning set forth in Section 4.1(a).

**"General Manager"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

**"GWBBS"** shall have the meaning set forth in Recital 2 above.

**"Holiday"** shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

**"Irregular Route Operations"** shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

**"Labor Trouble"** shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

**"Loading Position"** shall mean a location on a Vehicular Level, including a gate or a platform position, designated for passengers to be loaded onto, or unloaded from, Buses.

**"Long Distance Service"** shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

**"Middle Distance Destination"** shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

**"Middle Distance Percentage Fee"** shall have the meaning set forth in Section 4.1(a).

**"Non-Revenue Departures"** shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

**"Northern Manhattan"** shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Notice"** shall have the meaning set forth in Section 14.1(a).

**"PABT"** shall have the meaning set forth in Recital 1 above.

**"Peak Period"** shall have the meaning set forth in Section 10.2.

**"Pooling Arrangement"** shall have the meaning set forth in Section 10.1.

"**Pooling Partner**" shall have the meaning set forth in Section 10.1.

"**Quarterly Reconciliation Form**" shall have the meaning set forth in Section 4.1(b).

"**Regular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

"**Required Deposit Amount**" shall have the meaning set forth in Section 12.1(a).

"**Short Haul Service**" shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

"**Space**" shall have the meaning set forth in Section 2.1(a).

"**Surface Transportation Board**" shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

"**Term**" shall have the meaning set forth in Section 2.2(b).

"**Vehicular Level**" shall mean any floor or story at the Facility designed for use by Buses.

## Article 2. License

### Section 2.1 Grant of License

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions (which may include Loading Positions to be shared with one or more other bus carriers) as shall be specified from time to time by the General Manager (collectively, the "**Space**") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the

applicable terms and conditions of this Agreement and the rules and regulations of the Port Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

#### Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

#### Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Pooling Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "**Gate Fee**"), which shall be payable as provided in the following paragraph (b) of this Section 4.1; provided, however, that where a Loading Position has been assigned to the Carrier to be shared with one or more other bus carriers, the Gate Fee with respect to such Loading Position shall be one hundred twenty percent (120%) of the amount set

forth in Schedule 1, and the total of such increased Gate Fee shall be shared equally by the Carrier and such other bus carrier(s); for example, if the Loading Position has been assigned to be shared by two bus carriers, each shall pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "**Activity Fees**"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "**Departure Fee**") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "**Middle Distance Percentage Fee**"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Fees.*

(1) *Gate Fee.* The Gate Fee shall be payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(i) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "**Activity Fee Installment**") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(ii) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from

time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(iii) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "Quarterly Reconciliation Form") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

#### Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

#### Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank:	TD Bank 6000 Atrium Way Mount Laurel NJ 08054
Bank ABA Number:	031201360
Account Number:	Ex. 1
Beneficiary Name	The Port Authority of NY & NJ

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port

Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

#### Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts

found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

## Article 5. Facility Services

### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

(a) *Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

(b) *Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

(c) *Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "Dispatcher"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

*(b) Condition of Buses.* Buses shall be kept clean and maintained in good working order.

*(c) Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

*(d) Scheduling of Departure Times.* The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

*(e) E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

*(a) Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this

release shall invalidate any policy of insurance or shall increase the premium therefor, or shall void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

(1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

(a) *Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

(a) *Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Pooling Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility, to share use of any Loading Position that is a part of the Space (a "**Pooling Arrangement**"; and any such already licensed carrier, a "**Pooling Partner**" of the Carrier).

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Pooling Arrangement, stating the details of such arrangement and providing the Port Authority with a copy of the agreement covering such Pooling Arrangement.

(c) *Gate Fee and Other Responsibilities.* Notwithstanding any Pooling Arrangement, the Carrier shall continue to be wholly liable for the Gate Fee and all other obligations hereunder with respect to the Loading Position that is the subject of the Pooling Arrangement.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, limit or otherwise diminish any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof. The Carrier specifically acknowledges and agrees that the Carrier's Pooling Partners shall constitute persons using and occupying the Space with the Carrier's consent for purposes of Section 9.1 of this Agreement, entitled "Indemnity", and are accordingly covered by clauses (y) and (z) of paragraph (a) thereof.

**Section 10.2 Performance Requirements**

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

Type of Loading Position	Minimum Average Peak Period* Departures	Maximum Peak Period* Departures
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon sixty (60) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## Article 11. Termination

### Section 11.1 Termination by Port Authority

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "Payment Default"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

### Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

### Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that *unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and*

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### **Section 14.1 Notices**

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

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

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Carrier and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

#### Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

\* \* \* \* \*

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

provided, however, that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.





**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

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

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22					
						<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_





**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

EXHIBIT 6. LETTER OF CREDIT

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_

At the request of \_\_\_\_\_ (A) \_\_\_\_\_, we \_\_\_\_\_ (B) \_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_ (D) \_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at \_\_\_\_\_ (E) \_\_\_\_\_

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_ (B) \_\_\_\_\_ Letter of Credit No. \_\_\_\_\_ (C) \_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_ (F) \_\_\_\_\_ This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

LEGEND:

- A - INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B - INSERT NAME OF ISSUING BANK
- C - INSERT L/C IDENTIFICATION NUMBER
- D - INSERT DOLLAR VALUE OF INSTRUMENT
- E - INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F - INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval PRIOR to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

## SCHEDULE 1. GATE/PLATFORM POSITION FEES

### PORT AUTHORITY BUS TERMINAL (PABT) GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY				
YEAR	BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
2008	\$19,500	\$16,200	\$13,000	\$6,500
Subsequent Years	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a “**New Fee Year**”) shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

“**Percentage Increase**” shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

“**Base Period**” shall mean the month of September 2007,

“**Adjustment Period**” shall mean the month of September immediately preceding the New Fee Year, and

“**Anniversary Date**” shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a “**New Fee Year**”) shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

“**Percentage Increase**” shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

“**Base Period**” shall mean the month of September 2008,

“**Adjustment Period**” shall mean the month of September immediately preceding the New Fee Year, and

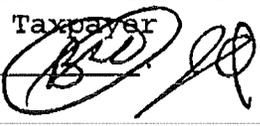
“**Anniversary Date**” shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b> For injury or wrongful death to one person	<u>\$2,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>
	<b>Property Damage Liability</b> For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b> For injury or wrongful death to one person	<u>\$5,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>
	<b>Property Damage Liability</b> For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

**SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER**

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be eighty thousand Dollars and No Cents (\$ 80,000.00).

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is \_\_\_\_\_ Ex. 1 

: For Port Authority Use Only :

: Carrier License No. \_\_\_\_\_ :

TBT-BER-BLA-004

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
225 Park Avenue South  
New York, New York 10003

**BUS CARRIER LICENSE AGREEMENT**

1. Carrier's Full Legal Name: Carl R. Bieber, Inc.
2. Carrier's Address: 320 Fair Street  
Kutztown, PA 19530
3. Type of legal entity: Corporation  
State of organization: Pennsylvania
3. Carrier's Representative: Steven G. Haddad, President  
(name and title)
4. Effective Date: MAY 1<sup>ST</sup>, 2008

Dated: Sept. 28, 2009  
~~MAY 1<sup>ST</sup> 2008~~

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By [Signature]  
name: Victoria Cross Kelly  
title: Director FBT

Port Authority Use Only	
Approval as to Terms:	Approval as to Form:
<u>[Signature]</u>	<u>[Signature]</u>

CARL R. BIEBER, INC  
(Carrier)

By Steven G. Haddad Pres.  
name: Steven G. Haddad  
title: President

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## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "Port Authority"), and the bus carrier identified on the Cover Page hereof (the "Carrier"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "PABT").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "GWBBS").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"Activity Fee Installment" shall have the meaning set forth in Section 4.1(b).

"Activity Fees" shall have the meaning set forth in Section 4.1(a).

"Audit Findings" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

**"Facility"** shall mean either or both of the PABT and the GWBBS, as the context requires.

**"Gate Fee"** shall have the meaning set forth in Section 4.1(a).

**"General Manager"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

**"GWBBS"** shall have the meaning set forth in Recital 2 above.

**"Holiday"** shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

**"Irregular Route Operations"** shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

**"Labor Trouble"** shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

**"Licensed Bus Carrier"** shall have the meaning set forth in Section 10.1.

**"Loading Position"** shall mean a location, on a Vehicular Level, designated for passengers to be loaded onto, or unloaded from, Buses.

**"Long Distance Service"** shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

**"Middle Distance Destination"** shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

**"Middle Distance Percentage Fee"** shall have the meaning set forth in Section 4.1(a).

**"Non-Revenue Departures"** shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

**"Northern Manhattan"** shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Notice"** shall have the meaning set forth in Section 14.1(a).

**"PABT"** shall have the meaning set forth in Recital 1 above.

**"Peak Period"** shall have the meaning set forth in Section 10.2.

**"Quarterly Reconciliation Form"** shall have the meaning set forth in Section 4.1(b).

**"Regular Route Operations"** shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

**"Required Deposit Amount"** shall have the meaning set forth in Section 12.1(a).

**"Sharing Arrangement"** shall have the meaning set forth in Section 10.1.

**"Short Haul Service"** shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

**"Space"** shall have the meaning set forth in Section 2.1(a).

**"Surface Transportation Board"** shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

**"Term"** shall have the meaning set forth in Section 2.2(b).

**"Vehicular Level"** shall mean any floor or story at the Facility designed for use by Buses.

## **Article 2. License**

### **Section 2.1 Grant of License**

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions as shall be specified from time to time by the General Manager (collectively, the "Space") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the applicable terms and conditions of this Agreement and the rules and regulations of the Port

Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Sharing Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or providing transportation as a private carrier, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "Gate Fee"), payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be

the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "**Activity Fees**"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "**Departure Fee**") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "**Middle Distance Percentage Fee**"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable at in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(1) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "**Activity Fee Installment**") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(2) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(3) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "**Quarterly Reconciliation Form**") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank: Commerce Bank  
Bank ABA Number: 026013673  
Account Number: Ex. 1

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

### **Article 5. Facility Services**

#### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

#### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

#### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

(a) *Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

(b) *Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

(c) *Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "Dispatcher"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall schedule departure times to avoid simultaneous Departures from multiple gates. The Carrier shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this release shall invalidate any policy of insurance or shall increase the premium therefor, or shall

void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

- (1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

(a) *Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (unless resulting solely from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (unless resulting solely from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

(a) *Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Voluntary Sharing Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility (a "Licensed Bus Carrier"), to share use of any Loading Position that is a part of the Space (a "Sharing Arrangement").

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Sharing Arrangement, stating the details of such arrangement.

(c) *Gate Fee Recalculation.* Upon the effectiveness of and for the duration of any Sharing Arrangement, the Gate Fee with respect to the Loading Position that is the subject of the Sharing Arrangement shall be increased by twenty percent (20%); the total of such increased Gate Fee shall be shared equally by the Carrier and the other Licensed Bus Carrier that is party to the Sharing Arrangement, and each shall, accordingly, pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, change or affect any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof.

**Section 10.2 Performance Requirements**

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

<b>Type of Loading Position</b>	<b>Minimum Average Peak Period* Departures</b>	<b>Maximum Peak Period* Departures</b>
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon thirty (30) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## **Article 11. Termination**

### **Section 11.1 Termination by Port Authority**

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

*(b) Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

*(c) Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "Payment Default"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

*(d) No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

*(a) Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

*(b) Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

### Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

### Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### **Section 14.1 Notices**

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

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

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Lessee and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

\* \* \* \* \*

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

**provided, however,** that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.

**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the Port Authority Bus Terminal**

2007

**Short Haul Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$2.10	\$0.00		\$0.00
2		\$2.10	\$0.00		\$0.00
3		\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>					<b>\$0.00</b>

**Middle-Distance Ticket Sales**

Month	Ticket Sales Revenue	Commission	Actual Tickets Sales Fees	Amount Invoiced	Amount Due/Credit
1		13.5%	\$0.00		\$0.00
2		13.5%	\$0.00		\$0.00
3		13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>					<b>\$0.00</b>

**Long-Distance Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$38.00	\$0.00		\$0.00
2		\$38.00	\$0.00		\$0.00
3		\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>					<b>\$0.00</b>

**TOTAL DUE/CREDIT** **\$0.00**



**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_

(*accompanies this report*)





**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

## EXHIBIT 6. LETTER OF CREDIT

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_(C)\_\_\_\_\_

At the request of \_\_\_\_\_(A)\_\_\_\_\_, we \_\_\_\_\_(B)\_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_(C)\_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_(D)\_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at \_\_\_\_\_(E)\_\_\_\_\_

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_(B)\_\_\_\_\_ Letter of Credit No. \_\_\_\_\_(C)\_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_(F)\_\_\_\_\_. This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

### LEGEND:

- A - INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B - INSERT NAME OF ISSUING BANK
- C - INSERT L/C IDENTIFICATION NUMBER
- D - INSERT DOLLAR VALUE OF INSTRUMENT
- E - INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F - INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval **PRIOR** to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

**SCHEDULE 1. GATE/PLATFORM POSITION FEES**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2007	\$ 1,234.00 / year	\$ 3,292.00 / year
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY			
BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
\$18,500	\$15,400	\$12,300	\$6,150

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

Long-Distance Departure Fees:  
\$38 per Revenue Departure<sup>1</sup>

Short Haul Departure Fees:  
2007: \$2.10 per Revenue Departure  
2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2008,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$2,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$5,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

**SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER**

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be ~~one hundred thousand Dollars and No Cents (\$ 100,000.00)~~. *\$50,000 GA 7/11/08* *7/11/08* *[Signature]*

Fifty Thousand Dollars and No Cents

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is

Ex. 1

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
225 Park Avenue South  
New York, New York 10003

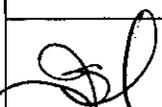
**BUS CARRIER LICENSE AGREEMENT**

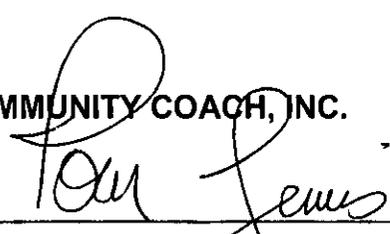
1. Carrier's Full Legal Name: Community Coach, Inc.
  
2. Carrier's Address: 160 S. Route 17 North  
Paramus, NJ, 07652
  
3. Type of legal entity Corporation  
State of organization: New Jersey
  
3. Carrier's Representative: Tom Lewis, President  
(name and title)
  
4. Effective Date: May 1, 2008

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Dated: April 30, 2008

By   
name: CEDRICK T. FURR  
title: Director

Port Authority Use Only	
Approval as to Terms:	Approval as to Form:
<u></u>	<u></u>

**COMMUNITY COACH, INC.**  
By   
name: Tom Lewis  
title: President

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Exhibit 4	Terminal Dispatch Record
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Exhibit 6	Letter of Credit
Schedule 1	Gate/Platform Position Fees
Schedule 2	Departure Fees; Middle Distance Percentage Fee
Schedule 3	Insurance
Schedule 4	Security Deposit and Tax I.D. Number
Rider	

## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "Port Authority"), and the bus carrier identified on the Cover Page hereof (the "Carrier"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "PABT").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "GWBBS").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"Activity Fee Installment" shall have the meaning set forth in Section 4.1(b).

"Activity Fees" shall have the meaning set forth in Section 4.1(a).

"Audit Findings" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

**"Facility"** shall mean either or both of the PABT and the GWBBS, as the context requires.

**"Gate Fee"** shall have the meaning set forth in Section 4.1(a).

**"General Manager"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

**"GWBBS"** shall have the meaning set forth in Recital 2 above.

**"Holiday"** shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

**"Irregular Route Operations"** shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

**"Labor Trouble"** shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

**"Loading Position"** shall mean a location on a Vehicular Level, including a gate or a platform position, designated for passengers to be loaded onto, or unloaded from, Buses.

**"Long Distance Service"** shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

**"Middle Distance Destination"** shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

**"Middle Distance Percentage Fee"** shall have the meaning set forth in Section 4.1(a).

**"Non-Revenue Departures"** shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

**"Northern Manhattan"** shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Notice"** shall have the meaning set forth in Section 14.1(a).

**"PABT"** shall have the meaning set forth in Recital 1 above.

**"Peak Period"** shall have the meaning set forth in Section 10.2.

**"Pooling Arrangement"** shall have the meaning set forth in Section 10.1.

"**Pooling Partner**" shall have the meaning set forth in Section 10.1.

"**Quarterly Reconciliation Form**" shall have the meaning set forth in Section 4.1(b).

"**Regular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

"**Required Deposit Amount**" shall have the meaning set forth in Section 12.1(a).

"**Short Haul Service**" shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

"**Space**" shall have the meaning set forth in Section 2.1(a).

"**Surface Transportation Board**" shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

"**Term**" shall have the meaning set forth in Section 2.2(b).

"**Vehicular Level**" shall mean any floor or story at the Facility designed for use by Buses.

## **Article 2. License**

### **Section 2.1 Grant of License**

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions (which may include Loading Positions to be shared with one or more other bus carriers) as shall be specified from time to time by the General Manager (collectively, the "**Space**") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the

applicable terms and conditions of this Agreement and the rules and regulations of the Port Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Pooling Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "Gate Fee"), which shall be payable as provided in the following paragraph (b) of this Section 4.1; provided, however, that where a Loading Position has been assigned to the Carrier to be shared with one or more other bus carriers, the Gate Fee with respect to such Loading Position shall be one hundred twenty percent (120%) of the amount set

forth in Schedule 1, and the total of such increased Gate Fee shall be shared equally by the Carrier and such other bus carrier(s); for example, if the Loading Position has been assigned to be shared by two bus carriers, each shall pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "**Activity Fees**"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "**Departure Fee**") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "**Middle Distance Percentage Fee**"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Fees.*

(1) *Gate Fee.* The Gate Fee shall be payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(i) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "**Activity Fee Installment**") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(ii) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from

time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(iii) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "**Quarterly Reconciliation Form**") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

#### Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

#### Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank:	TD Bank 6000 Atrium Way Mount Laurel NJ 08054
Bank ABA Number:	031201360
Account Number:	Ex. 1
Beneficiary Name	The Port Authority of NY & NJ

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port

Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

#### Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts

found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

## Article 5. Facility Services

### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

*(a) Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

*(b) Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

*(c) Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "**Dispatcher**"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this

release shall invalidate any policy of insurance or shall increase the premium therefor, or shall void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

(1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

(a) *Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

(a) *Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Pooling Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility, to share use of any Loading Position that is a part of the Space (a "**Pooling Arrangement**"; and any such already licensed carrier, a "**Pooling Partner**" of the Carrier).

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Pooling Arrangement, stating the details of such arrangement and providing the Port Authority with a copy of the agreement covering such Pooling Arrangement.

(c) *Gate Fee and Other Responsibilities.* Notwithstanding any Pooling Arrangement, the Carrier shall continue to be wholly liable for the Gate Fee and all other obligations hereunder with respect to the Loading Position that is the subject of the Pooling Arrangement.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, limit or otherwise diminish any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof. The Carrier specifically acknowledges and agrees that the Carrier's Pooling Partners shall constitute persons using and occupying the Space with the Carrier's consent for purposes of Section 9.1 of this Agreement, entitled "Indemnity", and are accordingly covered by clauses (y) and (z) of paragraph (a) thereof.

**Section 10.2 Performance Requirements**

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

<b>Type of Loading Position</b>	<b>Minimum Average Peak Period* Departures</b>	<b>Maximum Peak Period* Departures</b>
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon sixty (60) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## **Article 11. Termination**

### **Section 11.1 Termination by Port Authority**

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents 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 Carrier is adjudged bankrupt, or an order is made approving a petition filed by any of the creditors or (if the Carrier is a corporation) by any of the stockholders of the Carrier, seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or any law or statute of the United States or of any State thereof; or

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

*(b) Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

*(c) Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "**Payment Default**"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

*(d) No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

*(a) Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

*(b) Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

### Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

### Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

*(e) Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

*(f) No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### **Section 14.1 Notices**

*(a) Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

*(b) Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

*(c) Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

(5) If the Carrier, as set forth on the Cover Page, consists of more than one individual or legal entity, then each and every obligation of the Carrier hereunder shall be the *joint and several obligation* of each such *individual or legal entity*.

(6) None of the provisions of this paragraph (d) shall be taken to alter, amend or diminish any obligation of the Carrier assumed in relation to its invitees, visitors, agents, representatives, contractors, customers, passengers, guests or other persons, firms or corporations doing business with it.

(e) *Exhibits and Schedules*. The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law*. To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns*. The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Carrier and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

#### Section 15.8 Entire Agreement

(a) *Entire Agreement*. This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing*. No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver*. No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

provided, however, that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.



**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the Port Authority Bus Terminal**

2007

**Short Haul Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$2.10	\$0.00		\$0.00
2		\$2.10	\$0.00		\$0.00
3		\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>					<b>\$0.00</b>

**Middle-Distance Ticket Sales**

Month	Ticket Sales Revenue	Commission	Actual Tickets Sales Fees	Amount Invoiced	Amount Due/Credit
1		13.5%	\$0.00		\$0.00
2		13.5%	\$0.00		\$0.00
3		13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>					<b>\$0.00</b>

**Long-Distance Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$38.00	\$0.00		\$0.00
2		\$38.00	\$0.00		\$0.00
3		\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>					<b>\$0.00</b>

**TOTAL DUE/CREDIT** **\$0.00**

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)





**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

## EXHIBIT 6. LETTER OF CREDIT

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_

At the request of \_\_\_\_\_ (A) \_\_\_\_\_, we \_\_\_\_\_ (B) \_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_ (D) \_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at \_\_\_\_\_ (E) \_\_\_\_\_

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_ (B) \_\_\_\_\_ Letter of Credit No. \_\_\_\_\_ (C) \_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_ (F) \_\_\_\_\_ This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

### LEGEND:

- A – INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B – INSERT NAME OF ISSUING BANK
- C – INSERT L/C IDENTIFICATION NUMBER
- D – INSERT DOLLAR VALUE OF INSTRUMENT
- E – INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F – INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval **PRIOR** to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

## SCHEDULE 1. GATE/PLATFORM POSITION FEES

### PORT AUTHORITY BUS TERMINAL (PABT) GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY				
YEAR	BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
2008	\$19,500	\$16,200	\$13,000	\$6,500
Subsequent Years	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

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<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a “**New Fee Year**”) shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

“**Percentage Increase**” shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

“**Base Period**” shall mean the month of September 2007,

“**Adjustment Period**” shall mean the month of September immediately preceding the New Fee Year, and

“**Anniversary Date**” shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a “**New Fee Year**”) shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

“**Percentage Increase**” shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

“**Base Period**” shall mean the month of September 2008,

“**Adjustment Period**” shall mean the month of September immediately preceding the New Fee Year, and

“**Anniversary Date**” shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person  For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>  <u>\$2,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person  For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>  <u>\$5,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

#### SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be Six Thousand Dollars and No Cents (\$ 6,000.00).

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is

Ex. 1

A handwritten signature or set of initials, possibly 'S. J.', written in black ink. The signature is located to the right of the text 'Ex. 1' and above a horizontal line that spans the width of the page.

RIDER

TO BUS CARRIER LICENSE AGREEMENT

(COACH)

Prior to the execution of this License by either party hereto the following deletions, additions and substitutions were made:

1. Article 3 was deleted and replaced in its entirety by the following:

(a) Section 3.1 Permitted Use of the Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever:

The standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

(b) Section 3.2 Right and Obligation to Use the Facility

A. Regular Operations. The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

B. Charter Operations. The Carrier may use the Facility for Charter Operations to and from the City of New York.

C. Uses Not Permitted. This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

(c) Section 3.3 Discontinuance of Other Terminals Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

2. Section 7.5 was deleted and replaced in its entirety by the following:

A. Restrictions as to Type and Size. Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

1. Buses shall not exceed one hundred two (102) inches in width.
2. Buses at the PABT shall have a maximum gross loaded weight not in excess of forty-eight thousand eight-hundred and forty 48,840 pounds avoirdupois, distributed to provide not more than twenty-two thousand five-hundred (22,500) pounds per axle, providing that the combined weight of the drive and tag axles does not exceed thirty-four thousand five-hundred (34,500) pounds.
3. In the event the Carrier proposes introduction into the PABT and GWBBS a type, style, size or model of Bus that exceeds the above requirements, the Carrier shall give the General Manager (30) thirty-days written notice identifying the proposed change and the General Manager has (60) sixty-days from receipt of said notice to inform

the Carrier whether the Facility can accommodate the proposed change.

4. Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.
5. Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.
6. Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.
7. Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (i.e., two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.
8. Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

B. Condition of Buses. Buses shall be kept clean and maintained in good working order.

C. Operation. Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

D. Scheduling of Departure Times. The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

E. E-ZPass. The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of

accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPasstransactions.

3. Article 9 was deleted and replaced in its entirety by the following:

(a) Section 9.1 Indemnity

A. Indemnification. The Carrier shall indemnify and hold harmless, the Port Authority Commissioners, directors, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority's in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

B. Defense of Claims. If so directed, the Carrier shall at its own expense defend any suit based upon any such claim or demand (even if such suit, claim or demand is groundless, false or fraudulent), 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 immunity of the Port Authority, its Commissioners, officers, agents or

employees, the governmental nature of the Port Authority or the provision of any statutes respecting suits against the Port Authority.

(b)Section 9.2 Liability Insurance

A. Required Coverages. The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule 3. Each such policy shall be maintained in at least the limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

B. Policy Requirements.

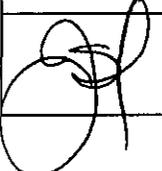
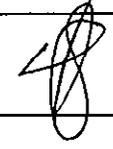
1. The Port Authority shall be named as an additional insured, in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority, as the case may be, not to be so named.
2. Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.
3. Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.
4. Each policy of liability insurance required by this section shall be specifically endorsed to state that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any

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

5. If at any time any policy fails to reflect the minimum policy requirements outlined in this agreement, the Carrier shall promptly obtain a new and satisfactory policy in replacement. All insurance policies shall be issued by insurance carriers authorized to conduct business in the State of New York with an A.M. Best Company Rating of A - or better, provided however, that if the A.M. Best Company or any successor rating company shall cease to exist, the Port Authority and Carrier shall negotiate in good faith on a substitute.

C. Evidence of Insurance. As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, and all required endorsements, or a binder, shall be delivered to the Port Authority within thirty (30) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall be specifically endorsed to provide that the policy may not be cancelled, terminated, changed or modified, without giving thirty (30) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

The Licensee hereby agrees to the terms and conditions of the rider attached hereto, hereby made a part hereof and marked "Rider". The terms and provisions of the Rider shall have the same force and effect and as if herein set forth in full.

INITIALED	
For the Port Authority	For the Permittee
	

: For Port Authority Use Only :

: Carrier License No. \_\_\_\_\_ :

TBT-DCP-BLA-005

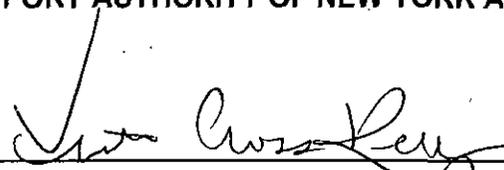
THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
225 Park Avenue South  
New York, New York 10003

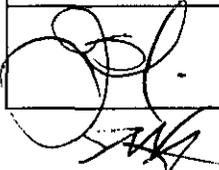
**BUS CARRIER LICENSE AGREEMENT**

- 1. Carrier's Full Legal Name: DeCamp Bus Lines
- 2. Carrier's Address: 101 Greenwood Ave, PO Box 581  
Montclair, New Jersey 07042
- 3. Type of legal entity: Corporation  
State of organization: New Jersey
- 3. Carrier's Representative: Gary P Pard, VP of Ops / COO  
(name and title)
- 4. Effective Date: May 1, 2008

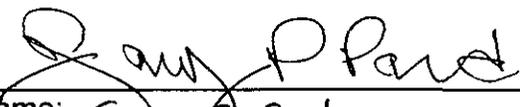
Dated: April 30, 2008

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By   
 name: Victoria Cross Kelly  
 title: Director  
Tunnels, Bridges & Terminals

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

DeCamp Bus Lines  
(Carrier)

By   
 name: Gary P. Pard  
 title: Vice President of Operations/Chief  
Operating Officer

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## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "Port Authority"), and the bus carrier identified on the Cover Page hereof (the "Carrier"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "PABT").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "GWBBS").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"Activity Fee Installment" shall have the meaning set forth in Section 4.1(b).

"Activity Fees" shall have the meaning set forth in Section 4.1(a).

"Audit Findings" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

"**Facility**" shall mean either or both of the PABT and the GWBBS, as the context requires.

"**Gate Fee**" shall have the meaning set forth in Section 4.1(a).

"**General Manager**" shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

"**GWBBS**" shall have the meaning set forth in Recital 2 above.

"**Holiday**" shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

"**Irregular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

"**Labor Trouble**" shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

"**Licensed Bus Carrier**" shall have the meaning set forth in Section 10.1.

"**Loading Position**" shall mean a location, on a Vehicular Level, designated for passengers to be loaded onto, or unloaded from, Buses.

"**Long Distance Service**" shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

"**Middle Distance Destination**" shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

"**Middle Distance Percentage Fee**" shall have the meaning set forth in Section 4.1(a).

"**Non-Revenue Departures**" shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

"**Northern Manhattan**" shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

"**Notice**" shall have the meaning set forth in Section 14.1(a).

"**PABT**" shall have the meaning set forth in Recital 1 above.

"**Peak Period**" shall have the meaning set forth in Section 10.2.

**"Quarterly Reconciliation Form"** shall have the meaning set forth in Section 4.1(b).

**"Regular Route Operations"** shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

**"Required Deposit Amount"** shall have the meaning set forth in Section 12.1(a).

**"Sharing Arrangement"** shall have the meaning set forth in Section 10.1.

**"Short Haul Service"** shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

**"Space"** shall have the meaning set forth in Section 2.1(a).

**"Surface Transportation Board"** shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

**"Term"** shall have the meaning set forth in Section 2.2(b).

**"Vehicular Level"** shall mean any floor or story at the Facility designed for use by Buses.

## **Article 2. License**

### **Section 2.1 Grant of License**

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions as shall be specified from time to time by the General Manager (collectively, the "Space") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the applicable terms and conditions of this Agreement and the rules and regulations of the Port

Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Sharing Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or providing transportation as a private carrier, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "Gate Fee"), payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be

the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "Activity Fees"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "Departure Fee") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "Middle Distance Percentage Fee"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable at in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(1) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "Activity Fee Installment") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(2) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(3) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "Quarterly Reconciliation Form") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank: Commerce Bank  
Bank ABA Number: 026013673  
Account Number: Ex. 1

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

### **Article 5. Facility Services**

#### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

#### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

#### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### Article 6. Services Provided on Behalf of Carrier

#### Section 6.1 Schedule Information

(a) *Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

(b) *Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

(c) *Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "Dispatcher"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall schedule departure times to avoid simultaneous Departures from multiple gates. The Carrier shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this release shall invalidate any policy of insurance or shall increase the premium therefor, or shall

void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

- (1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

(a) *Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (unless resulting solely from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (unless resulting solely from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

(a) *Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Voluntary Sharing Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility (a "Licensed Bus Carrier"), to share use of any Loading Position that is a part of the Space (a "Sharing Arrangement").

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Sharing Arrangement, stating the details of such arrangement.

(c) *Gate Fee Recalculation.* Upon the effectiveness of and for the duration of any Sharing Arrangement, the Gate Fee with respect to the Loading Position that is the subject of the Sharing Arrangement shall be increased by twenty percent (20%); the total of such increased Gate Fee shall be shared equally by the Carrier and the other Licensed Bus Carrier that is party to the Sharing Arrangement, and each shall, accordingly, pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, change or affect any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof.

**Section 10.2 Performance Requirements**

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

Type of Loading Position	Minimum Average Peak Period* Departures	Maximum Peak Period* Departures
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon thirty (30) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## **Article 11. Termination**

### **Section 11.1 Termination by Port Authority**

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "Payment Default"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

### Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

### Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "Required Deposit Amount") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### **Section 14.1 Notices**

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

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

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Lessee and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

\* \* \* \* \*

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

provided, however, that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.



**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

Summary for Activity at the George Washington Bridge Bus Station

2007

**Short Haul Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$2.10	\$0.00		\$0.00
2		\$2.10	\$0.00		\$0.00
3		\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>					<b>\$0.00</b>

**Middle-Distance Ticket Sales**

Month	Ticket Sales Revenue	Commission	Actual Tickets Sales Fees	Amount Invoiced	Amount Due/Credit
1		13.5%	\$0.00		\$0.00
2		13.5%	\$0.00		\$0.00
3		13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>					<b>\$0.00</b>

**Long-Distance Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$38.00	\$0.00		\$0.00
2		\$38.00	\$0.00		\$0.00
3		\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>					<b>\$0.00</b>

**TOTAL DUE/CREDIT                      \$0.00**

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22					
						<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_  
(accompanies this report)





**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

## EXHIBIT 6. LETTER OF CREDIT

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_

At the request of \_\_\_\_\_ (A) \_\_\_\_\_, we \_\_\_\_\_ (B) \_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_ (D) \_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at \_\_\_\_\_ (E) \_\_\_\_\_

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_ (B) \_\_\_\_\_ Letter of Credit No. \_\_\_\_\_ (C) \_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_ (F) \_\_\_\_\_. This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

### LEGEND:

- A - INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B - INSERT NAME OF ISSUING BANK
- C - INSERT L/C IDENTIFICATION NUMBER
- D - INSERT DOLLAR VALUE OF INSTRUMENT
- E - INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F - INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval **PRIOR** to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

**SCHEDULE 1. GATE/PLATFORM POSITION FEES**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY				
YEAR	BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
2008	\$19,500	\$16,200	\$13,000	\$6,500
Subsequent Years	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2008,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$2,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$5,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

#### SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be ~~fifty five thousand~~ Dollars and No Cents (\$ ~~55,000.00~~). *eighteen thousand*

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer

Identification Number is Ex. 1.

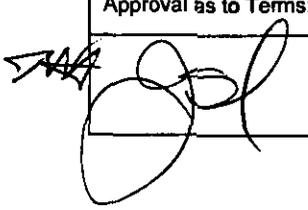
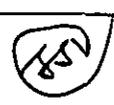
**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
225 Park Avenue South  
New York, New York 10003  
**BUS CARRIER LICENSE AGREEMENT**

1. **Carrier's Full Legal Name:** Frank Martz Coach Company
2. **Carrier's Address:** 239 Old River Road  
Wilkes-Barre, PA 18702
3. **Type of legal entity** Corporation  
**State of organization:** Delaware
3. **Carrier's Representative:** Robert Chepalonis, General Manager  
(name and title)
4. **Effective Date:** May 1, 2008

Dated: April 30, 2008

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By Victoria Cross Kelly  
name: Victoria Cross Kelly  
title: Director

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

Frank Martz Coach Company

(Carrier)

By Scott E. Henry  
name: Scott E. Henry  
title: President

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#### **EXHIBITS AND SCHEDULES**

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## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "Port Authority"), and the bus carrier identified on the Cover Page hereof (the "Carrier"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "PABT").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "GWBS").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"Activity Fee Installment" shall have the meaning set forth in Section 4.1(b).

"Activity Fees" shall have the meaning set forth in Section 4.1(a).

"Audit Findings" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

**"Facility"** shall mean either or both of the PABT and the GWBBS, as the context requires.

**"Gate Fee"** shall have the meaning set forth in Section 4.1(a).

**"General Manager"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

**"GWBBS"** shall have the meaning set forth in Recital 2 above.

**"Holiday"** shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

**"Irregular Route Operations"** shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

**"Labor Trouble"** shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

**"Licensed Bus Carrier"** shall have the meaning set forth in Section 10.1.

**"Loading Position"** shall mean a location, on a Vehicular Level, designated for passengers to be loaded onto, or unloaded from, Buses.

**"Long Distance Service"** shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

**"Middle Distance Destination"** shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

**"Middle Distance Percentage Fee"** shall have the meaning set forth in Section 4.1(a).

**"Non-Revenue Departures"** shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

**"Northern Manhattan"** shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Notice"** shall have the meaning set forth in Section 14.1(a).

**"PABT"** shall have the meaning set forth in Recital 1 above.

**"Peak Period"** shall have the meaning set forth in Section 10.2.

"Quarterly Reconciliation Form" shall have the meaning set forth in Section 4.1(b).

"Regular Route Operations" shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

"Required Deposit Amount" shall have the meaning set forth in Section 12.1(a).

"Sharing Arrangement" shall have the meaning set forth in Section 10.1.

"Short Haul Service" shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

"Space" shall have the meaning set forth in Section 2.1(a).

"Surface Transportation Board" shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

"Term" shall have the meaning set forth in Section 2.2(b).

"Vehicular Level" shall mean any floor or story at the Facility designed for use by Buses.

## Article 2. License

### Section 2.1 Grant of License

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions as shall be specified from time to time by the General Manager (collectively, the "Space") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the applicable terms and conditions of this Agreement and the rules and regulations of the Port

Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Sharing Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or providing transportation as a private carrier, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "Gate Fee"), payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be

the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "Activity Fees"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "Departure Fee") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "Middle Distance Percentage Fee"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable at in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(1) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "Activity Fee Installment") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(2) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(3) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "Quarterly Reconciliation Form") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank: Commerce Bank  
Bank ABA Number: 026013673  
Account Number: Ex. 1

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### **Section 4.6 Effect of Use and Occupancy after Expiration or Termination**

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

### **Article 5. Facility Services**

#### **Section 5.1 Maintenance and Repair of Facility**

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

#### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

#### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

(a) *Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

(b) *Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

(c) *Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "Dispatcher"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

*(b) Condition of Buses.* Buses shall be kept clean and maintained in good working order.

*(c) Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

*(d) Scheduling of Departure Times.* The Carrier shall schedule departure times to avoid simultaneous Departures from multiple gates. The Carrier shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

*(e) E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

*(a) Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this release shall invalidate any policy of insurance or shall increase the premium therefor, or shall

void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

*(b) Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

*(a) Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

*(b) Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

*(c) Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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 service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

- (1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

(a) *Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (unless resulting solely from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (unless resulting solely from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

(a) *Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Voluntary Sharing Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility (a "Licensed Bus Carrier"), to share use of any Loading Position that is a part of the Space (a "Sharing Arrangement").

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Sharing Arrangement, stating the details of such arrangement.

(c) *Gate Fee Recalculation.* Upon the effectiveness of and for the duration of any Sharing Arrangement, the Gate Fee with respect to the Loading Position that is the subject of the Sharing Arrangement shall be increased by twenty percent (20%); the total of such increased Gate Fee shall be shared equally by the Carrier and the other Licensed Bus Carrier that is party to the Sharing Arrangement, and each shall, accordingly, pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, change or affect any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof.

**Section 10.2 Performance Requirements**

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

Type of Loading Position	Minimum Average Peak Period* Departures	Maximum Peak Period* Departures
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon thirty (30) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## **Article 11. Termination**

### **Section 11.1 Termination by Port Authority**

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "Payment Default"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

### Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

### Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### **Section 14.1 Notices**

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

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

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Lessee and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

\* \* \* \* \*

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

provided, however, that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.





**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22					
						<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_





**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

## EXHIBIT 6. LETTER OF CREDIT

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_(C)\_\_\_\_\_

At the request of \_\_\_\_\_(A)\_\_\_\_\_, we \_\_\_\_\_(B)\_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_(C)\_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_(D)\_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at \_\_\_\_\_(E)\_\_\_\_\_

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_(B)\_\_\_\_\_ Letter of Credit No. \_\_\_\_\_(C)\_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_(F)\_\_\_\_\_. This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

### LEGEND:

- A - INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B - INSERT NAME OF ISSUING BANK
- C - INSERT L/C IDENTIFICATION NUMBER
- D - INSERT DOLLAR VALUE OF INSTRUMENT
- E - INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F - INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval **PRIOR** to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

## SCHEDULE 1. GATE/PLATFORM POSITION FEES

### PORT AUTHORITY BUS TERMINAL (PABT) GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY				
YEAR	BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
2008	\$19,500	\$16,200	\$13,000	\$6,500
Subsequent Years	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2008,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$2,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$5,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

#### SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be one hundred fifteen thousand Dollars and No Cents (\$ 115,000.00).

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is Ex. 1.

---

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
225 Park Avenue South  
New York, New York 10003

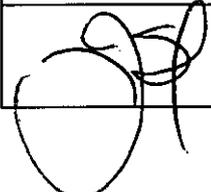
**BUS CARRIER LICENSE AGREEMENT**

1. Carrier's Full Legal Name: Greyhound Lines, Inc.
2. Carrier's Address: 15110 N Dallas Parkway  
Dallas, Texas 75248
3. Carrier's state and form of organization: Delaware  
(if Carrier is not an individual) Corporation
3. Carrier's Representative: Deanna Simsek, Assistant Director Real Estate  
(name and title)
4. Effective Date: May 1, 2008

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Dated: April 30, 2008

By Victoria Cross Kelly  
name: Victoria Cross Kelly  
title: Director, Tunnels, Bridges and Terminals

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

GREYHOUND LINES, INC.  
(Carrier)

By J. D. Johnston  
name: J. D. Johnston  
title: Vice President  
Real Estate and Environment

By [Signature]  
Attorney 9/21/09

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## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "**Port Authority**"), and the bus carrier identified on the Cover Page hereof (the "**Carrier**"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "**PABT**").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "**GWBBS**").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"**Activity Fee Installment**" shall have the meaning set forth in Section 4.1(b).

"**Activity Fees**" shall have the meaning set forth in Section 4.1(a).

"**Audit Findings**" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"dally"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

**"Facility"** shall mean either or both of the PABT and the GWBBS, as the context requires.

**"Gate Fee"** shall have the meaning set forth in Section 4.1(a).

**"General Manager"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

**"GWBBS"** shall have the meaning set forth in Recital 2 above.

**"Holiday"** shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

**"Irregular Route Operations"** shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

**"Labor Trouble"** shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

**"Loading Position"** shall mean a location on a Vehicular Level, including a gate or a platform position, designated for passengers to be loaded onto, or unloaded from, Buses.

**"Long Distance Service"** shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

**"Middle Distance Destination"** shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

**"Middle Distance Percentage Fee"** shall have the meaning set forth in Section 4.1(a).

**"Non-Revenue Departures"** shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

**"Northern Manhattan"** shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Notice"** shall have the meaning set forth in Section 14.1(a).

**"PABT"** shall have the meaning set forth in Recital 1 above.

**"Peak Period"** shall have the meaning set forth in Section 10.2.

**"Pooling Arrangement"** shall have the meaning set forth in Section 10.1.

**"Pooling Partner"** shall have the meaning set forth in Section 10.1.

**"Quarterly Reconciliation Form"** shall have the meaning set forth in Section 4.1(b).

**"Regular Route Operations"** shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

**"Required Deposit Amount"** shall have the meaning set forth in Section 12.1(a).

**"Short Haul Service"** shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

**"Space"** shall have the meaning set forth in Section 2.1(a).

**"Surface Transportation Board"** shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

**"Term"** shall have the meaning set forth in Section 2.2(b).

**"Vehicular Level"** shall mean any floor or story at the Facility designed for use by Buses.

## **Article 2. License**

### **Section 2.1 Grant of License**

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions (which may include Loading Positions to be shared with one or more other bus carriers) as shall be specified from time to time by the General Manager (collectively, the **"Space"**) in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the applicable terms and conditions of this Agreement and the rules and regulations of the Port Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Pooling Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "Gate Fee"), which shall be payable as provided in the following paragraph (b) of this Section 4.1; provided, however, that where a Loading Position has been assigned to the Carrier to be shared with one or more other bus carriers, the Gate Fee with respect to such Loading Position shall be one hundred twenty percent (120%) of the amount set forth in Schedule 1, and the total of such increased Gate Fee shall be shared equally by

the Carrier and such other bus carrier(s); for example, if the Loading Position has been assigned to be shared by two bus carriers, each shall pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "**Activity Fees**"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "**Departure Fee**") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "**Middle Distance Percentage Fee**"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Fees.*

(1) *Gate Fee.* The Gate Fee shall be payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(i) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "**Activity Fee Installment**") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(ii) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(iii) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "**Quarterly Reconciliation Form**") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

#### Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

#### Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY  
P.O. BOX 95000-1556  
PHILADELPHIA, PENNSYLVANIA 19195-0001

or made pursuant to the following wire transfer instructions:

Bank:	TD Bank 6000 Atrium Way Mount Laurel NJ 08054
Bank ABA Number:	031201360
Account Number:	Ex. 1
Beneficiary Name	The Port Authority of NY & NJ

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

#### Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any

time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

## Article 5. Facility Services

### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

*(a) Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

*(b) Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

*(c) Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "Dispatcher"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

*(b) Condition of Buses.* Buses shall be kept clean and maintained in good working order.

*(c) Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

*(d) Scheduling of Departure Times.* The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

*(e) E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

*(a) Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this release shall invalidate any policy of insurance or shall increase the premium therefor, or shall

void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

*(b) Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

*(a) Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

*(b) Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

*(c) Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

- (1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

(a) *Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

(a) *Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Pooling Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility, to share use of any Loading Position that is a part of the Space (a "**Pooling Arrangement**"; and any such already licensed carrier, a "**Pooling Partner**" of the Carrier).

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Pooling Arrangement, stating the details of such arrangement and providing the Port Authority with a copy of the agreement covering such Pooling Arrangement.

(c) *Gate Fee and Other Responsibilities.* Notwithstanding any Pooling Arrangement, the Carrier shall continue to be wholly liable for the Gate Fee and all other obligations hereunder with respect to the Loading Position that is the subject of the Pooling Arrangement.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, limit or otherwise diminish any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof. The Carrier specifically acknowledges and agrees that the Carrier's Pooling Partners shall constitute persons using and occupying the Space with the Carrier's consent for purposes of Section 9.1 of this Agreement, entitled "Indemnity", and are accordingly covered by clauses (y) and (z) of paragraph (a) thereof.

**Section 10.2 Performance Requirements**

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

<b>Type of Loading Position</b>	<b>Minimum Average Peak Period* Departures</b>	<b>Maximum Peak Period* Departures</b>
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* **"Peak Period"** shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon sixty (60) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## **Article 11. Termination**

### **Section 11.1 Termination by Port Authority**

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "**Payment Default**"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

### Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

### Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the effective date of

termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

*(b) No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

*(a) Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

*(b) Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

*(c) Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have declined

below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority

makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### Section 14.1 Notices

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "**Notice**") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

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

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Carrier and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

#### Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

\* \* \* \* \*

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

provided, however, that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.

**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the George Washington Bridge Bus Station**

2007

**Short Haul Departures**

	<b>Month</b>	<b>Number of Departures</b>	<b>Departure Fee Rate</b>	<b>Actual Departure Fees</b>	<b>Amount Invoiced</b>	<b>Amount Due/Credit</b>
1			\$2.10	\$0.00		\$0.00
2			\$2.10	\$0.00		\$0.00
3			\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>						<b>\$0.00</b>

**Middle-Distance Ticket Sales**

	<b>Month</b>	<b>Ticket Sales Revenue</b>	<b>Commission</b>	<b>Actual Tickets Sales Fees</b>	<b>Amount Invoiced</b>	<b>Amount Due/Credit</b>
1			13.5%	\$0.00		\$0.00
2			13.5%	\$0.00		\$0.00
3			13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>						<b>\$0.00</b>

**Long-Distance Departures**

	<b>Month</b>	<b>Number of Departures</b>	<b>Departure Fee Rate</b>	<b>Actual Departure Fees</b>	<b>Amount Invoiced</b>	<b>Amount Due/Credit</b>
1			\$38.00	\$0.00		\$0.00
2			\$38.00	\$0.00		\$0.00
3			\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>						<b>\$0.00</b>

**TOTAL DUE/CREDIT** **\$0.00**

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)



**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

**EXHIBIT 6. LETTER OF CREDIT**

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_(C)\_\_\_\_\_

At the request of \_\_\_\_\_(A)\_\_\_\_\_, we \_\_\_\_\_(B)\_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_(C)\_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_(D)\_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at \_\_\_\_\_(E)\_\_\_\_\_

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_(B)\_\_\_\_\_ Letter of Credit No. \_\_\_\_\_(C)\_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_(F)\_\_\_\_\_  
This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

LEGEND:

- A - INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B - INSERT NAME OF ISSUING BANK
- C - INSERT L/C IDENTIFICATION NUMBER
- D - INSERT DOLLAR VALUE OF INSTRUMENT
- E - INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F - INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval **PRIOR** to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*\*

**SCHEDULE 1. GATE/PLATFORM POSITION FEES**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY				
YEAR	BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
2008	\$19,500	\$16,200	\$13,000	\$6,500
Subsequent Years	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2008,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person  For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>  <u>\$2,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person  For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>  <u>\$5,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

**SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER**

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be nine hundred thirty thousand Dollars and No Cents (\$930,000.00).

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is Ex. 1.

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## INSURANCE RIDER

### TO BUS CARRIER LICENSE AGREEMENT (GREYHOUND)

The Carrier represents to the Port Authority, and the Port Authority acknowledges, that the Carrier self-insures in the ordinary course of its business. Accordingly, notwithstanding the provisions of Section 9.2, "*Liability Insurance*", and Schedule 3, "*Insurance*", of the Bus Carrier License Agreement to which this Rider is attached, the Carrier may evidence compliance with the insurance requirements set forth in the said Section 9.2 and Schedule 3 by providing to the Port Authority, within the relevant time limits set forth in Section 9.2(c), (x) the applicable certificate(s) of insurance and (y) a letter of self-insurance, signed by a duly authorized representative of the Carrier, indicating the amount of self-insurance retention pertaining to each of the types of coverage required pursuant to the said Section 9.2; provided, however, that with respect to Automobile Liability coverage, the amount of self-insurance shall in no event exceed \$3 million.

: For Port Authority Use Only

: Carrier License No. TBT-HCE-BLA-008

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
225 Park Avenue South  
New York, New York 10003  
**BUS CARRIER LICENSE AGREEMENT**

- 1. Co-Carriers' Full Legal Names: HUDSON COUNTY EXECUTIVE EXPRESS, INC. and COMMUNITY LINES, INC.
- 2. Co-Carriers' Address: One Oxford Avenue  
Jersey City, New Jersey 07304
- 3. Type of legal entity: Corporation  
State of organization: New Jersey
- 3. Co-Carriers' Representative: Amy Vidal, Director of Operations
- 4. Effective Date: May 1, 2008

**Special Provision:** This License Agreement is entered into by each of Hudson County Executive Express, Inc. and Community Lines, Inc. acting jointly and severally as the Carrier under this License Agreement. Each and every obligation of the Carrier hereunder shall be the joint and several obligation of each of the said corporations.

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

Dated: April 30, 2008 By [Signature]  
name: CERICK T. FULTON  
title: DEPUTY DIRECTOR

Port Authority Use Only: **HUDSON COUNTY EXECUTIVE EXPRESS, INC., Co-Carrier**

Approval as to Terms: [Signature]  
Approval as to Form: [Signature]

By [Signature]  
name: Jorge Bedoya  
title: President

**COMMUNITY LINES, INC., Co-Carrier**

By [Signature]  
name: Jorge Bedoya  
title: President

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#### **EXHIBITS AND SCHEDULES**

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Exhibit 5	Rules and Regulations
Exhibit 6	Letter of Credit
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Schedule 3	Insurance
Schedule 4	Security Deposit and Tax I.D. Number

## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003(the "**Port Authority**"), and the bus carrier identified on the Cover Page hereof (the "**Carrier**"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "**PABT**").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "**GWBBS**").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"**Activity Fee Installment**" shall have the meaning set forth in Section 4.1(b).

"**Activity Fees**" shall have the meaning set forth in Section 4.1(a).

"**Audit Findings**" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

**"Facility"** shall mean either or both of the PABT and the GWBBS, as the context requires.

**"Gate Fee"** shall have the meaning set forth in Section 4.1(a).

**"General Manager"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

**"GWBBS"** shall have the meaning set forth in Recital 2 above.

**"Holiday"** shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

**"Irregular Route Operations"** shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

**"Labor Trouble"** shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

**"Licensed Bus Carrier"** shall have the meaning set forth in Section 10.1.

**"Loading Position"** shall mean a location, on a Vehicular Level, designated for passengers to be loaded onto, or unloaded from, Buses.

**"Long Distance Service"** shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

**"Middle Distance Destination"** shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

**"Middle Distance Percentage Fee"** shall have the meaning set forth in Section 4.1(a).

**"Non-Revenue Departures"** shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

**"Northern Manhattan"** shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Notice"** shall have the meaning set forth in Section 14.1(a).

**"PABT"** shall have the meaning set forth in Recital 1 above.

**"Peak Period"** shall have the meaning set forth in Section 10.2.

"**Quarterly Reconciliation Form**" shall have the meaning set forth in Section 4.1(b).

"**Regular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

"**Required Deposit Amount**" shall have the meaning set forth in Section 12.1(a).

"**Sharing Arrangement**" shall have the meaning set forth in Section 10.1.

"**Short Haul Service**" shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

"**Space**" shall have the meaning set forth in Section 2.1(a).

"**Surface Transportation Board**" shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

"**Term**" shall have the meaning set forth in Section 2.2(b).

"**Vehicular Level**" shall mean any floor or story at the Facility designed for use by Buses.

## **Article 2. License**

### Section 2.1 Grant of License

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions as shall be specified from time to time by the General Manager (collectively, the "**Space**") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the applicable terms and conditions of this Agreement and the rules and regulations of the Port

Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

*(d) Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

*(e) Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

*(f) No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

*(a) Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

*(b) Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

*(c) Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Sharing Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or providing transportation as a private carrier, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "**Gate Fee**"), payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be

the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "**Activity Fees**"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "**Departure Fee**") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "**Middle Distance Percentage Fee**"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable at in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(1) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "**Activity Fee Installment**") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(2) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(3) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "**Quarterly Reconciliation Form**") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank: Commerce Bank  
Bank ABA Number: 026013673  
Account Number: Ex. 1

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

### **Article 5. Facility Services**

#### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

#### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

#### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

*(a) Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

*(b) Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

*(c) Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "**Dispatcher**"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall schedule departure times to avoid simultaneous Departures from multiple gates. The Carrier shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this release shall invalidate any policy of insurance or shall increase the premium therefor, or shall

void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

(1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

(a) *Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (unless resulting solely from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (unless resulting solely from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

(a) *Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Voluntary Sharing Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility (a "Licensed Bus Carrier"), to share use of any Loading Position that is a part of the Space (a "Sharing Arrangement").

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Sharing Arrangement, stating the details of such arrangement.

(c) *Gate Fee Recalculation.* Upon the effectiveness of and for the duration of any Sharing Arrangement, the Gate Fee with respect to the Loading Position that is the subject of the Sharing Arrangement shall be increased by twenty percent (20%); the total of such increased Gate Fee shall be shared equally by the Carrier and the other Licensed Bus Carrier that is party to the Sharing Arrangement, and each shall, accordingly, pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, change or affect any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof.

**Section 10.2 Performance Requirements**

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

<b>Type of Loading Position</b>	<b>Minimum Average Peak Period* Departures</b>	<b>Maximum Peak Period* Departures</b>
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon thirty (30) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## **Article 11. Termination**

### **Section 11.1 Termination by Port Authority**

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "**Payment Default**"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

### Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

### Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### **Section 14.1 Notices**

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "**Notice**") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

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

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Lessee and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

#### Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

\* \* \* \* \*

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

**provided, however,** that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.

**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the George Washington Bridge Bus Station**

2007

**Short Haul Departures**

	<b>Month</b>	<b>Number of Departures</b>	<b>Departure Fee Rate</b>	<b>Actual Departure Fees</b>	<b>Amount Invoiced</b>	<b>Amount Due/Credit</b>
1			\$2.10	\$0.00		\$0.00
2			\$2.10	\$0.00		\$0.00
3			\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>						<b>\$0.00</b>

**Middle-Distance Ticket Sales**

	<b>Month</b>	<b>Ticket Sales Revenue</b>	<b>Commission</b>	<b>Actual Tickets Sales Fees</b>	<b>Amount Invoiced</b>	<b>Amount Due/Credit</b>
1			13.5%	\$0.00		\$0.00
2			13.5%	\$0.00		\$0.00
3			13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>						<b>\$0.00</b>

**Long-Distance Departures**

	<b>Month</b>	<b>Number of Departures</b>	<b>Departure Fee Rate</b>	<b>Actual Departure Fees</b>	<b>Amount Invoiced</b>	<b>Amount Due/Credit</b>
1			\$38.00	\$0.00		\$0.00
2			\$38.00	\$0.00		\$0.00
3			\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>						<b>\$0.00</b>

**TOTAL DUE/CREDIT** **\$0.00**



**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22					
						<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

Total

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22					
						<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature):

Charters

\$ \_\_\_\_\_

Title:

**Total**

\$ \_\_\_\_\_

Date:

Check No. \_\_\_\_\_

(accompanies this report)





**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

## EXHIBIT 6. LETTER OF CREDIT

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_(C)\_\_\_\_\_

At the request of \_\_\_\_\_(A)\_\_\_\_\_, we \_\_\_\_\_(B)\_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_(C)\_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_(D)\_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at \_\_\_\_\_(E)\_\_\_\_\_

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_(B)\_\_\_\_\_ Letter of Credit No. \_\_\_\_\_(C)\_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_(F)\_\_\_\_\_. This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

### LEGEND:

- A – INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B – INSERT NAME OF ISSUING BANK
- C – INSERT L/C IDENTIFICATION NUMBER
- D – INSERT DOLLAR VALUE OF INSTRUMENT
- E – INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F – INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval **PRIOR** to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

**SCHEDULE 1. GATE/PLATFORM POSITION FEES**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY				
YEAR	BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
2008	\$19,500	\$16,200	\$13,000	\$6,500
Subsequent Years	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

"**Percentage Increase**" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"**Base Period**" shall mean the month of September 2007,

"**Adjustment Period**" shall mean the month of September immediately preceding the New Fee Year, and

"**Anniversary Date**" shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

"**Percentage Increase**" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"**Base Period**" shall mean the month of September 2008,

"**Adjustment Period**" shall mean the month of September immediately preceding the New Fee Year, and

"**Anniversary Date**" shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person  For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>  <u>\$5,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person  For injury or wrongful death to more than one person from any one occurrence	<u>\$10,000,000</u>  <u>\$10,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$10,000,000</u>

#### SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be ~~seventy five thousand~~ Dollars and No Cents (\$ 37,500.00). *thirty seven thousand five hundred*

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is *Hudson County Executive Express.*

Ex. 1

*Community Lines, Inc.*

Ex. 1

: For Port Authority Use Only :

: Carrier License No. BLA009 :

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
225 Park Avenue South  
New York, New York 10003  
**BUS CARRIER LICENSE AGREEMENT**

1. Carrier's Full Legal Name: Hudson Transit Lines, Inc

2. Carrier's Address: 4 Leisure Lane  
Mahwah, NJ 07041

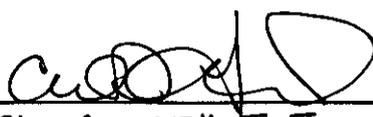
3. Carrier's state and form of organization: Delaware  
(if Carrier is not an individual) Corporation

3. Carrier's Representative: \_\_\_\_\_  
(name and title)

4. Effective Date: May 1, 2008

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

Dated: April 30, 2008

By   
name: CEDRICK T. FUNN  
title: DIRECTOR

Port Authority Use Only:	
Approval as to Terms:	Approval as to Form:
<u></u>	<u></u>

**HUDSON TRANSIT LINES, INC**  
By   
name: GEORGE GREVE  
title: PRESIDENT

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### EXHIBITS AND SCHEDULES

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Rider	

## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "**Port Authority**"), and the bus carrier identified on the Cover Page hereof (the "**Carrier**"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "**PABT**").
2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "**GWBBS**").
3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"**Activity Fee Installment**" shall have the meaning set forth in Section 4.1(b).

"**Activity Fees**" shall have the meaning set forth in Section 4.1(a).

"**Audit Findings**" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

**"Facility"** shall mean either or both of the PABT and the GWBBS, as the context requires.

**"Gate Fee"** shall have the meaning set forth in Section 4.1(a).

**"General Manager"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

**"GWBBS"** shall have the meaning set forth in Recital 2 above.

**"Holiday"** shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

**"Irregular Route Operations"** shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

**"Labor Trouble"** shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

**"Loading Position"** shall mean a location on a Vehicular Level, including a gate or a platform position, designated for passengers to be loaded onto, or unloaded from, Buses.

**"Long Distance Service"** shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

**"Middle Distance Destination"** shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

**"Middle Distance Percentage Fee"** shall have the meaning set forth in Section 4.1(a).

**"Non-Revenue Departures"** shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

**"Northern Manhattan"** shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Notice"** shall have the meaning set forth in Section 14.1(a).

**"PABT"** shall have the meaning set forth in Recital 1 above.

**"Peak Period"** shall have the meaning set forth in Section 10.2.

**"Pooling Arrangement"** shall have the meaning set forth in Section 10.1.

"**Pooling Partner**" shall have the meaning set forth in Section 10.1.

"**Quarterly Reconciliation Form**" shall have the meaning set forth in Section 4.1(b).

"**Regular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

"**Required Deposit Amount**" shall have the meaning set forth in Section 12.1(a).

"**Short Haul Service**" shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

"**Space**" shall have the meaning set forth in Section 2.1(a).

"**Surface Transportation Board**" shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

"**Term**" shall have the meaning set forth in Section 2.2(b).

"**Vehicular Level**" shall mean any floor or story at the Facility designed for use by Buses.

## **Article 2. License**

### **Section 2.1 Grant of License**

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions (which may include Loading Positions to be shared with one or more other bus carriers) as shall be specified from time to time by the General Manager (collectively, the "**Space**") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PA&T will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the

applicable terms and conditions of this Agreement and the rules and regulations of the Port Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Pooling Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "Gate Fee"), which shall be payable as provided in the following paragraph (b) of this Section 4.1; provided, however, that where a Loading Position has been assigned to the Carrier to be shared with one or more other bus carriers, the Gate Fee with respect to such Loading Position shall be one hundred twenty percent (120%) of the amount set

forth in Schedule 1, and the total of such increased Gate Fee shall be shared equally by the Carrier and such other bus carrier(s); for example, if the Loading Position has been assigned to be shared by two bus carriers, each shall pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "**Activity Fees**"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "**Departure Fee**") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "**Middle Distance Percentage Fee**"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Fees.*

(1) *Gate Fee.* The Gate Fee shall be payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(i) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "**Activity Fee Installment**") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(ii) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from

time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(iii) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "**Quarterly Reconciliation Form**") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

#### Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

#### Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank:	TD Bank 6000 Atrium Way Mount Laurel NJ 08054
Bank ABA Number:	031201360
Account Number:	Ex. 1
Beneficiary Name	The Port Authority of NY & NJ

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port

Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

#### Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts

found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

## Article 5. Facility Services

### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

(a) *Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

(b) *Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

(c) *Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "Dispatcher"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this

release shall invalidate any policy of insurance or shall increase the premium therefor, or shall void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

- (1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

(a) *Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

(a) *Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Pooling Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility, to share use of any Loading Position that is a part of the Space (a "**Pooling Arrangement**"; and any such already licensed carrier, a "**Pooling Partner**" of the Carrier).

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Pooling Arrangement, stating the details of such arrangement and providing the Port Authority with a copy of the agreement covering such Pooling Arrangement.

(c) *Gate Fee and Other Responsibilities.* Notwithstanding any Pooling Arrangement, the Carrier shall continue to be wholly liable for the Gate Fee and all other obligations hereunder with respect to the Loading Position that is the subject of the Pooling Arrangement.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, limit or otherwise diminish any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof. The Carrier specifically acknowledges and agrees that the Carrier's Pooling Partners shall constitute persons using and occupying the Space with the Carrier's consent for purposes of Section 9.1 of this Agreement, entitled "Indemnity", and are accordingly covered by clauses (y) and (z) of paragraph (a) thereof.

Section 10.2 Performance Requirements

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

Type of Loading Position	Minimum Average Peak Period* Departures	Maximum Peak Period* Departures
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon sixty (60) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## **Article 11. Termination**

### **Section 11.1 Termination by Port Authority**

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "**Payment Default**"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

### Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

### Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### **Section 14.1 Notices**

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "**Notice**") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

(5) If the Carrier, as set forth on the Cover Page, consists of more than one individual or legal entity, then each and every obligation of the Carrier hereunder shall be the joint and several obligation of each such individual or legal entity.

(6) None of the provisions of this paragraph (d) shall be taken to alter, amend or diminish any obligation of the Carrier assumed in relation to its invitees, visitors, agents, representatives, contractors, customers, passengers, guests or other persons, firms or corporations doing business with it.

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Carrier and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

#### Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

provided, however, that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.





**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_





**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

## EXHIBIT 6. LETTER OF CREDIT

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_

At the request of \_\_\_\_\_ (A) \_\_\_\_\_, we \_\_\_\_\_ (B) \_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_ (D) \_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at \_\_\_\_\_ (E) \_\_\_\_\_

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_ (B) \_\_\_\_\_ Letter of Credit No. \_\_\_\_\_ (C) \_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_ (F) \_\_\_\_\_ This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

### LEGEND:

- A - INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B - INSERT NAME OF ISSUING BANK
- C - INSERT L/C IDENTIFICATION NUMBER
- D - INSERT DOLLAR VALUE OF INSTRUMENT
- E - INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F - INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval **PRIOR** to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

**SCHEDULE 1. GATE/PLATFORM POSITION FEES**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY				
YEAR	BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
2008	\$19,500	\$16,200	\$13,000	\$6,500
Subsequent Years	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a “**New Fee Year**”) shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

“**Percentage Increase**” shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

“**Base Period**” shall mean the month of September 2007,

“**Adjustment Period**” shall mean the month of September immediately preceding the New Fee Year, and

“**Anniversary Date**” shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a “**New Fee Year**”) shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

“**Percentage Increase**” shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

“**Base Period**” shall mean the month of September 2008,

“**Adjustment Period**” shall mean the month of September immediately preceding the New Fee Year, and

“**Anniversary Date**” shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person  For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>  <u>\$2,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person  For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>  <u>\$5,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

RIDER

TO BUS CARRIER LICENSE AGREEMENT

(COACH)

Prior to the execution of this License by either party hereto the following deletions, additions and substitutions were made:

1. Article 3 was deleted and replaced in its entirety by the following:

(a) Section 3.1 Permitted Use of the Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever:

The standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

(b) Section 3.2 Right and Obligation to Use the Facility

A. Regular Operations. The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

B. Charter Operations. The Carrier may use the Facility for Charter Operations to and from the City of New York.

C. Uses Not Permitted. This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

(c) Section 3.3 Discontinuance of Other Terminals Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

2. Section 7.5 was deleted and replaced in its entirety by the following:

A. Restrictions as to Type and Size. Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

1. Buses shall not exceed one hundred two (102) inches in width.
2. Buses at the PABT shall have a maximum gross loaded weight not in excess of forty-eight thousand eight-hundred and forty 48,840 pounds avoirdupois, distributed to provide not more than twenty-two thousand five-hundred (22,500) pounds per axle, providing that the combined weight of the drive and tag axles does not exceed thirty-four thousand five-hundred (34,500) pounds.
3. In the event the Carrier proposes introduction into the PABT and GWBBS a type, style, size or model of Bus that exceeds the above requirements, the Carrier shall give the General Manager (30) thirty-days written notice identifying the proposed change and the General Manager has (60) sixty-days from receipt of said notice to inform

the Carrier whether the Facility can accommodate the proposed change.

4. Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.
5. Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.
6. Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.
7. Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (i.e., two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.
8. Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

B. Condition of Buses. Buses shall be kept clean and maintained in good working order.

C. Operation. Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

D. Scheduling of Departure Times. The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

E. E-ZPass. The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of

accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPasstransactions.

3. Article 9 was deleted and replaced in its entirety by the following:

(a) Section 9.1 Indemnity

A. Indemnification. The Carrier shall indemnify and hold harmless, the Port Authority Commissioners, directors, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority's in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

B. Defense of Claims. If so directed, the Carrier shall at its own expense defend any suit based upon any such claim or demand (even if such suit, claim or demand is groundless, false or fraudulent), 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 immunity of the Port Authority, its Commissioners, officers, agents or

employees, the governmental nature of the Port Authority or the provision of any statutes respecting suits against the Port Authority.

(b) Section 9.2 Liability Insurance

A. Required Coverages. The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule 3. Each such policy shall be maintained in at least the limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

B. Policy Requirements.

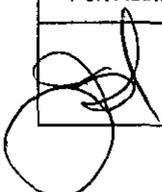
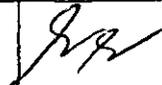
1. The Port Authority shall be named as an additional insured, in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority, as the case may be, not to be so named.
2. Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.
3. Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.
4. Each policy of liability insurance required by this section shall be specifically endorsed to state that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any

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

5. If at any time any policy fails to reflect the minimum policy requirements outlined in this agreement, the Carrier shall promptly obtain a new and satisfactory policy in replacement. All insurance policies shall be issued by insurance carriers authorized to conduct business in the State of New York with an A.M. Best Company Rating of A - or better, provided however, that if the A.M. Best Company or any successor rating company shall cease to exist, the Port Authority and Carrier shall negotiate in good faith on a substitute.

C. Evidence of Insurance. As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, and all required endorsements, or a binder, shall be delivered to the Port Authority within thirty (30) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall be specifically endorsed to provide that the policy may not be cancelled, terminated, changed or modified, without giving thirty (30) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

The Licensee hereby agrees to the terms and conditions of the rider attached hereto, hereby made a part hereof and marked "Rider". The terms and provisions of the Rider shall have the same force and effect and as if herein set forth in full.

INITIALED:	
For the Port Authority	For the Permittee
	

#### SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be Seventy-Five Thousand Dollars and No Cents (\$ 75,000.00).

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is \_\_\_\_ Ex.1\_\_\_\_.

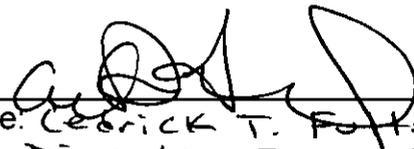
THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
225 Park Avenue South  
New York, New York 10003

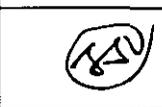
**BUS CARRIER LICENSE AGREEMENT**

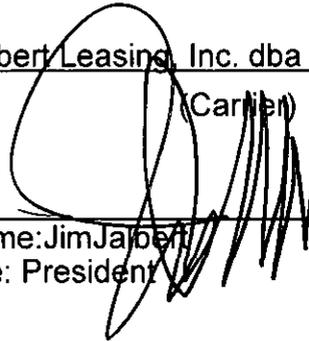
1. Carrier's Full Legal Name: Jalbert Leasing, Inc. dba C & J Lines
2. Carrier's Address: 185 Grafton Drive Portsmouth, NH 03801
3. Type of legal entity Corporation  
State of organization: New Hampshire
4. Carrier's Representative: Jim Jalbert, President
5. Effective Date: February 28, 2011

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Dated: 3/2/2011

By   
name: Cecrick T. Patton  
title: Director, Tunnels, Bridges  
and Terminals Dept.

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

Jalbert Leasing, Inc. dba C & J Lines  
(Carrier)  
By   
name: Jim Jalbert  
title: President

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## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "Port Authority"), and the bus carrier identified on the Cover Page hereof (the "Carrier"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "PABT").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "GWBBS").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"Activity Fee Installment" shall have the meaning set forth in Section 4.1(b).

"Activity Fees" shall have the meaning set forth in Section 4.1(a).

"Audit Findings" shall have the meaning set forth in Section 4.5(b).

"**Bus**" shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

"**Central Manhattan**" shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

"**Charter**" shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A "**Charter Coach**" shall be a Bus operated under the provisions of a charter, as herein defined, and "**Charter Operations**" shall mean the operation of a Charter Coach or Charter Coaches.

"**Contract Carriage**" shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

"**cost**" shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

"**Cover Page**" shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

"**day**" shall mean, and "**daily**" shall refer to, a calendar day.

"**Departure Fee**" shall have the meaning set forth in Section 4.1(a).

"**Departures**" shall mean Bus departures from the Facility.

"**Dispatcher**" shall have the meaning set forth in Section 7.4.

"**Effective Date**" shall mean the date set forth on the Cover Page as the "Effective Date".

"**Executive Director**" shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

**"Facility"** shall mean either or both of the PABT and the GWBBS, as the context requires.

**"Gate Fee"** shall have the meaning set forth in Section 4.1(a).

**"General Manager"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

**"GWBBS"** shall have the meaning set forth in Recital 2 above.

**"Holiday"** shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

**"Irregular Route Operations"** shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

**"Labor Trouble"** shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

**"Loading Position"** shall mean a location on a Vehicular Level, including a gate or a platform position, designated for passengers to be loaded onto, or unloaded from, Buses.

**"Long Distance Service"** shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

**"Middle Distance Destination"** shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

**"Middle Distance Percentage Fee"** shall have the meaning set forth in Section 4.1(a).

**"Non-Revenue Departures"** shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

**"Northern Manhattan"** shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Notice"** shall have the meaning set forth in Section 14.1(a).

**"PABT"** shall have the meaning set forth in Recital 1 above.

**"Peak Period"** shall have the meaning set forth in Section 10.2.

**"Pooling Arrangement"** shall have the meaning set forth in Section 10.1.

"Pooling Partner" shall have the meaning set forth in Section 10.1.

"Quarterly Reconciliation Form" shall have the meaning set forth in Section 4.1(b).

"Regular Route Operations" shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

"Required Deposit Amount" shall have the meaning set forth in Section 12.1(a).

"Short Haul Service" shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

"Space" shall have the meaning set forth in Section 2.1(a).

"Surface Transportation Board" shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

"Term" shall have the meaning set forth in Section 2.2(b).

"Vehicular Level" shall mean any floor or story at the Facility designed for use by Buses.

## Article 2. License

### Section 2.1 Grant of License

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions (which may include Loading Positions to be shared with one or more other bus carriers) as shall be specified from time to time by the General Manager (collectively, the "Space") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the

applicable terms and conditions of this Agreement and the rules and regulations of the Port Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

#### Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the ~~day~~ preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

#### Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Pooling Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

April thirtieth  
(30<sup>th</sup>), two  
thousand  
thirteen (2013)  
JD [Signature]

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "Gate Fee"), which shall be payable as provided in the following paragraph (b) of this Section 4.1; *provided, however,* that where a Loading Position has been assigned to the Carrier to be shared with one or more other bus carriers, the Gate Fee with respect to such Loading Position shall be one hundred twenty percent (120%) of the amount set

forth in Schedule 1, and the total of such increased Gate Fee shall be shared equally by the Carrier and such other bus carrier(s); for example, if the Loading Position has been assigned to be shared by two bus carriers, each shall pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "**Activity Fees**"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "**Departure Fee**") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "**Middle Distance Percentage Fee**"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Fees.*

(1) *Gate Fee.* The Gate Fee shall be payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(i) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "**Activity Fee Installment**") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(ii) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from

time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(iii) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "**Quarterly Reconciliation Form**") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

#### Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

#### Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank:	TD Bank 6000 Atrium Way Mount Laurel NJ 08054
Bank ABA Number:	031201360
Account Number:	Ex: 1
Beneficiary Name	The Port Authority of NY & NJ

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port

Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

#### Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts

found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

## Article 5. Facility Services

### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

(a) *Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

(b) *Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

(c) *Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "**Dispatcher**"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

*(b) Condition of Buses.* Buses shall be kept clean and maintained in good working order.

*(c) Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

*(d) Scheduling of Departure Times.* The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

*(e) E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

*(a) Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this

release shall invalidate any policy of insurance or shall increase the premium therefor, or shall void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

(1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

(a) *Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

(a) *Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Pooling Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility, to share use of any Loading Position that is a part of the Space (a "Pooling Arrangement"; and any such already licensed carrier, a "Pooling Partner" of the Carrier).

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Pooling Arrangement, stating the details of such arrangement and providing the Port Authority with a copy of the agreement covering such Pooling Arrangement.

(c) *Gate Fee and Other Responsibilities.* Notwithstanding any Pooling Arrangement, the Carrier shall continue to be wholly liable for the Gate Fee and all other obligations hereunder with respect to the Loading Position that is the subject of the Pooling Arrangement.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, limit or otherwise diminish any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof. The Carrier specifically acknowledges and agrees that the Carrier's Pooling Partners shall constitute persons using and occupying the Space with the Carrier's consent for purposes of Section 9.1 of this Agreement, entitled "Indemnity", and are accordingly covered by clauses (y) and (z) of paragraph (a) thereof.

**Section 10.2 Performance Requirements**

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

Type of Loading Position	Minimum Average Peak Period* Departures	Maximum Peak Period* Departures
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon sixty (60) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## Article 11. Termination

### Section 11.1 Termination by Port Authority

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "**Payment Default**"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

*(b) No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

*(a) Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

*(b) Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

*(c) Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### **Section 14.1 Notices**

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

(5) If the Carrier, as set forth on the Cover Page, consists of more than one individual or legal entity, then each and every obligation of the Carrier hereunder shall be the joint and several obligation of each such individual or legal entity.

(6) None of the provisions of this paragraph (d) shall be taken to alter, amend or diminish any obligation of the Carrier assumed in relation to its invitees, visitors, agents, representatives, contractors, customers, passengers, guests or other persons, firms or corporations doing business with it.

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Carrier and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

#### Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

provided, however, that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.

**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the Port Authority Bus Terminal**

2007

**Short Haul Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$2.10	\$0.00		\$0.00
2		\$2.10	\$0.00		\$0.00
3		\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>					<b>\$0.00</b>

**Middle-Distance Ticket Sales**

Month	Ticket Sales Revenue	Commission	Actual Tickets Sales Fees	Amount Invoiced	Amount Due/Credit
1		13.5%	\$0.00		\$0.00
2		13.5%	\$0.00		\$0.00
3		13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>					<b>\$0.00</b>

**Long-Distance Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$38.00	\$0.00		\$0.00
2		\$38.00	\$0.00		\$0.00
3		\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>					<b>\$0.00</b>

**TOTAL DUE/CREDIT** **\$0.00**

**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

Summary for Activity at the George Washington Bridge Bus Station

2007

**Short Haul Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$2.10	\$0.00		\$0.00
2		\$2.10	\$0.00		\$0.00
3		\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>					<b>\$0.00</b>

**Middle-Distance Ticket Sales**

Month	Ticket Sales Revenue	Commission	Actual Tickets Sales Fees	Amount Invoiced	Amount Due/Credit
1		13.5%	\$0.00		\$0.00
2		13.5%	\$0.00		\$0.00
3		13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>					<b>\$0.00</b>

**Long-Distance Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$38.00	\$0.00		\$0.00
2		\$38.00	\$0.00		\$0.00
3		\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>					<b>\$0.00</b>

**TOTAL DUE/CREDIT                      \$0.00**

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22					
						<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)





**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

## EXHIBIT 6. LETTER OF CREDIT

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_(C)\_\_\_\_\_

At the request of \_\_\_\_\_(A)\_\_\_\_\_, we \_\_\_\_\_(B)\_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_(C)\_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_(D)\_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at \_\_\_\_\_(E)\_\_\_\_\_

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_(B)\_\_\_\_\_ Letter of Credit No. \_\_\_\_\_(C)\_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_(F)\_\_\_\_\_. This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

### LEGEND:

- A – INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B – INSERT NAME OF ISSUING BANK
- C – INSERT L/C IDENTIFICATION NUMBER
- D – INSERT DOLLAR VALUE OF INSTRUMENT
- E – INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F – INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval **PRIOR** to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

**SCHEDULE 1. GATE/PLATFORM POSITION FEES**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY				
YEAR	BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
2008	\$19,500	\$16,200	\$13,000	\$6,500
Subsequent Years	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

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<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2008,

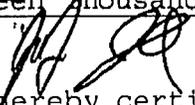
"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$2,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$5,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

**SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER**

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be ~~Eighteen Thousand Dollars~~ and No Cents (~~\$18,000.00~~). <sup>6</sup> Six 

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is \_\_\_\_\_ Ex. 1

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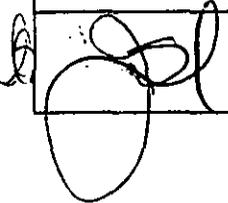
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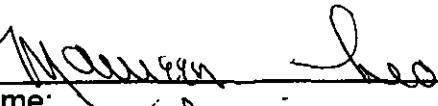
**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
225 Park Avenue South  
New York, New York 10003  
**BUS CARRIER LICENSE AGREEMENT**

1. Carrier's Full Legal Name: Lakeland Bus Lines, Inc.
  
2. Carrier's Address: 425 E. Blackwell Street  
Dover, N.J. 07801
  
3. Type of legal entity Corporation  
State of organization: New Jersey
  
3. Carrier's Representative: Gregory Mazzarisi, Controller  
(name and title)
  
4. Effective Date: May 1, 2008

Dated: April 30, 2008 THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By   
name: CEDRICK T. FULTO  
title: Deputy Director

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

Lakeland Bus Lines, Inc.  
(Carrier)  
By   
name: Gregory Mazzarisi  
title: President

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## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "Port Authority"), and the bus carrier identified on the Cover Page hereof (the "Carrier"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "PABT").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "GWBS").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"**Activity Fee Installment**" shall have the meaning set forth in Section 4.1(b).

"**Activity Fees**" shall have the meaning set forth in Section 4.1(a).

"**Audit Findings**" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

"**Facility**" shall mean either or both of the PABT and the GWBBS, as the context requires.

"**Gate Fee**" shall have the meaning set forth in Section 4.1(a).

"**General Manager**" shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

"**GWBBS**" shall have the meaning set forth in Recital 2 above.

"**Holiday**" shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

"**Irregular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

"**Labor Trouble**" shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

"**Licensed Bus Carrier**" shall have the meaning set forth in Section 10.1.

"**Loading Position**" shall mean a location, on a Vehicular Level, designated for passengers to be loaded onto, or unloaded from, Buses.

"**Long Distance Service**" shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

"**Middle Distance Destination**" shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

"**Middle Distance Percentage Fee**" shall have the meaning set forth in Section 4.1(a).

"**Non-Revenue Departures**" shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

"**Northern Manhattan**" shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

"**Notice**" shall have the meaning set forth in Section 14.1(a).

"**PABT**" shall have the meaning set forth in Recital 1 above.

"**Peak Period**" shall have the meaning set forth in Section 10.2.

"**Quarterly Reconciliation Form**" shall have the meaning set forth in Section 4.1(b).

"**Regular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

"**Required Deposit Amount**" shall have the meaning set forth in Section 12.1(a).

"**Sharing Arrangement**" shall have the meaning set forth in Section 10.1.

"**Short Haul Service**" shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

"**Space**" shall have the meaning set forth in Section 2.1(a).

"**Surface Transportation Board**" shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

"**Term**" shall have the meaning set forth in Section 2.2(b).

"**Vehicular Level**" shall mean any floor or story at the Facility designed for use by Buses.

## **Article 2. License**

### **Section 2.1 Grant of License**

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions as shall be specified from time to time by the General Manager (collectively, the "Space") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the applicable terms and conditions of this Agreement and the rules and regulations of the Port

Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

#### Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

#### Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Sharing Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or providing transportation as a private carrier, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "Gate Fee"), payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be

the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "Activity Fees"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "Departure Fee") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "Middle Distance Percentage Fee"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable at in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(1) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "Activity Fee Installment") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(2) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(3) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "Quarterly Reconciliation Form") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank: Commerce Bank  
Bank ABA Number: 026013673  
Account Number: Ex. 1

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Instalment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies, as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

### Article 5. Facility Services

#### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

#### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

#### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

(a) *Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

(b) *Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

(c) *Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "Dispatcher"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall schedule departure times to avoid simultaneous Departures from multiple gates. The Carrier shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this release shall invalidate any policy of insurance or shall increase the premium therefor, or shall

void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

- (1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

(a) *Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (unless resulting solely from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (unless resulting solely from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

(a) *Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Voluntary Sharing Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility (a "Licensed Bus Carrier"), to share use of any Loading Position that is a part of the Space (a "Sharing Arrangement").

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Sharing Arrangement, stating the details of such arrangement.

(c) *Gate Fee Recalculation.* Upon the effectiveness of and for the duration of any Sharing Arrangement, the Gate Fee with respect to the Loading Position that is the subject of the Sharing Arrangement shall be increased by twenty percent (20%); the total of such increased Gate Fee shall be shared equally by the Carrier and the other Licensed Bus Carrier that is party to the Sharing Arrangement, and each shall, accordingly, pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, change or affect any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof.

**Section 10.2 Performance Requirements**

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

Type of Loading Position	Minimum Average Peak Period* Departures	Maximum Peak Period* Departures
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon thirty (30) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## **Article 11. Termination**

### **Section 11.1 Termination by Port Authority**

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "Payment Default"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

### Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

### Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "Required Deposit Amount") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### **Section 14.1 Notices**

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

**Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims**

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

**Section 15.7 Construction and Application of Terms**

*(a) Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

*(b) Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

*(c) Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

*(d) Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

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

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Lessee and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

#### Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

\* \* \* \* \*

## **EXHIBIT 1. SHORT HAUL AREA**

**The Short Haul Area shall be that contiguous area comprised of the following:**

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;**
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and**
- (iii) In Connecticut: the County of Fairfield;**

**provided, however, that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.**

**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the Port Authority Bus Terminal**

2007

**Short Haul Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$2.10	\$0.00		\$0.00
2		\$2.10	\$0.00		\$0.00
3		\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>					<b>\$0.00</b>

**Middle-Distance Ticket Sales**

Month	Ticket Sales Revenue	Commission	Actual Tickets Sales Fees	Amount Invoiced	Amount Due/Credit
1		13.5%	\$0.00		\$0.00
2		13.5%	\$0.00		\$0.00
3		13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>					<b>\$0.00</b>

**Long-Distance Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$38.00	\$0.00		\$0.00
2		\$38.00	\$0.00		\$0.00
3		\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>					<b>\$0.00</b>

**TOTAL DUE/CREDIT** **\$0.00**

**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the George Washington Bridge Bus Station**

2007

**Short Haul Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$2.10	\$0.00		\$0.00
2		\$2.10	\$0.00		\$0.00
3		\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>					<b>\$0.00</b>

**Middle-Distance Ticket Sales**

Month	Ticket Sales Revenue	Commission	Actual Tickets Sales Fees	Amount Invoiced	Amount Due/Credit
1		13.5%	\$0.00		\$0.00
2		13.5%	\$0.00		\$0.00
3		13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>					<b>\$0.00</b>

**Long-Distance Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$38.00	\$0.00		\$0.00
2		\$38.00	\$0.00		\$0.00
3		\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>					<b>\$0.00</b>

**TOTAL DUE/CREDIT                      \$0.00**

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22					
						<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_





**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

## EXHIBIT 6. LETTER OF CREDIT

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_

At the request of \_\_\_\_\_ (A) \_\_\_\_\_, we \_\_\_\_\_ (B) \_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_ (D) \_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at \_\_\_\_\_ (E) \_\_\_\_\_

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_ (B) \_\_\_\_\_ Letter of Credit No. \_\_\_\_\_ (C) \_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_ (F) \_\_\_\_\_ This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

### LEGEND:

- A - INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B - INSERT NAME OF ISSUING BANK
- C - INSERT L/C IDENTIFICATION NUMBER
- D - INSERT DOLLAR VALUE OF INSTRUMENT
- E - INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F - INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval **PRIOR** to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

**SCHEDULE 1. GATE/PLATFORM POSITION FEES**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2007	\$ 1,234.00 / year	\$ 3,292.00 / year
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY			
BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
\$18,500	\$15,400	\$12,300	\$6,150

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2008,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<b><u>POLICY</u></b>		<b><u>MINIMUM LIMITS</u></b>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$2,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$5,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

#### SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be fifty five thousand Dollars and No Cents (\$ 55,000.00).

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is Ex.1.

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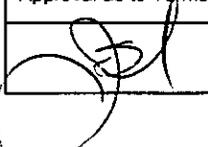
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THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
225 Park Avenue South  
New York, New York 10003

**BUS CARRIER LICENSE AGREEMENT**

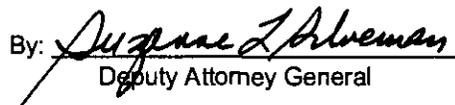
1. **Carrier's Full Legal Name:** NEW JERSEY TRANSIT CORPORATION, a public instrumentality of the State of New Jersey, acting by and through its wholly-owned subsidiary, New Jersey Transit Bus Operations, Inc., a corporation organized under the laws of the State of New Jersey
  
2. **Carrier's Address:** One Penn Plaza East  
Newark NJ 07105
  
3. **Type of legal entity** [see above]  
**State of organization:** New Jersey
  
4. **Carrier's Representative:** Chief Financial Officer;  
Deputy General Manager of Bus Operations
  
5. **Effective Date:** May 1, 2008

Dated: as of May 1, 2008

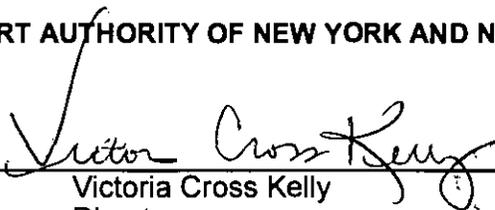
Port Authority Use Only:	
Approval as to Terms:	Approval as to Form:
	

This Agreement has been approved as to form for NJ Transit.

ANNE MILGRAM  
Attorney General of New Jersey

By:   
Deputy Attorney General

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By   
Victoria Cross Kelly  
Director  
Tunnels, Bridges and Terminals Department

NEW JERSEY TRANSIT CORPORATION  
acting through its subsidiary  
New Jersey Transit Bus Operations, Inc.

By   
H. Charles Wedel  
Chief Financial Officer and Treasurer

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Schedule 4	Security Deposit and Tax I.D. Number

## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "**Port Authority**"), and the bus carrier identified on the Cover Page hereof (the "**Carrier**"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "**PABT**").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "**GWBBS**").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"**Activity Fee Installment**" shall have the meaning set forth in Section 4.1(b).

"**Activity Fees**" shall have the meaning set forth in Section 4.1(a).

"**Audit Findings**" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

**"Facility"** shall mean either or both of the PABT and the GWBBS, as the context requires.

**"Gate Fee"** shall have the meaning set forth in Section 4.1(a).

**"General Manager"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

**"GWBBS"** shall have the meaning set forth in Recital 2 above.

**"Holiday"** shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

**"Irregular Route Operations"** shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

**"Labor Trouble"** shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

**"Loading Position"** shall mean a location on a Vehicular Level, including a gate or a platform position, designated for passengers to be loaded onto, or unloaded from, Buses.

**"Long Distance Service"** shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

**"Middle Distance Destination"** shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

**"Middle Distance Percentage Fee"** shall have the meaning set forth in Section 4.1(a).

**"Non-Revenue Departures"** shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

**"Northern Manhattan"** shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Notice"** shall have the meaning set forth in Section 14.1(a).

**"PABT"** shall have the meaning set forth in Recital 1 above.

**"Peak Period"** shall have the meaning set forth in Section 10.2.

**"Pooling Arrangement"** shall have the meaning set forth in Section 10.1.

"**Pooling Partner**" shall have the meaning set forth in Section 10.1.

"**Quarterly Reconciliation Form**" shall have the meaning set forth in Section 4.1(b).

"**Regular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

"**Required Deposit Amount**" shall have the meaning set forth in Section 12.1(a).

"**Short Haul Service**" shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

"**Space**" shall have the meaning set forth in Section 2.1(a).

"**Surface Transportation Board**" shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

"**Term**" shall have the meaning set forth in Section 2.2(b).

"**Vehicular Level**" shall mean any floor or story at the Facility designed for use by Buses.

## **Article 2. License**

### **Section 2.1 Grant of License**

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions (which may include Loading Positions to be shared with one or more other bus carriers) as shall be specified from time to time by the General Manager (collectively, the "**Space**") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's

passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the applicable terms and conditions of this Agreement and the rules and regulations of the Port Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Pooling Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "Gate Fee"), which shall be payable as provided in the following paragraph (b) of this Section 4.1; provided, however, that where a Loading Position has been assigned to the Carrier to be shared with one or more other bus carriers, the Gate Fee with respect to such Loading Position shall be one hundred twenty percent (120%) of the amount set

forth in Schedule 1, and the total of such increased Gate Fee shall be shared equally by the Carrier and such other bus carrier(s); for example, if the Loading Position has been assigned to be shared by two bus carriers, each shall pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "**Activity Fees**"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "**Departure Fee**") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "**Middle Distance Percentage Fee**"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Fees.*

(1) *Gate Fee.* The Gate Fee shall be payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(i) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "**Activity Fee Installment**") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(ii) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from

time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(iii) Within forty-five (45) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly *Summary of Daily Departures reports required pursuant to Section 4.4(a) below* and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "**Quarterly Reconciliation Form**") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

Section 4.2 [INTENTIONALLY OMITTED]

Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank:	TD Bank 6000 Atrium Way Mount Laurel NJ 08054
Bank ABA Number:	031201360
Account Number:	Ex. 1
Beneficiary Name	The Port Authority of NY & NJ

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New

Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without

limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) [INTENTIONALLY OMITTED]

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, such continued use and occupancy shall not be deemed to operate as a renewal or extension of the term of this Agreement, but shall constitute instead a month-to-month extension of the license granted hereunder, which shall be revocable by the Port Authority on thirty (30) days' notice to the Carrier. Subject to the foregoing, nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

### **Article 5. Facility Services**

#### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall make reasonable efforts to notify the Port Authority of any conditions in the Space necessitating repairs. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

#### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

## **Article 6. Services Provided on Behalf of Carrier**

### Section 6.1 Schedule Information

(a) *Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

(b) *Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event

that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

(c) *Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## **Article 7. Carrier's Operations**

### **Section 7.1 Method of Operations**

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### **Section 7.2 Rules and Regulations**

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use commercially reasonable efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### **Section 7.3 Cooperation**

The Carrier shall, and shall require its employees to, cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority.

#### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "**Dispatcher**"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

#### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

(1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall

comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass*. The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement*. The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this release shall invalidate any policy of insurance or shall increase the premium therefor, or shall void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault*. In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference*. The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-

protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at

any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

(1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same:

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority

and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler, sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

### **Section 8.2 No Port Authority Obligation**

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

### **Section 8.3 No Abatement**

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

## **Article 9. Indemnity and Insurance**

### **Section 9.1 Indemnity**

*(a) Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims

and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

*(a) Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to

the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

(c) *Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

(d) *Self-Insurance.* The Carrier shall have the right, as part of its overall risk management program, to provide for the insurance coverages required herein with such amounts of coverage and deductible or retained amounts as the Carrier may determine appropriate from time to time, except, however, that the Carrier shall, at its sole expense, pay for all claims and damages which fall within such deductible or retained amounts. The Carrier shall provide evidence of such self-insurance to the Port Authority.

## Article 10. Utilization of the Space

### Section 10.1 Sharing of Loading Positions

(a) *Pooling Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility, to share use of any Loading Position that is a part of the Space (a "Pooling Arrangement"; and any such already licensed carrier, a "Pooling Partner" of the Carrier).

(b) *Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Pooling Arrangement, stating the details of such arrangement and providing the Port Authority with a copy of the agreement covering such Pooling Arrangement.

(c) *Gate Fee and Other Responsibilities.* Notwithstanding any Pooling Arrangement, the Carrier shall continue to be wholly liable for the Gate Fee and all other obligations hereunder with respect to the Loading Position that is the subject of the Pooling Arrangement.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, limit or otherwise diminish any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof. The Carrier specifically acknowledges and agrees that the Carrier's Pooling Partners shall constitute persons using and occupying the Space with the Carrier's consent for purposes of Section 9.1 of this Agreement, entitled "Indemnity", and are accordingly covered by clauses (y) and (z) of paragraph (a) thereof.

### Section 10.2 Performance Requirements

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

Type of Loading Position	Minimum Average Peak Period* Departures	Maximum Peak Period* Departures
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

"Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon sixty (60) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## Article 11. Termination

### Section 11.1 Termination by Port Authority

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after thirty (30) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "**Payment Default**"), then the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

*(d) No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to pursue any legal or equitable remedies against the Carrier under this Agreement. No waiver of default by either party of any of the terms, covenants or conditions hereof to be performed, kept or observed by the other party shall be or be construed to be a waiver of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

*(a) Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

*(b) Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

#### Section 11.3 Termination by Carrier

*(a)* Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by thirty (30) days' notice.

*(b) Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

#### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

#### Section 11.5 Transfer or Partial Discontinuance

*(a) Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its

passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

#### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

### Article 12. Security Deposit

#### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

*(b) Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

*(c) Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

*(d) No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

*(e) Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

*(f) Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

*(g) Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

## Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

## Article 13. Brokerage

The Carrier and the Port Authority each represent and warrant that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. Each party shall indemnify and save

harmless the other party of and from any such claim, except such claims, if any, as may arise solely from the acts of the other party and of its employees.

## Article 14. Notices

### Section 14.1 Notices

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "**Notice**") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

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

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "**Force Majeure**" or "**causes or conditions beyond its control**", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force

Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

Section 15.3 Relationship of the Parties

(a) *No Agency.* This Agreement does not constitute either party to this Agreement the agent or representative of the other for any purpose whatsoever.

(b) *No Partnership or Joint Venture.* Neither a partnership nor any joint venture is created hereby.

(c) *No Third Party Beneficiaries.* There shall be no third party beneficiaries to the rights and obligations provided in this Agreement, which shall be the rights and obligations of the Port Authority and the Carrier only.

Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Counterclaims

The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

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

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply. Notwithstanding the foregoing and anything to the contrary stated herein, however, the Port Authority acknowledges that New Jersey Transit Corporation ("NJ Transit") is a public instrumentality of the State of New Jersey in accordance with the applicable provisions of the New Jersey State Constitution and that NJ Transit derives its authority and powers from the New Jersey Public Transportation Act of 1979, which governs NJ Transit's amenability to suit and authority to enter into contractual undertakings, which contractual undertakings and any claims made with respect thereto are subject to the provisions of the New Jersey Contractual Liability Act, N.J.S.A. 59:1-1 et seq. and the New Jersey Tort Claims Act, 59:13-1 et seq. It is hereby acknowledged and agreed that NJ Transit's legal authority to undertake the obligations set forth in this Agreement is limited by and subject to, and shall be construed in accordance with, the laws of the State of New Jersey. Any obligation of NJ Transit arising under this Agreement, or any claim or judgment entered upon a claim (or any settlement thereof) based on an obligation of NJ Transit arising under this Agreement, shall be payable out of (a) funds available to NJ Transit for such purpose or (b) such other funds as may be appropriated by the State of New Jersey for such purpose.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Carrier and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

\* \* \* \* \*

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore-line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

provided, however, that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.





**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

Total

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)





**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

1. The Board of Directors shall have the authority to make, alter, amend, suspend, or repeal the rules and regulations of the corporation.

2. The Board of Directors shall have the authority to make, alter, amend, suspend, or repeal the rules and regulations of the corporation.

## EXHIBIT 6. LETTER OF CREDIT

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_

At the request of \_\_\_\_\_ (A) \_\_\_\_\_, we \_\_\_\_\_ (B) \_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_ (D) \_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at \_\_\_\_\_ (E) \_\_\_\_\_

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_ (B) \_\_\_\_\_ Letter of Credit No. \_\_\_\_\_ (C) \_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_ (F) \_\_\_\_\_ This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

### LEGEND:

- A – INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B – INSERT NAME OF ISSUING BANK
- C – INSERT L/C IDENTIFICATION NUMBER
- D – INSERT DOLLAR VALUE OF INSTRUMENT
- E – INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F – INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval **PRIOR** to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

**SCHEDULE 1. GATE/PLATFORM POSITION FEES**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY				
YEAR	BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
2008	\$19,500	\$16,200	\$13,000	\$6,500
Subsequent Years	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2008,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person  For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>  <u>\$2,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person  For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>  <u>\$5,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

#### SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be zero Dollars and No Cents (\$0.00).

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is Ex. 1 (NIT BUS OPS, INC.)

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: For Port Authority Use Only :

: Carrier License No. \_\_\_\_\_ :

*TBT-PPB-BLA-012*

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
225 Park Avenue South  
New York, New York 10003**

**BUS CARRIER LICENSE AGREEMENT**

- 1. **Carrier's Full Legal Name:** PETER PAN BUS LINES, INC.
- 2. **Carrier's Address:** 1776 MAIN ST - PO BOX 1776  
SPRINGFIELD, MA 01102-1776
- 3. **Type of legal entity** CORPORATION  
**State of organization:** MASSACHUSETTS
- 3. **Carrier's Representative:** BRIAN R STEFANO - EXECUTIVE VICE PRESIDENT/TREASURER  
(name and title)
- 4. **Effective Date:** May 1, 2008

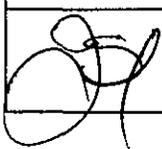
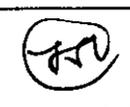
**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**

Dated: April 30, 2008

By *Victoria Cross Kelly*

name: Victoria Cross Kelly

title: Director

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

PETER PAN BUS LINES, INC.

(Carrier)

By *Brian R Stefano*

name: BRIAN R STEFANO

title: EXECUTIVE VICE PRESIDENT/TREASURER

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**EXHIBITS AND SCHEDULES**

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## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "Port Authority"), and the bus carrier identified on the Cover Page hereof (the "Carrier"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "PABT").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "GWBBS").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"Activity Fee Installment" shall have the meaning set forth in Section 4.1(b).

"Activity Fees" shall have the meaning set forth in Section 4.1(a).

"Audit Findings" shall have the meaning set forth in Section 4.5(b).

"**Bus**" shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

"**Central Manhattan**" shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

"**Charter**" shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A "**Charter Coach**" shall be a Bus operated under the provisions of a charter, as herein defined, and "**Charter Operations**" shall mean the operation of a Charter Coach or Charter Coaches.

"**Contract Carriage**" shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

"**cost**" shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

"**Cover Page**" shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

"**day**" shall mean, and "**daily**" shall refer to, a calendar day.

"**Departure Fee**" shall have the meaning set forth in Section 4.1(a).

"**Departures**" shall mean Bus departures from the Facility.

"**Dispatcher**" shall have the meaning set forth in Section 7.4.

"**Effective Date**" shall mean the date set forth on the Cover Page as the "Effective Date".

"**Executive Director**" shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

**"Facility"** shall mean either or both of the PABT and the GWBBS, as the context requires.

**"Gate Fee"** shall have the meaning set forth in Section 4.1(a).

**"General Manager"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

**"GWBBS"** shall have the meaning set forth in Recital 2 above.

**"Holiday"** shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

**"Irregular Route Operations"** shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

**"Labor Trouble"** shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

**"Loading Position"** shall mean a location on a Vehicular Level, including a gate or a platform position, designated for passengers to be loaded onto, or unloaded from, Buses.

**"Long Distance Service"** shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

**"Middle Distance Destination"** shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

**"Middle Distance Percentage Fee"** shall have the meaning set forth in Section 4.1(a).

**"Non-Revenue Departures"** shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

**"Northern Manhattan"** shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Notice"** shall have the meaning set forth in Section 14.1(a).

**"PABT"** shall have the meaning set forth in Recital 1 above.

**"Peak Period"** shall have the meaning set forth in Section 10.2.

**"Pooling Arrangement"** shall have the meaning set forth in Section 10.1.

"**Pooling Partner**" shall have the meaning set forth in Section 10.1.

"**Quarterly Reconciliation Form**" shall have the meaning set forth in Section 4.1(b).

"**Regular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

"**Required Deposit Amount**" shall have the meaning set forth in Section 12.1(a).

"**Short Haul Service**" shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

"**Space**" shall have the meaning set forth in Section 2.1(a).

"**Surface Transportation Board**" shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

"**Term**" shall have the meaning set forth in Section 2.2(b).

"**Vehicular Level**" shall mean any floor or story at the Facility designed for use by Buses.

## Article 2. License

### Section 2.1 Grant of License

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions (which may include Loading Positions to be shared with one or more other bus carriers) as shall be specified from time to time by the General Manager (collectively, the "**Space**") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the

applicable terms and conditions of this Agreement and the rules and regulations of the Port Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

*(d) Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

*(e) Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

*(f) No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

*(a) Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

*(b) Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

*(c) Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Pooling Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "Gate Fee"), which shall be payable as provided in the following paragraph (b) of this Section 4.1; provided, however, that where a Loading Position has been assigned to the Carrier to be shared with one or more other bus carriers, the Gate Fee with respect to such Loading Position shall be one hundred twenty percent (120%) of the amount set

forth in Schedule 1, and the total of such increased Gate Fee shall be shared equally by the Carrier and such other bus carrier(s); for example, if the Loading Position has been assigned to be shared by two bus carriers, each shall pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "**Activity Fees**"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "**Departure Fee**") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "**Middle Distance Percentage Fee**"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Fees.*

(1) *Gate Fee.* The Gate Fee shall be payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(i) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "**Activity Fee Installment**") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(ii) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other Activity factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from

time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(iii) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "**Quarterly Reconciliation Form**") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

#### Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

#### Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank:	TD Bank 6000 Atrium Way Mount Laurel NJ 08054
Bank ABA Number:	031201360
Account Number:	EX. 1
Beneficiary Name	The Port Authority of NY & NJ

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port

Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

#### Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts

found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

## Article 5. Facility Services

### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

(a) *Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

(b) *Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

(c) *Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "Dispatcher"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass; and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this

release shall invalidate any policy of insurance or shall increase the premium therefor, or shall void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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 service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

- (1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

(a) *Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

(a) *Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## Article 10. Utilization of the Space

### Section 10.1 Sharing of Loading Positions

*(a) Pooling Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility, to share use of any Loading Position that is a part of the Space (a "Pooling Arrangement"; and any such already licensed carrier, a "Pooling Partner" of the Carrier).

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Pooling Arrangement, stating the details of such arrangement and providing the Port Authority with a copy of the agreement covering such Pooling Arrangement.

(c) *Gate Fee and Other Responsibilities.* Notwithstanding any Pooling Arrangement, the Carrier shall continue to be wholly liable for the Gate Fee and all other obligations hereunder with respect to the Loading Position that is the subject of the Pooling Arrangement.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, limit or otherwise diminish any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof. The Carrier specifically acknowledges and agrees that the Carrier's Pooling Partners shall constitute persons using and occupying the Space with the Carrier's consent for purposes of Section 9.1 of this Agreement, entitled "Indemnity", and are accordingly covered by clauses (y) and (z) of paragraph (a) thereof.

**Section 10.2 Performance Requirements**

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

Type of Loading Position	Minimum Average Peak Period* Departures	Maximum Peak Period* Departures
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon sixty (60) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## Article 11. Termination

### Section 11.1 Termination by Port Authority

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "**Payment Default**"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

### Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

### Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### **Section 14.1 Notices**

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

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

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Carrier and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

#### Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

\* \* \* \* \*

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

provided, however, that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.

**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the Port Authority Bus Terminal**

2007

**Short Haul Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$2.10	\$0.00		\$0.00
2		\$2.10	\$0.00		\$0.00
3		\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>					<b>\$0.00</b>

**Middle-Distance Ticket Sales**

Month	Ticket Sales Revenue	Commission	Actual Tickets Sales Fees	Amount Invoiced	Amount Due/Credit
1		13.5%	\$0.00		\$0.00
2		13.5%	\$0.00		\$0.00
3		13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>					<b>\$0.00</b>

**Long-Distance Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$38.00	\$0.00		\$0.00
2		\$38.00	\$0.00		\$0.00
3		\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>					<b>\$0.00</b>

**TOTAL DUE/CREDIT                      \$0.00**

**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the George Washington Bridge Bus Station**

2007

**Short Haul Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$2.10	\$0.00		\$0.00
2		\$2.10	\$0.00		\$0.00
3		\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>					<b>\$0.00</b>

**Middle-Distance Ticket Sales**

Month	Ticket Sales Revenue	Commission	Actual Tickets Sales Fees	Amount Invoiced	Amount Due/Credit
1		13.5%	\$0.00		\$0.00
2		13.5%	\$0.00		\$0.00
3		13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>					<b>\$0.00</b>

**Long-Distance Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$38.00	\$0.00		\$0.00
2		\$38.00	\$0.00		\$0.00
3		\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>					<b>\$0.00</b>

**TOTAL DUE/CREDIT** **\$0.00**

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22					
						<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

Total

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)





**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

## EXHIBIT 6. LETTER OF CREDIT

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_(C)\_\_\_\_\_

At the request of \_\_\_\_\_(A)\_\_\_\_\_, we \_\_\_\_\_(B)\_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_(C)\_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_(D)\_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at \_\_\_\_\_(E)\_\_\_\_\_

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_(B)\_\_\_\_\_ Letter of Credit No. \_\_\_\_\_(C)\_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_(F)\_\_\_\_\_. This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

### LEGEND:

A - INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME

B - INSERT NAME OF ISSUING BANK

C - INSERT L/C IDENTIFICATION NUMBER

D - INSERT DOLLAR VALUE OF INSTRUMENT

E - INSERT EXACT ADDRESS OF LOCAL BANK BRANCH

F - INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval **PRIOR** to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

## SCHEDULE 1. GATE/PLATFORM POSITION FEES

### PORT AUTHORITY BUS TERMINAL (PABT) GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY				
YEAR	BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
2008	\$19,500	\$16,200	\$13,000	\$6,500
Subsequent Years	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

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<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2008,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b> For injury or wrongful death to one person	<u>\$2,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>
	<b>Property Damage Liability</b> For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b> For injury or wrongful death to one person	<u>\$5,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>
	<b>Property Damage Liability</b> For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

**SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER**

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be ~~three~~<sup>one</sup> hundred thousand Dollars and No Cents (\$ 100,000.00).

*[Handwritten signature]*  
*[Handwritten initials BRS]*

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is \_\_\_\_\_ Ex. 1

*[Handwritten signature]*  
*[Handwritten initials BRS]*

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
225 Park Avenue South  
New York, New York 10003

**BUS CARRIER LICENSE AGREEMENT**

1. **Carrier's Full Legal Name:** PINE HILL-KINGSTON BUS CORP.
  
2. **Carrier's Address:** 499 HURLEY AVENUE  
HURLEY, NY 12443
  
3. **Type of legal entity** CORPORATION  
**State of organization:** NEW YORK
  
4. **Carrier's Representative:** Eugene J. Berardi, Jr. – President
  
5. **Effective Date:** May 1, 2008

Dated: April 30, 2008

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By Victoria Cross Kelly

name: Victoria Cross Kelly

title: Director  
Tunnels, Bridges & Terminals  
Department

Port Authority Use Only:	
Approval as to Terms:	Approval as to Form:
<u>[Signature]</u>	<u>[Signature]</u>

Pine Hill- Kingston Bus Corp.  
(Carrier)

By Eugene J. Berardi, Jr.

name: Eugene J. Berardi, Jr.

title: President

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## **EXHIBITS AND SCHEDULES**

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Exhibit 5	Rules and Regulations
Exhibit 6	Letter of Credit
Schedule 1	Gate/Platform Position Fees
Schedule 2	Departure Fees; Middle Distance Percentage Fee
Schedule 3	Insurance
Schedule 4	Security Deposit and Tax I.D. Number

## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003(the "**Port Authority**"), and the bus carrier identified on the Cover Page hereof (the "**Carrier**"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "**PABT**").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "**GWBBS**").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"**Activity Fee Installment**" shall have the meaning set forth in Section 4.1(b).

"**Activity Fees**" shall have the meaning set forth in Section 4.1(a).

"**Audit Findings**" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

**“Facility”** shall mean either or both of the PABT and the GWBBS, as the context requires.

**“Gate Fee”** shall have the meaning set forth in Section 4.1(a).

**“General Manager”** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

**“GWBBS”** shall have the meaning set forth in Recital 2 above.

**“Holiday”** shall mean only such days as may be declared “holidays” or “legal holidays” by the Legislature of the State of New York.

**“Irregular Route Operations”** shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

**“Labor Trouble”** shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

**“Loading Position”** shall mean a location on a Vehicular Level, including a gate or a platform position, designated for passengers to be loaded onto, or unloaded from, Buses.

**“Long Distance Service”** shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

**“Middle Distance Destination”** shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

**“Middle Distance Percentage Fee”** shall have the meaning set forth in Section 4.1(a).

**“Non-Revenue Departures”** shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

**“Northern Manhattan”** shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**“Notice”** shall have the meaning set forth in Section 14.1(a).

**“PABT”** shall have the meaning set forth in Recital 1 above.

**“Peak Period”** shall have the meaning set forth in Section 10.2.

**“Pooling Arrangement”** shall have the meaning set forth in Section 10.1.

“**Pooling Partner**” shall have the meaning set forth in Section 10.1.

“**Quarterly Reconciliation Form**” shall have the meaning set forth in Section 4.1(b).

“**Regular Route Operations**” shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

“**Required Deposit Amount**” shall have the meaning set forth in Section 12.1(a).

“**Short Haul Service**” shall mean service with a final destination (x) within the “Short Haul Area” set forth on Exhibit 1 or (y) at a Park/Ride Lot.

“**Space**” shall have the meaning set forth in Section 2.1(a).

“**Surface Transportation Board**” shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

“**Term**” shall have the meaning set forth in Section 2.2(b).

“**Vehicular Level**” shall mean any floor or story at the Facility designed for use by Buses.

## Article 2. License

### Section 2.1 Grant of License

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions (which may include Loading Positions to be shared with one or more other bus carriers) as shall be specified from time to time by the General Manager (collectively, the “**Space**”) in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager’s right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager’s opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o’clock a.m. through 6:00 o’clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier’s passengers, in common with passengers of other carriers and with the public. The Carrier’s passengers will be permitted to use such areas, subject to and upon compliance with the

applicable terms and conditions of this Agreement and the rules and regulations of the Port Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "**Term**") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Pooling Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "**Gate Fee**"), which shall be payable as provided in the following paragraph (b) of this Section 4.1; provided, however, that where a Loading Position has been assigned to the Carrier to be shared with one or more other bus carriers, the Gate Fee with respect to such Loading Position shall be one hundred twenty percent (120%) of the amount set

forth in Schedule 1, and the total of such increased Gate Fee shall be shared equally by the Carrier and such other bus carrier(s); for example, if the Loading Position has been assigned to be shared by two bus carriers, each shall pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "**Activity Fees**"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "**Departure Fee**") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "**Middle Distance Percentage Fee**"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Fees.*

(1) *Gate Fee.* The Gate Fee shall be payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(i) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "**Activity Fee Installment**") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(ii) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from

time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(iii) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "**Quarterly Reconciliation Form**") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

#### Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

#### Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank:	TD Bank 6000 Atrium Way Mount Laurel NJ 08054
Bank ABA Number:	031201360
Account Number:	Ex. 1
Beneficiary Name	The Port Authority of NY & NJ

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port

Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

#### Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts

found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

## Article 5. Facility Services

### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

*(a) Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

*(b) Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

*(c) Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "**Dispatcher**"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this

release shall invalidate any policy of insurance or shall increase the premium therefor, or shall void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

*(b) Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

*(a) Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

*(b) Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

*(c) Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

- (1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

*(a) Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

*(a) Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Pooling Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility, to share use of any Loading Position that is a part of the Space (a "**Pooling Arrangement**"; and any such already licensed carrier, a "**Pooling Partner**" of the Carrier).

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Pooling Arrangement, stating the details of such arrangement and providing the Port Authority with a copy of the agreement covering such Pooling Arrangement.

(c) *Gate Fee and Other Responsibilities.* Notwithstanding any Pooling Arrangement, the Carrier shall continue to be wholly liable for the Gate Fee and all other obligations hereunder with respect to the Loading Position that is the subject of the Pooling Arrangement.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, limit or otherwise diminish any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof. The Carrier specifically acknowledges and agrees that the Carrier's Pooling Partners shall constitute persons using and occupying the Space with the Carrier's consent for purposes of Section 9.1 of this Agreement, entitled "Indemnity", and are accordingly covered by clauses (y) and (z) of paragraph (a) thereof.

Section 10.2 Performance Requirements

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

Type of Loading Position	Minimum Average Peak Period* Departures	Maximum Peak Period* Departures
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon sixty (60) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## **Article 11. Termination**

### **Section 11.1 Termination by Port Authority**

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "**Payment Default**"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

### Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

### Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### Section 14.1 Notices

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "**Notice**") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. “**Force Majeure**” or “**causes or conditions beyond its control**”, or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

(5) If the Carrier, as set forth on the Cover Page, consists of more than one individual or legal entity, then each and every obligation of the Carrier hereunder shall be the joint and several obligation of each such individual or legal entity.

(6) None of the provisions of this paragraph (d) shall be taken to alter, amend or diminish any obligation of the Carrier assumed in relation to its invitees, visitors, agents, representatives, contractors, customers, passengers, guests or other persons, firms or corporations doing business with it.

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Carrier and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

#### Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

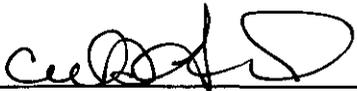
(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
225 Park Avenue South  
New York, New York 10003  
**BUS CARRIER LICENSE AGREEMENT**

1. Carrier's Full Legal Name: Rockland Coaches, Inc.
2. Carrier's Address: 4 Leisure Lane  
Mahwah, NJ 07041
3. Carrier's state and form of organization: New Jersey  
(if Carrier is not an individual) Corporation
3. Carrier's Representative: \_\_\_\_\_  
(name and title)
4. Effective Date: May 1, 2008

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Dated: April 30, 2008

By   
name: CEDRICK T. FURD  
title: DIRECTOR

Port Authority Use Only	
Approval as to Terms:	Approval as to Form:
<u></u>	<u>FMT</u>

ROCKLAND COACHES, INC

By   
name: GEORGE GRIEV  
title: President

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### **EXHIBITS AND SCHEDULES**

Exhibit 1	Short Haul Area
Exhibit 2	Quarterly Reconciliation Form
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Exhibit 4	Terminal Dispatch Record
Exhibit 5	Rules and Regulations
Exhibit 6	Letter of Credit
Schedule 1	Gate/Platform Position Fees
Schedule 2	Departure Fees; Middle Distance Percentage Fee
Schedule 3	Insurance
Schedule 4	Security Deposit and Tax I.D. Number
Rider	

## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "**Port Authority**"), and the bus carrier identified on the Cover Page hereof (the "**Carrier**"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "**PABT**").
2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "**GWBBS**").
3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"**Activity Fee Installment**" shall have the meaning set forth in Section 4.1(b).

"**Activity Fees**" shall have the meaning set forth in Section 4.1(a).

"**Audit Findings**" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

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**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

"**Facility**" shall mean either or both of the PABT and the GWBBS, as the context requires.

"**Gate Fee**" shall have the meaning set forth in Section 4.1(a).

"**General Manager**" shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

"**GWBBS**" shall have the meaning set forth in Recital 2 above.

"**Holiday**" shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

"**Irregular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

"**Labor Trouble**" shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

"**Loading Position**" shall mean a location on a Vehicular Level, including a gate or a platform position, designated for passengers to be loaded onto, or unloaded from, Buses.

"**Long Distance Service**" shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

"**Middle Distance Destination**" shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

"**Middle Distance Percentage Fee**" shall have the meaning set forth in Section 4.1(a).

"**Non-Revenue Departures**" shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

"**Northern Manhattan**" shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

"**Notice**" shall have the meaning set forth in Section 14.1(a).

"**PABT**" shall have the meaning set forth in Recital 1 above.

"**Peak Period**" shall have the meaning set forth in Section 10.2.

"**Pooling Arrangement**" shall have the meaning set forth in Section 10.1.

**"Pooling Partner"** shall have the meaning set forth in Section 10.1.

**"Quarterly Reconciliation Form"** shall have the meaning set forth in Section 4.1(b).

**"Regular Route Operations"** shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

**"Required Deposit Amount"** shall have the meaning set forth in Section 12.1(a).

**"Short Haul Service"** shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

**"Space"** shall have the meaning set forth in Section 2.1(a).

**"Surface Transportation Board"** shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

**"Term"** shall have the meaning set forth in Section 2.2(b).

**"Vehicular Level"** shall mean any floor or story at the Facility designed for use by Buses.

## **Article 2. License**

### **Section 2.1 Grant of License**

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions (which may include Loading Positions to be shared with one or more other bus carriers) as shall be specified from time to time by the General Manager (collectively, the "Space") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the

applicable terms and conditions of this Agreement and the rules and regulations of the Port Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Pooling Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "**Gate Fee**"), which shall be payable as provided in the following paragraph (b) of this Section 4.1; provided, however, that where a Loading Position has been assigned to the Carrier to be shared with one or more other bus carriers, the Gate Fee with respect to such Loading Position shall be one hundred twenty percent (120%) of the amount set

forth in Schedule 1, and the total of such increased Gate Fee shall be shared equally by the Carrier and such other bus carrier(s); for example, if the Loading Position has been assigned to be shared by two bus carriers, each shall pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "**Activity Fees**"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "**Departure Fee**") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "**Middle Distance Percentage Fee**"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Fees.*

(1) *Gate Fee.* The Gate Fee shall be payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(i) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "**Activity Fee Installment**") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(ii) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from

time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(iii) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "**Quarterly Reconciliation Form**") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

#### Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

#### Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank:	TD Bank 6000 Atrium Way Mount Laurel NJ 08054
Bank ABA Number:	031201360
Account Number:	Ex. 1
Beneficiary Name	The Port Authority of NY & NJ

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port

Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

#### Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts

found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

*(b) Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

## Article 5. Facility Services

### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority *in writing*. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

*(a) Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

*(b) Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

*(c) Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "**Dispatcher**"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this

release shall invalidate any policy of insurance or shall increase the premium therefor, or shall void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

- (1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

(a) *Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

(a) *Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Pooling Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility, to share use of any Loading Position that is a part of the Space (a "**Pooling Arrangement**"; and any such already licensed carrier, a "**Pooling Partner**" of the Carrier).

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Pooling Arrangement, stating the details of such arrangement and providing the Port Authority with a copy of the agreement covering such Pooling Arrangement.

(c) *Gate Fee and Other Responsibilities.* Notwithstanding any Pooling Arrangement, the Carrier shall continue to be wholly liable for the Gate Fee and all other obligations hereunder with respect to the Loading Position that is the subject of the Pooling Arrangement.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, limit or otherwise diminish any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof. The Carrier specifically acknowledges and agrees that the Carrier's Pooling Partners shall constitute persons using and occupying the Space with the Carrier's consent for purposes of Section 9.1 of this Agreement, entitled "Indemnity", and are accordingly covered by clauses (y) and (z) of paragraph (a) thereof.

**Section 10.2 Performance Requirements**

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

<b>Type of Loading Position</b>	<b>Minimum Average Peak Period* Departures</b>	<b>Maximum Peak Period* Departures</b>
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon sixty (60) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## **Article 11. Termination**

### **Section 11.1 Termination by Port Authority**

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "**Payment Default**"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

### Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

### Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that *unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and*

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### Section 14.1 Notices

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "**Notice**") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

(5) If the Carrier, as set forth on the Cover Page, consists of more than one individual or legal entity, then each and every obligation of the Carrier hereunder shall be the joint and several obligation of each such individual or legal entity.

(6) None of the provisions of this paragraph (d) shall be taken to alter, amend or diminish any obligation of the Carrier assumed in relation to its invitees, visitors, agents, representatives, contractors, customers, passengers, guests or other persons, firms or corporations doing business with it.

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Carrier and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

#### Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

**provided, however,** that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.

**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the George Washington Bridge Bus Station**

2007

**Short Haul Departures**

	Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1			\$2.10	\$0.00		\$0.00
2			\$2.10	\$0.00		\$0.00
3			\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>						<b>\$0.00</b>

**Middle-Distance Ticket Sales**

	Month	Ticket Sales Revenue	Commission	Actual Tickets Sales Fees	Amount Invoiced	Amount Due/Credit
1			13.5%	\$0.00		\$0.00
2			13.5%	\$0.00		\$0.00
3			13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>						<b>\$0.00</b>

**Long-Distance Departures**

	Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1			\$38.00	\$0.00		\$0.00
2			\$38.00	\$0.00		\$0.00
3			\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>						<b>\$0.00</b>

**TOTAL DUE/CREDIT** **\$0.00**

**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the Port Authority Bus Terminal**

2007

**Short Haul Departures**

	<b>Month</b>	<b>Number of Departures</b>	<b>Departure Fee Rate</b>	<b>Actual Departure Fees</b>	<b>Amount Invoiced</b>	<b>Amount Due/Credit</b>
1			\$2.10	\$0.00		\$0.00
2			\$2.10	\$0.00		\$0.00
3			\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>						<b>\$0.00</b>

**Middle-Distance Ticket Sales**

	<b>Month</b>	<b>Ticket Sales Revenue</b>	<b>Commission</b>	<b>Actual Tickets Sales Fees</b>	<b>Amount Invoiced</b>	<b>Amount Due/Credit</b>
1			13.5%	\$0.00		\$0.00
2			13.5%	\$0.00		\$0.00
3			13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>						<b>\$0.00</b>

**Long-Distance Departures**

	<b>Month</b>	<b>Number of Departures</b>	<b>Departure Fee Rate</b>	<b>Actual Departure Fees</b>	<b>Amount Invoiced</b>	<b>Amount Due/Credit</b>
1			\$38.00	\$0.00		\$0.00
2			\$38.00	\$0.00		\$0.00
3			\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>						<b>\$0.00</b>

**TOTAL DUE/CREDIT** **\$0.00**

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)





**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

## EXHIBIT 6. LETTER OF CREDIT

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_(C)\_\_\_\_\_

At the request of \_\_\_\_\_(A)\_\_\_\_\_, we \_\_\_\_\_(B)\_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_(C)\_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_(D)\_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at

\_\_\_\_\_ (E) \_\_\_\_\_  
on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_(B)\_\_\_\_\_ Letter of Credit No. \_\_\_\_\_(C)\_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_(F)\_\_\_\_\_. This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

### LEGEND:

- A - INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B - INSERT NAME OF ISSUING BANK
- C - INSERT L/C IDENTIFICATION NUMBER
- D - INSERT DOLLAR VALUE OF INSTRUMENT
- E - INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F - INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval **PRIOR** to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

## SCHEDULE 1. GATE/PLATFORM POSITION FEES

### PORT AUTHORITY BUS TERMINAL (PABT) GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY				
YEAR	BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
2008	\$19,500	\$16,200	\$13,000	\$6,500
Subsequent Years	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

**"Percentage Increase"** shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

**"Base Period"** shall mean the month of September 2007,

**"Adjustment Period"** shall mean the month of September immediately preceding the New Fee Year, and

**"Anniversary Date"** shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

## SCHEDULE 2. DEPARTURE FEES AND MIDDLE DISTANCE PERCENTAGE FEE

PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

### Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

### Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

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<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2008,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$2,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$5,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

**SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER**

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be One Hundred Twenty Five Thousand Dollars and No Cents (\$ 125,000.00).

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is Ex 1.

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RIDER

TO BUS CARRIER LICENSE AGREEMENT  
(COACH)

Prior to the execution of this License by either party hereto the following deletions, additions and substitutions were made:

1. Article 3 was deleted and replaced in its entirety by the following:

(a) Section 3.1 Permitted Use of the Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever:

The standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

(b) Section 3.2 Right and Obligation to Use the Facility

A. Regular Operations. The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

B. Charter Operations. The Carrier may use the Facility for Charter Operations to and from the City of New York.

C. Uses Not Permitted. This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

(c) Section 3.3 Discontinuance of Other Terminals Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

2. Section 7.5 was deleted and replaced in its entirety by the following:

A. Restrictions as to Type and Size. Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

1. Buses shall not exceed one hundred two (102) inches in width.
2. Buses at the PABT shall have a maximum gross loaded weight not in excess of forty-eight thousand eight-hundred and forty 48,840 pounds avoirdupois, distributed to provide not more than twenty-two thousand five-hundred (22,500) pounds per axle, providing that the combined weight of the drive and tag axles does not exceed thirty-four thousand five-hundred (34,500) pounds.
3. In the event the Carrier proposes introduction into the PABT and GWBBS a type, style, size or model of Bus that exceeds the above requirements, the Carrier shall give the General Manager (30) thirty-days written notice identifying the proposed change and the General Manager has (60) sixty-days from receipt of said notice to inform

the Carrier whether the Facility can accommodate the proposed change.

4. Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.
5. Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.
6. Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.
7. Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (i.e., two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.
8. Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

B. Condition of Buses. Buses shall be kept clean and maintained in good working order.

C. Operation. Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

D. Scheduling of Departure Times. The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

E. E-ZPass. The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of

accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPasstransactions.

3. Article 9 was deleted and replaced in its entirety by the following:

(a) Section 9.1 Indemnity

A. Indemnification. The Carrier shall indemnify and hold harmless, the Port Authority Commissioners, directors, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority's in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

B. Defense of Claims. If so directed, the Carrier shall at its own expense defend any suit based upon any such claim or demand (even if such suit, claim or demand is groundless, false or fraudulent), 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 immunity of the Port Authority, its Commissioners, officers, agents or

employees, the governmental nature of the Port Authority or the provision of any statutes respecting suits against the Port Authority.

(b) Section 9.2 Liability Insurance

A. Required Coverages. The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule 3. Each such policy shall be maintained in at least the limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

B. Policy Requirements.

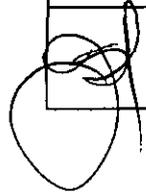
1. The Port Authority shall be named as an additional insured, in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority, as the case may be, not to be so named.
2. Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.
3. Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.
4. Each policy of liability insurance required by this section shall be specifically endorsed to state that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any

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

5. If at any time any policy fails to reflect the minimum policy requirements outlined in this agreement, the Carrier shall promptly obtain a new and satisfactory policy in replacement. All insurance policies shall be issued by insurance carriers authorized to conduct business in the State of New York with an A.M. Best Company Rating of A - or better, provided however, that if the A.M. Best Company or any successor rating company shall cease to exist, the Port Authority and Carrier shall negotiate in good faith on a substitute.

C. Evidence of Insurance. As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, and all required endorsements, or a binder, shall be delivered to the Port Authority within thirty (30) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall be specifically endorsed to provide that the policy may not be cancelled, terminated, changed or modified, without giving thirty (30) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

The Licensee hereby agrees to the terms and conditions of the rider attached hereto, hereby made a part hereof and marked "Rider". The terms and provisions of the Rider shall have the same force and effect and as if herein set forth in full.

INITIALED	
For the Port Authority	For the Permittee
	

: For Port Authority Use Only :

: Carrier License No. TBT-STS-BLA-014 :

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
**225 Park Avenue South**  
**New York, New York 10003**

**BUS CARRIER LICENSE AGREEMENT**

**1. Carriers' Full Legal Names:** (a) SPANISH TRANSPORTATION SERVICE CORP.

(b) AIRPORT SERVICE CORP.

(c) DISCOVERLINE CORP.

(d) NEW SERVICE, INC.

**2. Carriers' Addresses:**

62 Luddington Avenue, Clifton, NJ 07011 (Mailing Address)

68-96 Barclay Street, Paterson, NJ 07503 (Physical Address)

(both addresses apply to all four co-carriers named hereon)

**3. Type of legal entity:**

Corporation (applies to all four co-carriers named hereon)

**4. State of organization:**

New Jersey (applies to all four co-carriers named hereon)

**5. Carriers' Representative:**

Norberto Curitomai, President

**6. Effective Date:** May 1, 2008

Dated: April 30, 2008

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

By *Victoria Cross Kelly*

name: *Victoria Cross Kelly*

title: *Director, Tunnels, Bridges and Terminals*

**SPANISH TRANSPORTATION SERVICE CORP., Co-Carrier**

By *Norberto Curitomai*

name: Norberto Curitomai

title: President

**AIRPORT SERVICE CORP., Co-Carrier**

By *Norberto Curitomai*

name: Norberto Curitomai

title: President

**DISCOVERLINE CORP., Co-Carrier**

By *Norberto Curitomai*

name: Norberto Curitomai

title: President

**NEW SERVICE, INC., Co-Carrier**

By *Norberto Curitomai*

name: Norberto Curitomai

title: President

Port Authority Use Only	
Approval as to Terms:	Approval as to Form:
<i>JK</i>	<i>JK</i>

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Schedule 2	Departure Fees; Middle Distance Percentage Fee
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## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003(the "Port Authority"), and the bus carrier identified on the Cover Page hereof (the "Carrier"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "PABT").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "GWBBS").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"Activity Fee Installment" shall have the meaning set forth in Section 4.1(b).

"Activity Fees" shall have the meaning set forth in Section 4.1(a).

"Audit Findings" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

"**Facility**" shall mean either or both of the PABT and the GWBBS, as the context requires.

"**Gate Fee**" shall have the meaning set forth in Section 4.1(a).

"**General Manager**" shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

"**GWBBS**" shall have the meaning set forth in Recital 2 above.

"**Holiday**" shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

"**Irregular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

"**Labor Trouble**" shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

"**Loading Position**" shall mean a location on a Vehicular Level, including a gate or a platform position, designated for passengers to be loaded onto, or unloaded from, Buses.

"**Long Distance Service**" shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

"**Middle Distance Destination**" shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

"**Middle Distance Percentage Fee**" shall have the meaning set forth in Section 4.1(a).

"**Non-Revenue Departures**" shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

"**Northern Manhattan**" shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

"**Notice**" shall have the meaning set forth in Section 14.1(a).

"**PABT**" shall have the meaning set forth in Recital 1 above.

"**Peak Period**" shall have the meaning set forth in Section 10.2.

"**Pooling Arrangement**" shall have the meaning set forth in Section 10.1.

"Pooling Partner" shall have the meaning set forth in Section 10.1.

"Quarterly Reconciliation Form" shall have the meaning set forth in Section 4.1(b).

"Regular Route Operations" shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

"Required Deposit Amount" shall have the meaning set forth in Section 12.1(a).

"Short Haul Service" shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

"Space" shall have the meaning set forth in Section 2.1(a).

"Surface Transportation Board" shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

"Term" shall have the meaning set forth in Section 2.2(b).

"Vehicular Level" shall mean any floor or story at the Facility designed for use by Buses.

## Article 2. License

### Section 2.1 Grant of License

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions (which may include Loading Positions to be shared with one or more other bus carriers) as shall be specified from time to time by the General Manager (collectively, the "Space") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the

applicable terms and conditions of this Agreement and the rules and regulations of the Port Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Pooling Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "Gate Fee"), which shall be payable as provided in the following paragraph (b) of this Section 4.1; provided, however, that where a Loading Position has been assigned to the Carrier to be shared with one or more other bus carriers, the Gate Fee with respect to such Loading Position shall be one hundred twenty percent (120%) of the amount set

forth in Schedule 1, and the total of such increased Gate Fee shall be shared equally by the Carrier and such other bus carrier(s); for example, if the Loading Position has been assigned to be shared by two bus carriers, each shall pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "**Activity Fees**"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "**Departure Fee**") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "**Middle Distance Percentage Fee**"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Fees.*

(1) *Gate Fee.* The Gate Fee shall be payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(i) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "**Activity Fee Installment**") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(ii) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee installment may be adjusted from

time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(iii) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "**Quarterly Reconciliation Form**") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

#### Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

#### Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank:	TD Bank 6000 Atrium Way Mount Laurel NJ 08054
Bank ABA Number:	031201360
Account Number:	Ex. 1
Beneficiary Name	The Port Authority of NY & NJ

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port

Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

#### Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts

found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

## Article 5. Facility Services

### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

(a) *Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

(b) *Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

(c) *Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "Dispatcher"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this

release shall invalidate any policy of insurance or shall increase the premium therefor, or shall void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

(1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, *including without limitation* systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

*(a) Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

*(a) Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Pooling Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility, to share use of any Loading Position that is a part of the Space (a "Pooling Arrangement"; and any such already licensed carrier, a "Pooling Partner" of the Carrier).

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Pooling Arrangement, stating the details of such arrangement and providing the Port Authority with a copy of the agreement covering such Pooling Arrangement.

(c) *Gate Fee and Other Responsibilities.* Notwithstanding any Pooling Arrangement, the Carrier shall continue to be wholly liable for the Gate Fee and all other obligations hereunder with respect to the Loading Position that is the subject of the Pooling Arrangement.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, limit or otherwise diminish any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof. The Carrier specifically acknowledges and agrees that the Carrier's Pooling Partners shall constitute persons using and occupying the Space with the Carrier's consent for purposes of Section 9.1 of this Agreement, entitled "Indemnity", and are accordingly covered by clauses (y) and (z) of paragraph (a) thereof.

**Section 10.2 Performance Requirements**

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

<b>Type of Loading Position</b>	<b>Minimum Average Peak Period* Departures</b>	<b>Maximum Peak Period* Departures</b>
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon sixty (60) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## Article 11. Termination

### Section 11.1 Termination by Port Authority

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "Payment Default"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

## Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

### Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

### Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "Required Deposit Amount") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### **Section 14.1 Notices**

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. "Force Majeure" or "causes or conditions beyond its control", or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

(5) If the Carrier, as set forth on the Cover Page, consists of more than one individual or legal entity, then each and every obligation of the Carrier hereunder shall be the joint and several obligation of each such individual or legal entity.

(6) None of the provisions of this paragraph (d) shall be taken to alter, amend or diminish any obligation of the Carrier assumed in relation to its invitees, visitors, agents, representatives, contractors, customers, passengers, guests or other persons, firms or corporations doing business with it.

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Carrier and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

#### Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

**provided, however,** that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.

**EXHIBIT 2. QUARTERLY RECONCILIATION FORM**

**Summary for Activity at the George Washington Bridge Bus Station**

2007

**Short Haul Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$2.10	\$0.00		\$0.00
2		\$2.10	\$0.00		\$0.00
3		\$2.10	\$0.00		\$0.00
<b>Short Haul Departures Total</b>					<b>\$0.00</b>

**Middle-Distance Ticket Sales**

Month	Ticket Sales Revenue	Commission	Actual Tickets Sales Fees	Amount Invoiced	Amount Due/Credit
1		13.5%	\$0.00		\$0.00
2		13.5%	\$0.00		\$0.00
3		13.5%	\$0.00		\$0.00
<b>Ticket Sales Total</b>					<b>\$0.00</b>

**Long-Distance Departures**

Month	Number of Departures	Departure Fee Rate	Actual Departure Fees	Amount Invoiced	Amount Due/Credit
1		\$38.00	\$0.00		\$0.00
2		\$38.00	\$0.00		\$0.00
3		\$38.00	\$0.00		\$0.00
<b>Long-Distance Departures Total</b>					<b>\$0.00</b>

**TOTAL DUE/CREDIT** **\$0.00**



**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Per (Signature): \_\_\_\_\_

Charters

\$ \_\_\_\_\_

Title: \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)





**EXHIBIT 5. RULES AND REGULATIONS**

*[To be provided separately]*

**SCHEDULE 1. GATE/PLATFORM POSITION FEES**

**PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)**

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY				
YEAR	BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
2008	\$19,500	\$16,200	\$13,000	\$6,500
Subsequent Years	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2007,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a "New Fee Year") shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

"Percentage Increase" shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

"Base Period" shall mean the month of September 2008,

"Adjustment Period" shall mean the month of September immediately preceding the New Fee Year, and

"Anniversary Date" shall mean January 1 of each New Fee Year.

**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person  For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>  <u>\$2,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person  For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>  <u>\$5,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

#### SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be seventy thousand Dollars and No Cents (\$ 70,000.00).

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is Ex. 1

---

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
225 Park Avenue South  
New York, New York 10003  
**BUS CARRIER LICENSE AGREEMENT**

1. Carrier's Full Legal Name: Suburban Transit Corp
2. Carrier's Address: 750 Somerset Street  
New Brunswick, NJ 08901
3. Carrier's state and form of organization: New Jersey  
(if Carrier is not an individual) Corporation
3. Carrier's Representative: SCOTT SPRENGEL, SECRETARY  
(name and title)
4. Effective Date: May 1, 2008

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Dated: April 30, 2008

By [Signature]  
name: CEDE RUSTI FURAN  
title: Director

Port Authority Use Only:	
Approval as to Terms:	Approval as to Form:
<u>[Signature]</u>	<u>[Signature]</u>

**SUBURBAN TRANSIT** [Signature]  
By [Signature]  
name: Scott Sprengel  
title: Secretary

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### **EXHIBITS AND SCHEDULES**

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Schedule 4	Security Deposit and Tax I.D. Number
Rider	

## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "**Port Authority**"), and the bus carrier identified on the Cover Page hereof (the "**Carrier**"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "**PABT**").
2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "**GWBBS**").
3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"**Activity Fee Installment**" shall have the meaning set forth in Section 4.1(b).

"**Activity Fees**" shall have the meaning set forth in Section 4.1(a).

"**Audit Findings**" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

"**Facility**" shall mean either or both of the PABT and the GWBBS, as the context requires.

"**Gate Fee**" shall have the meaning set forth in Section 4.1(a).

"**General Manager**" shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

"**GWBBS**" shall have the meaning set forth in Recital 2 above.

"**Holiday**" shall mean only such days as may be declared "holidays" or "legal holidays" by the Legislature of the State of New York.

"**Irregular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

"**Labor Trouble**" shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

"**Loading Position**" shall mean a location on a Vehicular Level, including a gate or a platform position, designated for passengers to be loaded onto, or unloaded from, Buses.

"**Long Distance Service**" shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

"**Middle Distance Destination**" shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

"**Middle Distance Percentage Fee**" shall have the meaning set forth in Section 4.1(a).

"**Non-Revenue Departures**" shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

"**Northern Manhattan**" shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

"**Notice**" shall have the meaning set forth in Section 14.1(a).

"**PABT**" shall have the meaning set forth in Recital 1 above.

"**Peak Period**" shall have the meaning set forth in Section 10.2.

"**Pooling Arrangement**" shall have the meaning set forth in Section 10.1.

"**Pooling Partner**" shall have the meaning set forth in Section 10.1.

"**Quarterly Reconciliation Form**" shall have the meaning set forth in Section 4.1(b).

"**Regular Route Operations**" shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

"**Required Deposit Amount**" shall have the meaning set forth in Section 12.1(a).

"**Short Haul Service**" shall mean service with a final destination (x) within the "Short Haul Area" set forth on Exhibit 1 or (y) at a Park/Ride Lot.

"**Space**" shall have the meaning set forth in Section 2.1(a).

"**Surface Transportation Board**" shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

"**Term**" shall have the meaning set forth in Section 2.2(b).

"**Vehicular Level**" shall mean any floor or story at the Facility designed for use by Buses.

## **Article 2. License**

### **Section 2.1 Grant of License**

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions (which may include Loading Positions to be shared with one or more other bus carriers) as shall be specified from time to time by the General Manager (collectively, the "**Space**") in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager's right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager's opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o'clock a.m. through 6:00 o'clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier's passengers, in common with passengers of other carriers and with the public. The Carrier's passengers will be permitted to use such areas, subject to and upon compliance with the

applicable terms and conditions of this Agreement and the rules and regulations of the Port Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Pooling Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "Gate Fee"), which shall be payable as provided in the following paragraph (b) of this Section 4.1; provided, however, that where a Loading Position has been assigned to the Carrier to be shared with one or more other bus carriers, the Gate Fee with respect to such Loading Position shall be one hundred twenty percent (120%) of the amount set

forth in Schedule 1, and the total of such increased Gate Fee shall be shared equally by the Carrier and such other bus carrier(s); for example, if the Loading Position has been assigned to be shared by two bus carriers, each shall pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the "**Activity Fees**"), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the "**Departure Fee**") for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the "**Middle Distance Percentage Fee**"), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) "commutation tickets", which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Fees.*

(1) *Gate Fee.* The Gate Fee shall be payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(i) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the "**Activity Fee Installment**") to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(ii) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier's third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from

time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(iii) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "**Quarterly Reconciliation Form**") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

#### Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

#### Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank:	TD Bank 6000 Atrium Way Mount Laurel NJ 08054
Bank ABA Number:	031201360
Account Number:	Ex. 1
Beneficiary Name	The Port Authority of NY & NJ

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port

Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

#### Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts

found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

## Article 5. Facility Services

### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

(a) *Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

(b) *Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

(c) *Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "Dispatcher"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this

release shall invalidate any policy of insurance or shall increase the premium therefor, or shall void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this

release shall invalidate any policy of insurance or shall increase the premium therefor, or shall void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

(b) *Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

(a) *Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

(b) *Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

(c) *Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

(1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

## EXHIBIT 1. SHORT HAUL AREA

The Short Haul Area shall be that contiguous area comprised of the following:

- (i) In New York: the five (5) boroughs of the City of New York; the Counties of Nassau, Orange, Putnam, Rockland and Westchester, and that portion of Suffolk County lying west of a line running from the point on the shore line of Port Jefferson Harbor which is closest to the northern extremity of New York Route No. 112 to the said northern extremity, thence along the said New York Route No. 112 to its southern extremity, and thence due south to the shore line of the Atlantic Ocean on Fire Island;
- (ii) In New Jersey: the Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren; Fort Dix and McGuire Air Force Base in Burlington County, and that portion of Ocean County lying north of a line running from the point where New Jersey Route No. 530 crosses the boundary between Ocean and Burlington Counties easterly along the said Route to its intersection with the Garden State Parkway, thence northerly along the Garden State Parkway to the point where it crosses the Toms River, thence easterly along the northern shoreline of the Toms River to and across Barnegat Bay to the closest point on the northern boundary of the Borough of Seaside Park, thence along the said boundary to the Atlantic Ocean; and
- (iii) In Connecticut: the County of Fairfield;

provided, however, that whenever the boundary of the above-described area would otherwise partition an incorporated municipality, then the entire such municipality shall be deemed to be within the Short Haul Area.



**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

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

Port Authority Bus Terminal

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22			<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT 3. MONTHLY SUMMARY OF DAILY DEPARTURES**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

George Washington Bridge Bus Station

Bus Company: \_\_\_\_\_

Month \_\_\_\_\_

Year \_\_\_\_\_

NUMBER OF DEPARTURES								
DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter	DATE	Schedules & Extra Sect.	Charter
1			12			23		
2			13			24		
3			14			25		
4			15			26		
5			16			27		
6			17			28		
7			18			29		
8			19			30		
9			20			31		
10			21					
11			22					
						<b>Total</b>		

Amount

Schedules and Extra Sections

\$ \_\_\_\_\_

Charters

\$ \_\_\_\_\_

**Total**

\$ \_\_\_\_\_

Check No. \_\_\_\_\_

(accompanies this report)

Per (Signature): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_







**EXHIBIT 5. RULES AND REGULATIONS**

[To be provided separately]

## EXHIBIT 6. LETTER OF CREDIT

The Port Authority of New York & New Jersey  
225 Park Avenue South, 12<sup>th</sup> Floor  
New York, NY 10003

Date \_\_\_\_\_

Attn: CREDIT MANAGER

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_

At the request of \_\_\_\_\_ (A) \_\_\_\_\_, we \_\_\_\_\_ (B) \_\_\_\_\_ hereby open this CLEAN IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_ (C) \_\_\_\_\_ in your favor up to an aggregate of \_\_\_\_\_ (D) \_\_\_\_\_ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all your drafts under this CLEAN IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION OF YOUR DRAFT(S) drawn on us and presented to us at \_\_\_\_\_ (E) \_\_\_\_\_

on or before the expiration date set forth below or future expiration date as indicated below. Our obligation under this Letter of Credit is the individual obligation of the Bank, in no way contingent upon reimbursement thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under \_\_\_\_\_ (B) \_\_\_\_\_ Letter of Credit No. \_\_\_\_\_ (C) \_\_\_\_\_ dated \_\_\_\_\_". Partial drawings under this Letter of Credit are permitted.

This CLEAN IRREVOCABLE LETTER OF CREDIT expires at the close of business on \_\_\_\_\_ (F) \_\_\_\_\_ This CLEAN IRREVOCABLE LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend the Letter of Credit for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this Letter of Credit within the then applicable expiration date, no statement required.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

\_\_\_\_\_  
BANK OFFICER/REPRESENTATIVE

### LEGEND:

- A – INSERT APPLICANT NAME, I.E. TENANT OR LESSEE NAME
- B – INSERT NAME OF ISSUING BANK
- C – INSERT L/C IDENTIFICATION NUMBER
- D – INSERT DOLLAR VALUE OF INSTRUMENT
- E – INSERT EXACT ADDRESS OF LOCAL BANK BRANCH
- F – INSERT EXPIRATION DATE-ONE YEAR FROM ISSUE DATE

\*\*\* Please instruct your Bank to have the Letter of Credit issued in the above format in "Draft" form and fax to Michael Mayurnik, Credit Manger, at (212) 435-5846 for approval **PRIOR** to issuance in "Original" form. **Otherwise, the Letter of Credit can be rejected.** If you are in need of further assistance, Mr. Mayurnik can be reached at (212) 435-5838. \*\*\*\*

## SCHEDULE 1. GATE/PLATFORM POSITION FEES

### PORT AUTHORITY BUS TERMINAL (PABT) GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

SHORT-HAUL FEE CATEGORY <sup>1</sup>		
YEAR	SHORT-HAUL PLATFORM POSITIONS	SHORT-HAUL GATES
2008	\$ 1,742.00 / year	\$ 4,646.00 / year
Subsequent Years	Annual CPI Adjustment <sup>2</sup>	Annual CPI Adjustment

LONG-DISTANCE FEE CATEGORY				
YEAR	BEST GATES <sup>3</sup>	PREFERRED GATES <sup>4</sup>	STANDARD GATES <sup>5</sup>	PLATFORM POSITIONS <sup>6</sup>
2008	\$19,500	\$16,200	\$13,000	\$6,500
Subsequent Years	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment	Annual CPI Adjustment

<sup>1</sup> Short-Haul Platform Position and Short-Haul Gate fees apply to Loading Positions used primarily for service to final destinations within the Short Haul Area. If the same Loading Position is used for both Short-Haul and Long-Distance services, the Port Authority may pro-rate the fees at its discretion.

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a "**New Fee Year**") shall equal the sum of (x) the annual fee for year 2008 and (y) the amount of the year 2008 annual fee multiplied by the Percentage Increase, in accordance with the following:

**"Percentage Increase"** shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

**"Base Period"** shall mean the month of September 2007,

**"Adjustment Period"** shall mean the month of September immediately preceding the New Fee Year, and

**"Anniversary Date"** shall mean January 1 each New Fee Year.

<sup>3</sup> Best Gate fees apply to the PABT's North Wing Lower Level gates.

<sup>4</sup> Preferred Gate fees apply to the PABT's North Wing third and fourth floor gates and South Wing Lower Level south side gates.

<sup>5</sup> Standard Gate fees apply to all other gates at the PABT, as well as all gates at the GWBBS.

<sup>6</sup> Platform Position fees apply to each Loading Position on pull-through platforms at the PABT and GWBBS.

**SCHEDULE 2. DEPARTURE FEES AND  
MIDDLE DISTANCE PERCENTAGE FEE**

PORT AUTHORITY BUS TERMINAL (PABT)  
GEORGE WASHINGTON BRIDGE BUS STATION (GWBBS)

Long-Distance Departure Fees:

2008: \$40 per Revenue Departure<sup>1</sup>  
Subsequent years: Annual CPI Adjustment<sup>2</sup>

Short Haul Departure Fees:

2008: \$2.20 per Revenue Departure  
2009: \$2.30 per Revenue Departure  
Subsequent years: Annual CPI Adjustment<sup>3</sup>

Middle Distance Percentage Fee: Thirteen and one-half percent (13.5%)

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<sup>1</sup> Revenue Departure – A departure fee shall be payable for all departures carrying, or offering to carry, passengers from the Facility

<sup>2</sup> CPI Adjustment: The fee for each subsequent calendar year (a “**New Fee Year**”) shall equal the sum of (x) the fee for year 2008 and (y) the amount of the year 2008 fee multiplied by the Percentage Increase, in accordance with the following:

“**Percentage Increase**” shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

“**Base Period**” shall mean the month of September 2007,

“**Adjustment Period**” shall mean the month of September immediately preceding the New Fee Year, and

“**Anniversary Date**” shall mean January 1 of each New Fee Year.

<sup>3</sup> CPI Adjustment: The fee for each subsequent calendar year (a “**New Fee Year**”) shall equal the sum of (x) the fee for year 2009 and (y) the amount of the year 2009 fee multiplied by the Percentage Increase, in accordance with the following:

“**Percentage Increase**” shall mean the percentage increase in the Index on each Anniversary Date, equal to a fraction of which the numerator shall be the Index for the Adjustment Period less the Index for the Base Period and the denominator shall be the Index for the Base Period, where:

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

“**Base Period**” shall mean the month of September 2008,

“**Adjustment Period**” shall mean the month of September immediately preceding the New Fee Year, and

“**Anniversary Date**” shall mean January 1 of each New Fee Year.

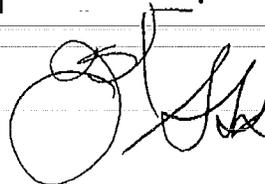
**SCHEDULE 3. INSURANCE**

<u>POLICY</u>		<u>MINIMUM LIMITS</u>
<b>COMMERCIAL GENERAL LIABILITY</b> (including a contractual liability endorsement)		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$2,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$2,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$2,000,000</u>
<b>AUTOMOBILE LIABILITY</b>		
	<b>Bodily Injury Liability</b>  For injury or wrongful death to one person	<u>\$5,000,000</u>
	For injury or wrongful death to more than one person from any one occurrence	<u>\$5,000,000</u>
	<b>Property Damage Liability</b>  For all damages arising out of injury to or destruction of property in any one occurrence	<u>\$5,000,000</u>

**SCHEDULE 4. SECURITY DEPOSIT AND TAX I.D. NUMBER**

1. Security Deposit. The "Required Deposit Amount" provided in Section 12.1(a) of the Agreement to which this Schedule is attached shall be one hundred thirty five thousand Dollars and No Cents (\$ 135,000.00).

2. Tax I.D. Number. The Carrier hereby certifies in accordance with Section 12.1(g) of the Agreement to which this Schedule is attached that its federal Taxpayer Identification Number is \_\_\_\_\_ Ex. 1

A handwritten signature in black ink, consisting of a large, stylized initial 'O' followed by several loops and a final flourish.

RIDER

TO BUS CARRIER LICENSE AGREEMENT

(COACH)

Prior to the execution of this License by either party hereto the following deletions, additions and substitutions were made:

1. Article 3 was deleted and replaced in its entirety by the following:

(a) Section 3.1 Permitted Use of the Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever:

The standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

(b) Section 3.2 Right and Obligation to Use the Facility

A. Regular Operations. The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

B. Charter Operations. The Carrier may use the Facility for Charter Operations to and from the City of New York.

C. Uses Not Permitted. This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

(c) Section 3.3 Discontinuance of Other Terminals Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

2. Section 7.5 was deleted and replaced in its entirety by the following:

A. Restrictions as to Type and Size. Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

1. Buses shall not exceed one hundred two (102) inches in width.
2. Buses at the PABT shall have a maximum gross loaded weight not in excess of forty-eight thousand eight-hundred and forty 48,840 pounds avoirdupois, distributed to provide not more than twenty-two thousand five-hundred (22,500) pounds per axle, providing that the combined weight of the drive and tag axles does not exceed thirty-four thousand five-hundred (34,500) pounds.
3. In the event the Carrier proposes introduction into the PABT and GWBBS a type, style, size or model of Bus that exceeds the above requirements, the Carrier shall give the General Manager (30) thirty-days written notice identifying the proposed change and the General Manager has (60) sixty-days from receipt of said notice to inform

the Carrier whether the Facility can accommodate the proposed change.

4. Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.
5. Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.
6. Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.
7. Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (i.e., two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.
8. Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

B. Condition of Buses. Buses shall be kept clean and maintained in good working order.

C. Operation. Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

D. Scheduling of Departure Times. The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

E. E-ZPass. The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of

accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPasstransactions.

3. Article 9 was deleted and replaced in its entirety by the following:

(a) Section 9.1 Indemnity

A. Indemnification. The Carrier shall indemnify and hold harmless, the Port Authority Commissioners, directors, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority's in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

B. Defense of Claims. If so directed, the Carrier shall at its own expense defend any suit based upon any such claim or demand (even if such suit, claim or demand is groundless, false or fraudulent), 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 immunity of the Port Authority, its Commissioners, officers, agents or

employees, the governmental nature of the Port Authority or the provision of any statutes respecting suits against the Port Authority.

(b)Section 9.2 Liability Insurance

A. Required Coverages. The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule 3. Each such policy shall be maintained in at least the limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

B. Policy Requirements.

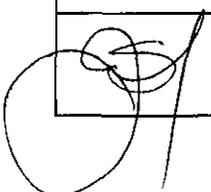
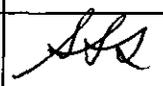
1. The Port Authority shall be named as an additional insured, in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority, as the case may be, not to be so named.
2. Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.
3. Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.
4. Each policy of liability insurance required by this section shall be specifically endorsed to state that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any

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

5. If at any time any policy fails to reflect the minimum policy requirements outlined in this agreement, the Carrier shall promptly obtain a new and satisfactory policy in replacement. All insurance policies shall be issued by insurance carriers authorized to conduct business in the State of New York with an A.M. Best Company Rating of A - or better, provided however, that if the A.M. Best Company or any successor rating company shall cease to exist, the Port Authority and Carrier shall negotiate in good faith on a substitute.

C. Evidence of Insurance. As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, and all required endorsements, or a binder, shall be delivered to the Port Authority within thirty (30) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall be specifically endorsed to provide that the policy may not be cancelled, terminated, changed or modified, without giving thirty (30) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

The Licensee hereby agrees to the terms and conditions of the rider attached hereto, hereby made a part hereof and marked "Rider". The terms and provisions of the Rider shall have the same force and effect and as if herein set forth in full.

INITIALED	
For the Port Authority	For the Permittee
	

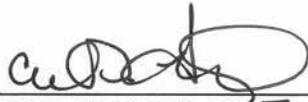
: For Port Authority Use Only :  
:  
: Carrier License No. \_\_\_\_\_ :  
TBT-SUS-BLA-D16

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
225 Park Avenue South  
New York, New York 10003

**BUS CARRIER LICENSE AGREEMENT**

1. Carrier's Full Legal Name: Susquehanna Transit Company, Inc.
2. Carrier's Address: 401 East Central Ave PO Box 11  
Avist, PA 17721
3. Type of legal entity: Corporation  
State of organization: Pennsylvania
3. Carrier's Representative: Helen Shaffer, Scheduled Route Operations Manager  
(name and title)
4. Effective Date: May 1, 2008

Dated: April 30, 2008 THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By   
name: CEDRICK T. FULFORD  
title: DEPUTY DIRECTOR

Port Authority Use Only:	
Approval as to Terms:	Approval as to Form:
<u></u>	<u>NR</u>

Susquehanna Transit Company, Inc.  
(Carrier)

By Cameron Kephart, VP Cameron Kephart, Vice Pres.  
name:  
title:

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## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "**Port Authority**"), and the bus carrier identified on the Cover Page hereof (the "**Carrier**"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "**PABT**").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "**GWBBS**").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"**Activity Fee Installment**" shall have the meaning set forth in Section 4.1(b).

"**Activity Fees**" shall have the meaning set forth in Section 4.1(a).

"**Audit Findings**" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

**“Facility”** shall mean either or both of the PABT and the GWBBS, as the context requires.

**“Gate Fee”** shall have the meaning set forth in Section 4.1(a).

**“General Manager”** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

**“GWBBS”** shall have the meaning set forth in Recital 2 above.

**“Holiday”** shall mean only such days as may be declared “holidays” or “legal holidays” by the Legislature of the State of New York.

**“Irregular Route Operations”** shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

**“Labor Trouble”** shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

**“Loading Position”** shall mean a location on a Vehicular Level, including a gate or a platform position, designated for passengers to be loaded onto, or unloaded from, Buses.

**“Long Distance Service”** shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

**“Middle Distance Destination”** shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

**“Middle Distance Percentage Fee”** shall have the meaning set forth in Section 4.1(a).

**“Non-Revenue Departures”** shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

**“Northern Manhattan”** shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**“Notice”** shall have the meaning set forth in Section 14.1(a).

**“PABT”** shall have the meaning set forth in Recital 1 above.

**“Peak Period”** shall have the meaning set forth in Section 10.2.

**“Pooling Arrangement”** shall have the meaning set forth in Section 10.1.

“**Pooling Partner**” shall have the meaning set forth in Section 10.1.

“**Quarterly Reconciliation Form**” shall have the meaning set forth in Section 4.1(b).

“**Regular Route Operations**” shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

“**Required Deposit Amount**” shall have the meaning set forth in Section 12.1(a).

“**Short Haul Service**” shall mean service with a final destination (x) within the “Short Haul Area” set forth on Exhibit 1 or (y) at a Park/Ride Lot.

“**Space**” shall have the meaning set forth in Section 2.1(a).

“**Surface Transportation Board**” shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

“**Term**” shall have the meaning set forth in Section 2.2(b).

“**Vehicular Level**” shall mean any floor or story at the Facility designed for use by Buses.

## Article 2. License

### Section 2.1 Grant of License

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions (which may include Loading Positions to be shared with one or more other bus carriers) as shall be specified from time to time by the General Manager (collectively, the “**Space**”) in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager’s right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager’s opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o’clock a.m. through 6:00 o’clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier’s passengers, in common with passengers of other carriers and with the public. The Carrier’s passengers will be permitted to use such areas, subject to and upon compliance with the

applicable terms and conditions of this Agreement and the rules and regulations of the Port Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "**Term**") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Pooling Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "**Gate Fee**"), which shall be payable as provided in the following paragraph (b) of this Section 4.1; provided, however, that where a Loading Position has been assigned to the Carrier to be shared with one or more other bus carriers, the Gate Fee with respect to such Loading Position shall be one hundred twenty percent (120%) of the amount set

forth in Schedule 1, and the total of such increased Gate Fee shall be shared equally by the Carrier and such other bus carrier(s); for example, if the Loading Position has been assigned to be shared by two bus carriers, each shall pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the “**Activity Fees**”), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the “**Departure Fee**”) for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the “**Middle Distance Percentage Fee**”), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) “commutation tickets”, which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Fees.*

(1) *Gate Fee.* The Gate Fee shall be payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(i) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the “**Activity Fee Installment**”) to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(ii) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier’s third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from

time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(iii) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "**Quarterly Reconciliation Form**") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

#### Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

#### Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank:	TD Bank 6000 Atrium Way Mount Laurel NJ 08054
Bank ABA Number:	031201360
Account Number:	Ex. 1
Beneficiary Name	The Port Authority of NY & NJ

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port

Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

#### Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts

found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

## Article 5. Facility Services

### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

*(a) Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

*(b) Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

*(c) Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "**Dispatcher**"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this

release shall invalidate any policy of insurance or shall increase the premium therefor, or shall void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

*(b) Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

*(a) Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

*(b) Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

*(c) Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

- (1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

*(a) Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

*(a) Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Pooling Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility, to share use of any Loading Position that is a part of the Space (a "**Pooling Arrangement**"; and any such already licensed carrier, a "**Pooling Partner**" of the Carrier).

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Pooling Arrangement, stating the details of such arrangement and providing the Port Authority with a copy of the agreement covering such Pooling Arrangement.

(c) *Gate Fee and Other Responsibilities.* Notwithstanding any Pooling Arrangement, the Carrier shall continue to be wholly liable for the Gate Fee and all other obligations hereunder with respect to the Loading Position that is the subject of the Pooling Arrangement.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, limit or otherwise diminish any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof. The Carrier specifically acknowledges and agrees that the Carrier's Pooling Partners shall constitute persons using and occupying the Space with the Carrier's consent for purposes of Section 9.1 of this Agreement, entitled "Indemnity", and are accordingly covered by clauses (y) and (z) of paragraph (a) thereof.

Section 10.2 Performance Requirements

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

Type of Loading Position	Minimum Average Peak Period* Departures	Maximum Peak Period* Departures
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon sixty (60) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## **Article 11. Termination**

### **Section 11.1 Termination by Port Authority**

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "**Payment Default**"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

### Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

### Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### Section 14.1 Notices

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "**Notice**") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. “**Force Majeure**” or “**causes or conditions beyond its control**”, or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

(5) If the Carrier, as set forth on the Cover Page, consists of more than one individual or legal entity, then each and every obligation of the Carrier hereunder shall be the joint and several obligation of each such individual or legal entity.

(6) None of the provisions of this paragraph (d) shall be taken to alter, amend or diminish any obligation of the Carrier assumed in relation to its invitees, visitors, agents, representatives, contractors, customers, passengers, guests or other persons, firms or corporations doing business with it.

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Carrier and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

#### Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

: For Port Authority Use Only :

: Carrier License No. \_\_\_\_\_ :

TBT-TBL-BLA-017

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
225 Park Avenue South  
New York, New York 10003

**BUS CARRIER LICENSE AGREEMENT**

- Carrier's Full Legal Name: TRANS-BRIDGE, INC.
- Carrier's Address: 2012 INDUSTRIAL DRIVE  
BETHLEHEM, PA 18017
- Type of legal entity: CORPORATION  
State of organization: PENNSYLVANIA
- Carrier's Representative: Thomas Jebran, President  
(name and title)
- Effective Date: May 1, 2008

Dated: April 30, 2008

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By Victoria Cross Kelly  
name: Victoria Cross Kelly  
title: Director

Port Authority Use Only:	
Approval as to Terms:	Approval as to Form:
<u>JSL</u>	<u>JSL</u>

TRANS-BRIDGE, INC.  
(Carrier)

By Thomas G. Jebran  
name: THOMAS G. JEBRAN  
title: PRESIDENT

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## BUS CARRIER LICENSE AGREEMENT

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "**Port Authority**"), and the bus carrier identified on the Cover Page hereof (the "**Carrier**"), have executed this Agreement by the signatures of their respective duly authorized representatives on the Cover Page attached to the front of this Agreement, as of the date set forth on such Cover Page.

### RECITALS

1. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 95 of the Laws of New Jersey, 1946, and Chapter 443 of the Laws of New York, 1946, maintains and operates, on Eighth Avenue in the Borough of Manhattan, in the City, County and State of New York, a motor bus terminal (such terminal, together with additions thereto and extensions and replacements thereof, collectively, the "**PABT**").

2. The Port Authority, acting in the public interest and in furtherance of the Comprehensive Plan for the Development of the Port of New York and pursuant to Chapter 156 of the Laws of New Jersey, 1956, and Chapter 807 of the Laws of New York, 1955, as an addition and improvement to the George Washington Bridge, maintains and operates a bus passenger facility in Washington Heights in the Borough of Manhattan, in the City, County and State of New York (such bus passenger facility, together with additions thereto and extensions and replacements thereof, collectively, the "**GWBBS**").

3. The Carrier is engaged in the business of the transportation of passengers by Bus, and desires to use space and services provided by the Port Authority at the PABT and/or the GWBBS in connection with such business.

### TERMS OF AGREEMENT

In consideration of the foregoing, the mutual promises contained herein and other valuable consideration, receipt of which is acknowledged, and intending to be legally bound, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

#### Article 1. Definitions

Unless the context requires another meaning, the following when used in this Agreement shall have the respective meanings set forth below in this Article 1. Unless otherwise noted, a defined term shall include, where appropriate to the context, the noun (singular and plural), verb and adjective forms of such term.

"**Activity Fee Installment**" shall have the meaning set forth in Section 4.1(b).

"**Activity Fees**" shall have the meaning set forth in Section 4.1(a).

"**Audit Findings**" shall have the meaning set forth in Section 4.5(b).

**"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel.

**"Central Manhattan"** shall mean that portion of the Borough of Manhattan, City, County and State of New York, which lies (1) north of: (i) the center-line of East Houston Street, as the said street exists and as the said line runs and is extended easterly from the center-line of Broadway to the easterly shore of Manhattan Island; (ii) the center-line of West Houston Street as the said street exists and as the said line runs from the center-line of Broadway westerly to the center-line of the Avenue of the Americas, and (iii) the center-line of West Houston Street as the said street exists and as the said line runs and is extended westerly from the center-line of the Avenue of the Americas to the westerly shore of Manhattan Island; and (2) south of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**"Charter"** shall mean an arrangement made by a carrier with an individual, firm, corporation or other legal entity (other than a group formed solely for the purpose of the movement involved) for the transportation of more than one person in one or more Buses as a single movement, occasional and non-repetitive, without contractual relation between the carrier and the individuals so transported. A **"Charter Coach"** shall be a Bus operated under the provisions of a charter, as herein defined, and **"Charter Operations"** shall mean the operation of a Charter Coach or Charter Coaches.

**"Contract Carriage"** shall mean repetitive operation of Buses for hire over substantially the same routes and for substantially the same persons but not covered by Regular Route Operation or Irregular Route Operation certificates held by the carrier involved.

**"cost"** shall mean: (1) payroll costs of the Port Authority, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, including sums reserved for or allocated to self-insurance funds, and sick-leave, holiday, vacation and authorized-absence pay; (2) cost of materials and supplies used; (3) payments to contractors; (4) any other direct costs; and (5) thirty percent (30%) of the sum of the foregoing.

**"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this Agreement and forming an integral part hereof.

**"day"** shall mean, and **"daily"** shall refer to, a calendar day.

**"Departure Fee"** shall have the meaning set forth in Section 4.1(a).

**"Departures"** shall mean Bus departures from the Facility.

**"Dispatcher"** shall have the meaning set forth in Section 7.4.

**"Effective Date"** shall mean the date set forth on the Cover Page as the "Effective Date".

**"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Agreement; but until further notice from the Port Authority to the Carrier it shall mean the

Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

**“Facility”** shall mean either or both of the PABT and the GWBBS, as the context requires.

**“Gate Fee”** shall have the meaning set forth in Section 4.1(a).

**“General Manager”** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Agreement, but until further notice from the Port Authority to the Carrier, it shall mean the General Manager (or Acting General Manager) of the Facility for the time being, or his duly designated representative or representatives.

**“GWBBS”** shall have the meaning set forth in Recital 2 above.

**“Holiday”** shall mean only such days as may be declared “holidays” or “legal holidays” by the Legislature of the State of New York.

**“Irregular Route Operations”** shall mean all operation of motor vehicles for transportation to and from the City of New York as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity (or portion thereof) which specifies irregular route operation, but shall not include Charter Operations.

**“Labor Trouble”** shall mean any type of strike, boycott, picketing, work stoppage, work slowdown or other disturbance, complaint, dispute or controversy involving labor, regardless of the employ or the employment status of the persons involved.

**“Loading Position”** shall mean a location on a Vehicular Level, including a gate or a platform position, designated for passengers to be loaded onto, or unloaded from, Buses.

**“Long Distance Service”** shall mean service with a final destination that (x) is outside of the Short Haul Area (as defined below) and (y) is not a Park/Ride Lot.

**“Middle Distance Destination”** shall mean a destination within the Short Haul Area that is more than twenty-five (25) miles from the Facility.

**“Middle Distance Percentage Fee”** shall have the meaning set forth in Section 4.1(a).

**“Non-Revenue Departures”** shall mean Departures of Buses that are not carrying, and not offering to carry, passengers.

**“Northern Manhattan”** shall mean that portion of the Borough of Manhattan in the City, County and State of New York, which lies north of the center-line of West 160<sup>th</sup> Street as the said street exists and as the said line runs and is extended easterly to the easterly shore of Manhattan Island and westerly to the westerly shore thereof.

**“Notice”** shall have the meaning set forth in Section 14.1(a).

**“PABT”** shall have the meaning set forth in Recital 1 above.

**“Peak Period”** shall have the meaning set forth in Section 10.2.

**“Pooling Arrangement”** shall have the meaning set forth in Section 10.1.

“**Pooling Partner**” shall have the meaning set forth in Section 10.1.

“**Quarterly Reconciliation Form**” shall have the meaning set forth in Section 4.1(b).

“**Regular Route Operations**” shall mean all operation of motor vehicles for transportation to and from the Facility as a common carrier of passengers and their baggage pursuant to a certificate of public convenience and necessity, which is conducted under individual contracts with such passengers, over public highways specified in the said certificate, repetitively and with a fixed periodicity in accordance with previously established schedules.

“**Required Deposit Amount**” shall have the meaning set forth in Section 12.1(a).

“**Short Haul Service**” shall mean service with a final destination (x) within the “Short Haul Area” set forth on Exhibit 1 or (y) at a Park/Ride Lot.

“**Space**” shall have the meaning set forth in Section 2.1(a).

“**Surface Transportation Board**” shall mean not only such governmental board or agency as it now exists, but also any governmental board, official agency or authority hereafter exercising the same or similar powers or jurisdiction.

“**Term**” shall have the meaning set forth in Section 2.2(b).

“**Vehicular Level**” shall mean any floor or story at the Facility designed for use by Buses.

## Article 2. License

### Section 2.1 Grant of License

(a) *License to use Space.* The Port Authority hereby grants to the Carrier a license to use, on a non-exclusive basis, one or more Loading Positions (which may include Loading Positions to be shared with one or more other bus carriers) as shall be specified from time to time by the General Manager (collectively, the “**Space**”) in one of the areas provided for the standing of Buses at the Facility (not including any space then exclusively licensed or premises leased to others). Without limiting the generality of the foregoing and the General Manager’s right generally to assign and reassign particular Loading Positions from time to time, if at any time or times a condition exists at the Facility or elsewhere (including without limitation special and seasonal traffic conditions, strikes, Labor Trouble, construction work or damage to the Facility) which in the General Manager’s opinion may affect the safe or efficient handling of passengers or Buses at the Space, he may assign or designate for use by the Carrier space elsewhere at the Facility, and the Carrier shall use the same for the duration of the condition. While such assignment or designation is in effect, the space so assigned shall be deemed to be the Space for the purposes of this Agreement.

(b) *Unavailability during Certain Hours.* The Carrier recognizes that the Upper Bus Level of the PABT will be closed on all days during the hours of 1:00 o’clock a.m. through 6:00 o’clock a.m. In the event that the Carrier conducts operations during such hours, other space will be provided to the Carrier by the General Manager for such operations, such space to be used, as designated by the General Manager, in common with other carriers.

(c) *Nonexclusive Areas.* The Port Authority shall provide a waiting-room area and free, nonexclusive toilets at the Facility and shall designate the same for the use of the Carrier’s passengers, in common with passengers of other carriers and with the public. The Carrier’s passengers will be permitted to use such areas, subject to and upon compliance with the

applicable terms and conditions of this Agreement and the rules and regulations of the Port Authority. The Port Authority may remove violators and exclude repeated violators from the Facility.

(d) *Ingress and Egress.* The Carrier and its officers, employees and passengers shall have the right of ingress and egress between the Space and the streets outside the Facility. Such right shall be exercised by means of the pedestrian or vehicular ways (to be used in common with others having rights of passage within the Facility and in accordance with the rules and regulations of the Port Authority) as may from time to time be designated by the Port Authority for the type of traffic involved for the use of carriers or for the use of the public. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way so long as reasonable means of ingress and egress remains available. The Carrier hereby releases and discharges the Port Authority of and from any and all claims, demands and causes of action which the Carrier may now or at any time hereafter have arising or alleged to have arisen out of the closing of any such way, or of any street, roadway or other public areas, whether within or outside the Facility. The direction of traffic on stairways and escalators and in halls, corridors and other portions of the Facility shall be at all times subject to determination and redetermination by the General Manager. The General Manager may discontinue the operation of all or any number of the escalators for such period or periods as he may determine advisable, in the interests of safety, efficiency or economy of operation of the Facility or for repair or maintenance.

(e) *Other Rights and Privileges by Separate Agreement.* Nothing in this Agreement shall be construed to grant to the Carrier any rights or privileges with respect to any of the following, which shall be the subject of separate agreements: offices or drivers' rooms, etc.; ticket selling space; Bus parking within the Facility; parcel-checking space for any carrier providing parcel-checking service for other carriers', as well as its own, ticketed passengers.

(f) *No Interest in Real Property.* Nothing in this Agreement shall be construed to grant to the Carrier any interest or estate in real property.

## Section 2.2 Effective Period

(a) *Effectiveness.* This Agreement shall be effective and binding upon execution by both the Port Authority and the Carrier.

(b) *Term.* The effective period of the license granted hereby (the "**Term**") shall commence at 12:01 a.m. on the Effective Date and shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date, except that it shall terminate with any earlier termination of this Agreement. The Port Authority shall be obligated to provide services to the Carrier only during the Term.

(c) *Entry Prior to Effective Date.* For a period of fourteen (14) days immediately prior to the Effective Date, the Carrier shall have the right to enter the Facility in order to familiarize its employees with the same and with the intended uses thereof.

## Section 2.3 Assignment and Subcontract

Except with the prior written approval of the Port Authority (except as specifically provided in Section 10.1 below with respect to Pooling Arrangements), the Carrier shall not sell, transfer, mortgage, pledge or assign this Agreement or any rights or obligations hereunder, and shall not subcontract the performance of any of its obligations hereunder, or the exercise, in whole or in part, of its rights, licenses and privileges hereunder.

## Article 3. Use

### Section 3.1 Permitted Use of Space

The Carrier shall use the Space for the following purposes only and for no other purpose whatsoever: the standing of Buses operated by the Carrier for the transportation of passengers and their hand baggage while such Buses are being loaded or unloaded or are waiting for loading or unloading. No Bus shall be permitted to remain in the Space for longer than the time reasonably necessary for the operations of the Carrier in connection therewith. In the event the departure of any Bus which is unloading is scheduled more than twenty (20) minutes after its arrival, such Bus shall leave immediately upon unloading its passengers, unless otherwise directed or permitted by the General Manager. In the event that any Bus of the Carrier shall be in the Space for as long as twenty (20) consecutive minutes, the Carrier shall remove the same from the Facility within five (5) minutes after request to do so made by the General Manager, which request may be made orally to the Dispatcher or, in the absence of a Dispatcher, to the driver; in the event of failure to remove the Bus upon such request, the Port Authority shall have the right to remove the Bus to any point within or outside the Facility at its discretion and to leave the Bus at such point, all at the Carrier's risk and cost, such cost to be payable to the Port Authority on demand.

### Section 3.2 Right and Obligation to Use Facility

(a) *Regular Operations.* The Carrier agrees to use the Facility for all its Regular Route Operations to and from Central Manhattan or Northern Manhattan, as applicable, except to the extent consented to in advance by the General Manager.

(b) *Charter Operations.* The Carrier may use the Facility for Charter Operations to and from the City of New York.

(c) *Uses Not Permitted.* This Agreement does not permit the Carrier to use the Facility when the Carrier is performing Contract Carriage or Charter Operations, unless approved in writing by the General Manager.

### Section 3.3 Discontinuance of Other Terminals

Except when required or requested by governmental authorities to meet emergency conditions or national defense requirements, the Carrier shall not pick up or discharge passengers or baggage at any point, terminal or station in Central Manhattan or Northern Manhattan (as the case may be) other than the Facility, except to the extent consented to in advance by the General Manager.

## Article 4. Fees

### Section 4.1 Fees

(a) *Fees.* For the right to use the Space and to utilize the services provided under this Agreement the Carrier shall pay to the Port Authority the following:

(1) *Gate/Platform Position Fee.* The annual amount set forth in Schedule 1 (the "**Gate Fee**"), which shall be payable as provided in the following paragraph (b) of this Section 4.1; provided, however, that where a Loading Position has been assigned to the Carrier to be shared with one or more other bus carriers, the Gate Fee with respect to such Loading Position shall be one hundred twenty percent (120%) of the amount set

forth in Schedule 1, and the total of such increased Gate Fee shall be shared equally by the Carrier and such other bus carrier(s); for example, if the Loading Position has been assigned to be shared by two bus carriers, each shall pay directly to the Port Authority an adjusted Gate Fee equal to sixty percent (60%) of the Gate Fee set forth in the then-current Gate Fee schedule.

(2) *Activity Fees.* The Departure Fee and the Middle Distance Percentage Fee (collectively, the “**Activity Fees**”), as follows: which shall be payable as provided in the following paragraph (b) of this Section 4.1:

(i) The amount set forth in Schedule 2 (the “**Departure Fee**”) for each Fee Departure of a Bus operated by the Carrier or on its behalf.

(ii) An amount (the “**Middle Distance Percentage Fee**”), equal to the percentage set forth in Schedule 2, of all monies paid or payable to the Carrier on account of all tickets (including round-trip tickets) sold or issued in the Borough of Manhattan for transportation of passengers for passage between the Facility and Middle Distance Destinations, including the total purchase price of tickets for transportation partly on lines of the Carrier and partly on lines of others), but not including (x) tickets sold or issued for transportation wholly on lines operated by others or for transportation under charters of the Carrier or others or (y) “commutation tickets”, which shall mean tickets usable by the purchaser only, for ten (10) or more one-way trips, good over a period of time the number of days in which shall not be greater than the number of trips multiplied by two (2).

The Activity Fees shall be payable in the manner provided in the following Paragraph (b) of this Section 4.1.

(b) *Manner of Payment of Fees.*

(1) *Gate Fee.* The Gate Fee shall be payable in advance in equal monthly installments on the Effective Date and on the first day of each calendar month throughout the Term, provided, however, that if the Effective Date is other than the first day of a calendar month, there shall be payable on the Effective Date an installment of the Gate Fee in an amount equal to the amount of the said equal monthly installment multiplied by a fraction of which the numerator shall be the number of days from the Effective Date through the last day of the month in which the Effective Date occurs, including both such days, and the denominator shall be the actual number of days in that month.

(2) *Activity Fees.* The Carrier shall pay the Activity Fees as follows:

(i) Not later than the beginning of each calendar year (or the Effective Date, as the case may be) the Port Authority shall determine a monthly amount (the “**Activity Fee Installment**”) to be paid by the Carrier each month of that calendar year on account of the Activity Fees, and shall notify the Carrier accordingly. The Activity Fee Installment shall be due and payable on the first day of each calendar month.

(ii) In determining the amount of the Fixed Fee Payment, the Port Authority will consider the rates of the Activity Fees and the Carrier’s third highest monthly activity level in the preceding four reported quarters (to the extent applicable) and such other factors as the Port Authority may deem appropriate. The amount of the Activity Fee Installment may be adjusted from

time to time by the Port Authority, in its discretion, to reflect significant changes in the operations of the Carrier that would affect activity levels.

(iii) Within fifteen (15) days after the end of each calendar quarter, the Carrier shall deliver to the Port Authority a report, certified by a responsible officer of the Carrier, consolidating the information provided in the Monthly Summary of Daily Departures reports required pursuant to Section 4.4(a) below and setting forth actual levels of activity during that quarter relevant to the calculation of the Activity Fees, such report (the "**Quarterly Reconciliation Form**") to be substantially in the form attached as Exhibit 2. Based upon the Quarterly Reconciliation Form, the Port Authority will issue an adjustment invoice or credit, as appropriate, to the Carrier.

#### Section 4.2 Fees Subject to Change

(a) *Fees Subject to Change.* The Gate Fee and the Activity Fees shall be subject to change, on thirty (30) days' notice, at the sole discretion of the Port Authority, as determined by resolution of its Board of Commissioners. Other fees and charges shall be subject to change without notice.

(b) *Special Right of Termination.* In the event of any change in the Gate Fee or Activity Fees, the Carrier shall, in addition to its rights of termination provided in Article 11 below, have the right, on ten (10) days' notice, to terminate this Agreement and discontinue its operations hereunder.

#### Section 4.3 Place and Form of Payments

(a) *Place and Form.* All payments required of the Carrier by this Agreement shall be made to the Port Authority by good checks drawn on an account at a bank that is a member of the New York Clearing House Association (or any successor body of similar function) and mailed to the following address:

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

or made pursuant to the following wire transfer instructions:

Bank:	TD Bank 6000 Atrium Way Mount Laurel NJ 08054
Bank ABA Number:	031201360
Account Number:	Ex. 1
Beneficiary Name	The Port Authority of NY & NJ

or sent to such other address, or made pursuant to such other wire transfer instructions, as may hereafter be substituted by the Port Authority, from time to time, by notice to the Carrier.

(b) *Acceptance by Port Authority.* No payment by the Carrier or receipt by the Port Authority of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest fees then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and the Port

Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fees or to pursue any other remedy provided in this Agreement or by law.

#### Section 4.4 Books and Records

(a) *Maintenance and Reporting.* The Carrier shall maintain, in accordance with accepted accounting practice, records and books of account recording all its transactions at, throughout, or in any way connected with the Facility, and shall (except as provided below in subparagraph (2) with respect to daily records of Bus Departures) keep the same for a period of seven (7) years after the making of such records, either within the Port of New York and New Jersey District, or at the office of the Carrier's representative set forth on the Cover Page; provided, however, that if such records are kept outside of the Port of New York and New Jersey District, the Carrier shall pay the transportation, hotel, food, etc. expenses of the agents and employees of the Port Authority in the event of an audit pursuant to paragraph (b) below. As a part of such records, the Carrier shall cause to be prepared the following:

(1) On or before the fifteenth (15<sup>th</sup>) day of each calendar month, the Carrier shall prepare, and make available for inspection by the Port Authority, a report of all Departures during the previous month, listing and classifying the same as follows: (w) Sales of tickets for transportation between the Facility and Middle Distance Destinations; (x) Long Distance Service Departures of Buses other than Charter Coaches; (y) Departures of Charter Coaches; (z) Short Haul Service Departures of Buses other than Charter Coaches, specifying separately those Departures having a Park/Ride Lot as the final destination. In each such classification, Non-Revenue Departures shall be separately identified. The foregoing report shall be made on the Monthly Summary of Daily Departures form, a copy of which is attached as Exhibit 3 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority). The Monthly Summary of Daily Departures form for the three months of each calendar quarter shall be delivered to the Port Authority together with the Quarterly Reconciliation Form.

(2) The Carrier shall prepare a daily record of Bus Departures made by the Dispatcher, or by another employee of the Carrier, on the Dispatch Record form, a copy of which is attached as Exhibit 4 (or an equivalent form as used by the Carrier itself, provided such form has been approved by the Port Authority), one complete copy of which shall be delivered daily to the General Manager; the Carrier shall retain each such daily record of Bus Departures for a period of at least eighteen (18) months.

(b) *Port Authority Audit.* The Carrier shall permit, at any time during ordinary business hours, the examination and audit of all such records and books of account by the agents and employees of the Port Authority.

#### Section 4.5 Late and Service Charges

(a) *Late Charges.* If the Carrier should fail to pay any amount required under this Agreement (including without limitation the full amount of any Activity Fee Installment) when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days, except that one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts

found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions hereof with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees payable under this Agreement. Nothing herein is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section entitled "Termination by the Port Authority", or (y) any obligations of the Carrier under this Agreement. In the event that any late charge payable hereunder exceeds a legal maximum applicable to such late charge, then, in such event, each such late charge shall be payable instead at such legal maximum.

(b) *Service Charge.* In the event that upon conducting an examination and audit as provided in Section 4.4(b) above, entitled "*Port Authority Audit*", the Port Authority determines that unpaid amounts are due to the Port Authority by the Carrier (the "**Audit Findings**"), the Carrier shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Carrier under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become a fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (y) any obligations of the Carrier under this Agreement.

#### Section 4.6 Effect of Use and Occupancy after Expiration or Termination

Without in any way limiting any other provision of this Agreement, unless otherwise notified by the Port Authority in writing, in the event the Carrier continues its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement, as such effective period of the license may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Carrier shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Carrier shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Carrier any right to continue its use and occupancy of the Space after the expiration or termination of the effective period of the license granted under this Agreement. The Carrier acknowledges that its failure to surrender, vacate and yield up the Space 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 Carrier 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 Carrier hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

## Article 5. Facility Services

### Section 5.1 Maintenance and Repair of Facility

(a) *Repairs.* Except as otherwise provided in this Agreement, the Port Authority shall make such repairs as may be necessary to keep the Facility in good operating condition. The Carrier shall have no claim or remedy against the Port Authority for breach of such obligation, unless reasonable notice of the necessity for repairs shall have been given to the Port Authority in writing. In the event the Surface Transportation Board or the Public Service Commission of the State of New York or another governmental regulatory body having jurisdiction over the operations of the Carrier in the City of New York orders the Carrier to discontinue use of the Facility unless an alteration is made therein, the Port Authority, upon reasonable notice from the Carrier of such requirement, shall proceed to make the necessary alteration.

(b) *Cleaning.* The Port Authority shall be responsible for cleaning the public areas of the Facility and the Space. Subject to the availability of equipment and to other commitments, the Port Authority will promptly remove snow from exposed portions of the Facility used by Buses.

(c) *Extraordinary Cleaning Services.* The Port Authority will clean all fuel and other spills originating from the Carrier's Buses, and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### Section 5.2 Utilities, etc.

(a) *Lighting.* The Port Authority shall supply in the Space electricity in reasonable quantities for illumination purposes, by which is meant only the energizing of incandescent and fluorescent fixtures. The Port Authority shall supply bulbs and tubes for illumination purposes.

(b) *Telephone Service.* To the extent and for the time permitted by the supplier of telephone service to the Facility, the Port Authority shall provide an internal telephone system interconnecting telephone stations on (to the extent applicable) the Vehicular Levels, the main concourse, the suburban concourse and the entrance ramp at the point (outside the Facility) where the said ramp meets Dyer Avenue. The Port Authority shall cause to be installed and interconnected in such system a telephone station in the Dispatcher's booth space, if any, in the Space, upon condition that the Carrier shall continue at all times to satisfy the requirements of the supplier of telephone service with respect thereto, other than in paying the charge for installation and the rental of such station or stations in the Space. The internal system will be connected with a central office of the supplier of telephone service, and incoming calls only may be received by the Carrier from such central office at such stations in the Space.

(c) *Employee Toilets.* The Port Authority shall provide free non-exclusive toilets for the Carrier's employees using the Facility.

### Section 5.3 Signs and Advertising

(a) *Directional Signs.* The Port Authority shall furnish directional signs for the convenience of the traveling public and directional signs for vehicular traffic, maintained at such points in the Facility as the Port Authority may determine.

(b) *Consent Required.* Except as provided or otherwise with the consent of the Port Authority, the Carrier shall not maintain or display any advertising, signs, posters or similar devices at the Facility except such as may be affixed to the interior or exterior of Buses operated by the Carrier.

#### Section 5.4 Disabled Buses

Upon request of the Carrier, the Port Authority shall tow any Bus disabled in the Facility (if such Bus is capable of being towed on its wheels) from the point of original disablement to a point within or without the Facility, as designated by the Port Authority. The Port Authority shall have the right at all times to remove Buses disabled in the Facility to such point within or without the Facility as may be designated by the Port Authority. Towing and removal performed pursuant to this paragraph shall be at the Carrier's risk and the Carrier shall pay the Port Authority's standard charges therefor on demand.

### **Article 6. Services Provided on Behalf of Carrier**

#### Section 6.1 Schedule Information

*(a) Information Provided.* The Port Authority will provide to the public at the Facility information concerning the services, schedules and rates of the Carrier (except for Charter Coach and tour services and rates) during all hours necessary for adequate service to the public.

*(b) Carrier to Supply Information.*

(1) At the PABT, the Carrier shall supply all service, schedule and rate information to the Port Authority in the form of printed schedules and in an electronic format approved by the Port Authority. The Port Authority shall provide to the public only information previously so supplied to it by the Carrier. If the number of printed schedules is insufficient, in the Port Authority's reasonable opinion, to meet customer demand, the Port Authority shall notify the Carrier, specifying the additional quantity of printed schedules to be provided, and the Carrier, within forty-eight (48) hours thereafter, shall provide to the Port Authority such additional quantity of printed schedules. In the event that the Carrier fails to deliver such additional quantity of printed schedules within such forty-eight hour period, the Port Authority shall have the right (but not the obligation) to have photocopies of the printed schedules produced by a copying service, and the Carrier shall, on demand, pay to the Port Authority the cost thereof, plus a service charge in the amount of one hundred fifty percent (150%) of such cost.

(2) At the GWBBS, the Carrier shall supply all service, schedule and rate information to the Port Authority in an electronic format approved by the Port Authority. The Carrier may also, subject to the Port Authority's prior approval, provide printed schedule information as necessary at a kiosk location within the GWBBS.

(3) The Carrier shall supply information (electronically, and as applicable, in the form of printed schedules) as to each schedule change ten (10) days, if possible, before such change is to become effective, but in any event sufficiently soon to be handled by the information system.

*(c) Accuracy of Information.* The Carrier shall be responsible for the accuracy of all information supplied by it to the Port Authority. The Port Authority shall have no liability whatsoever with respect to any information, whether or not disseminated to the public, relating to the Carrier's services, schedules or rates.

## Article 7. Carrier's Operations

### Section 7.1 Method of Operations

(a) *Service to the Public.* The Carrier shall furnish good, prompt and efficient service at the Facility and shall furnish the said service on a fair, equal and non-discriminatory basis to the general public.

(b) *Conduct of Employees and Passengers.* The Carrier shall conduct all its operations at the Facility in an orderly, proper and courteous manner and so as not to annoy, disturb or be offensive to others at the Facility, and shall provide and shall require its employees at all times to wear or carry uniforms, badges or other suitable means of identification. All means of identification shall be subject to the prior and continuing written approval of the Port Authority. The Port Authority shall have the right to object to the Carrier regarding the demeanor and conduct of its employees and passengers, whereupon the Carrier shall take all steps reasonably necessary to remove the cause of the objection.

### Section 7.2 Rules and Regulations

The Carrier shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use its best efforts to cause its passengers, guests, invitees and others doing business with it to observe and comply with the Port Authority's Rules and Regulations, a copy of which is attached as Exhibit 5, and such further rules and regulations, including all amendments and supplements thereto, as may be promulgated by the Port Authority from time to time. The Port Authority shall, except in cases of emergency, give notice to the Carrier of every rule or regulation hereafter adopted by it at least five (5) days, exclusive of Saturdays, Sundays and Holidays, before the Carrier shall be required to comply therewith.

### Section 7.3 Cooperation

The Carrier shall cooperate with the Port Authority in all matters relating to the safe and efficient operation of the Facility by the Port Authority and shall require its employees to do so.

### Section 7.4 Dispatcher

Subject to the reasonable direction of the Port Authority, the Carrier shall dispatch its Buses. The Carrier shall take the precautions at the gates and platforms adjacent to the Space reasonably necessary to assure the safety of its passengers and other persons. For the performance of the foregoing, the Carrier shall designate one of its employees to be on duty at the Facility with the necessary authority from the Carrier to direct the placing, movement and departure of its Buses at and from the Space (such designated employee, the "**Dispatcher**"). The Dispatcher shall, together with all other employees of the Carrier at the Facility, cooperate with employees of the Port Authority. In periods of light traffic volume, the Carrier may designate Bus drivers as Dispatchers.

### Section 7.5 Requirements as to Buses

(a) *Restrictions as to Type and Size.* Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Carrier shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

- (1) Buses shall not exceed one hundred two (102) inches in width.

(2) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(3) Buses operating on the Lower Bus Level of the PABT shall not exceed 12 feet in height.

(4) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the PABT shall not exceed 11 feet 6 inches in height.

(5) Buses operating on the Lower Bus Level of the GWBBS shall not exceed 11 feet 6 inches in height, and shall not exceed 40 feet in length.

(6) Buses shall not exceed 45 feet in length; notwithstanding the foregoing, however, articulated Buses (*i.e.*, two-unit buses with a flexible coupling connection between the units) may operate in the Facility, provided that they may use only pull-through platforms designated by the General Manager.

(7) Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) *Condition of Buses.* Buses shall be kept clean and maintained in good working order.

(c) *Operation.* Buses shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel and the George Washington Bridge.

(d) *Scheduling of Departure Times.* The Carrier shall make reasonable efforts to schedule departure times to avoid simultaneous Departures from multiple gates, and shall comply with reasonable requests from the General Manager for adjustments to its schedule to limit congestion at the Facility.

(e) *E-ZPass.* The Carrier shall establish one or more E-ZPass accounts and shall equip all its Buses to make payments using E-ZPass, and shall cause all of its Buses to use E-ZPass exclusively to pay tolls and other fees at all transportation facilities and parking facilities capable of accepting such payment. The Carrier shall be subject to all requirements relating to the use of E-ZPass and shall be responsible for all tolls and fees incurred at E-ZPass-equipped facilities. The Carrier hereby authorizes the Port Authority to access any and all records maintained by any Port Authority contractors relating to the Carrier's E-ZPass transactions.

#### Section 7.6 Maintenance of the Space

(a) *Repair and Replacement.* The Carrier shall be responsible for the repair, replacement, rebuilding and repainting of all portions of the Space and of the Facility which may be damaged or destroyed (not including deterioration because of reasonable wear) by the acts or omissions of the Carrier or by those of its employees, agents (not including the Port Authority) or representatives. The Port Authority shall do the work required and charge the cost thereof to the Carrier, which shall pay such charge on demand. In the event of such damage to or destruction of the Space caused by a causality actually insured against by the Port Authority, the obligation of the Carrier under this paragraph (a) is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance. Such release shall be effected by crediting to the Carrier the amount of such proceeds against the claim of the Port Authority for the costs incurred in repair, replacement or rebuilding; provided, however, that if this

release shall invalidate any policy of insurance or shall increase the premium therefor, or shall void, limit or diminish the rights of the Port Authority thereunder, then such release shall be void and of no effect.

*(b) Damage Without Carrier's Fault.* In the event that the Space is damaged at any time subsequent to the date of this Agreement without fault on the part of the Carrier or of any others for whose acts or omissions the Carrier is responsible under the provisions of paragraph (a) of this Section, so as to render the Space unusable, in whole or substantial part, then,

(1) If, in the opinion of the Port Authority, the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence; or

(2) If, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the entire Facility requires rebuilding, then the Port Authority shall have an option either to proceed with due diligence to make the necessary repairs and to do the necessary rebuilding, or to terminate this Agreement; the election by the Port Authority under this option shall be communicated to the Carrier within sixty (60) days after the date of such damage; if the Port Authority elects to repair or rebuild, the Carrier shall nevertheless have an option to terminate this Agreement by notice given within fifteen (15) days after notice of the Port Authority's election.

#### Section 7.7 Prohibited Acts

*(a) Damage or Interference.* The Carrier shall not do or permit any act or thing, and shall not permit any condition to exist or continue, if any of the same may damage the Facility or any part thereof or interfere with the efficient operation of the Facility or any part thereof, or any equipment, facilities or systems installed thereon, including without limitation damage to or interference with the effectiveness or accessibility of the elevators or escalators, or the fire-protection, sprinkler, drainage, sewage, plumbing, compressed-air, air-conditioning, ventilation, telephone, public announcement or intercommunication systems or any part thereof.

*(b) Insurance Requirements.* The Carrier shall not do or permit any act or thing in the Space which (x) will invalidate or conflict with any policies of fire insurance in the New York standard form covering the Space or any part thereof, or the Facility, or any part thereof, or which (y) in the opinion of the Port Authority, may constitute any extra-hazardous condition, so as to increase the risk normally attendant upon the operations contemplated by this Agreement. The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Carrier, but shall have no obligation to make alterations, repairs or improvements required by any such rule, regulation, order or direction. If by reason of any failure on the part of the Carrier to comply with the provisions of this paragraph, any fire insurance rate, extended coverage rate or rental insurance rate on the Space or any part thereof, or the rate of other insurance of any type the premium for which is measured by the fire insurance premium or premiums, shall at any time be higher than it otherwise would be, then the Carrier shall pay to the Port Authority that part of all insurance premiums paid by the Port Authority which have been charged because of such violation or failure on the part of the Carrier.

*(c) Nuisance.* The Carrier shall commit no nuisance and shall permit neither the commission of any nuisance nor the doing of any act or thing which shall result in the creation or maintenance of a nuisance in the Space or any portion thereof or elsewhere in the Facility.

(d) *Sales.* The Carrier shall not sell or furnish in the Space, or permit others to sell or furnish in the Space, any food or other merchandise whatsoever, or any service of any type, and (without limiting the foregoing prohibition) shall not install, maintain or operate, or permit the installation, maintenance or operation in the Space or any portion thereof 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, mobile or stationary 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, of service of any kind, including without limitation telephone pay-stations. The Carrier shall not itself, by contractors or by others supply or provision at the Facility any Bus with food, beverages, tobacco or any other merchandise whatsoever intended to be sold or supplied to passengers or others on or from the Bus at any point or location whatsoever, except with the prior permission of the Port Authority.

#### Section 7.8 Governmental and Other Requirements

(a) *Carrier's Governmental Authorizations.* The Carrier hereby represents and warrants to the Port Authority that, as of the Effective Date, the Carrier shall have procured all licenses, certificates, registrations, permits or other authorizations from all governmental authorities having jurisdiction over the operations of the Carrier at the Facility, or over the operations of the Carrier of which its operations at the Facility are a part, which may be necessary for the conduct of such operations, and the Carrier covenants that it shall maintain the same in effect and in good standing throughout the Term.

(b) *Carrier to Notify Port Authority of Requirements.* The Carrier shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, ordinances, rules regulations, requirements, orders and directions which may pertain or apply to its operations in the Space or at the Facility, or to its operations of which its operations at the Facility are a part, and shall promptly notify the Port Authority of any and all improvements thereon or alterations thereto or repairs of which it may have knowledge that may be required at any time hereafter by an such present or future law, ordinance, rule, regulations, requirement, order or direction. The Carrier shall have no obligation to make any such alterations, repairs or improvements.

(c) *No Application to Port Authority.* The obligation of the Carrier to comply with governmental requirements is provided herein in order to assure responsible operation and to establish proper safeguards for the protection of persons and property in the Space and at the Facility, and 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.

#### Section 7.9 Labor Provisions

(a) *Notice to Port Authority.* The Carrier shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Carrier's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof.

(b) *Suspension of Agreement.* The Port Authority shall have the right, upon notice to the Carrier, to suspend the provisions of this Agreement under which the Carrier is licensed to use the Space and under which sums payable to the Port Authority accrue, in either of the following events:

- (1) If the Carrier, in its operations at the Facility, employs any person or persons, or uses or has any equipment or materials, or allows any condition to exist, which causes

any Labor Trouble at the Facility involving employees of the Port Authority or those of any other person operating at the Facility other than the Carrier's own employees, and which interferes with the operation of the Facility, other than the Carrier's own operations, or with the operations of others at the Facility, and if the Carrier, upon notice from the Port Authority, does not within twelve (12) hours thereafter withdraw from the Facility any such person or persons and any such equipment or materials specified in such notice, or rectify any such conditions; or

(2) If any Labor Trouble of or directed against the Carrier adversely affects the Port Authority's operation of the Facility or the operations of others at the Facility, whether or not the same is due to the fault of the Carrier, and notwithstanding that the Port Authority may or may not have issued directions in connection with the same.

(c) *No Operations During Suspension.* During the period of suspension, the Carrier shall not operate at the Facility, and if any vehicle or vehicles or other property of the Carrier remains in the Space, or any property in the Dispatcher's booth space (if applicable), the Port Authority may remove the same for storage at another location in the Facility or elsewhere, such removal and storage to be at the risk and expense of the Carrier; provided, however, that any communications equipment belonging to the Carrier installed in the Dispatcher's booth space (if applicable) may remain, at the risk of the Carrier, provided, that any such equipment shall not be used by the Carrier during the period of suspension. During the period of suspension, the Port Authority shall have the right to use or permit the use of the Space, or any part thereof, by others, on such terms as the Port Authority may determine.

(d) *Effect on this Agreement.* The period of suspension shall end not more than twenty-four (24) hours after the Labor Trouble has ceased or been cured and the Carrier has so notified the Port Authority. If the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, the Port Authority shall have the right to terminate this Agreement upon five (5) days' notice, provided, however, that if, on or before the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the Carrier notifies the Port Authority and then agrees to pay to the Port Authority the fees set forth below, then, and in such event, if the period of suspension does not end on or before a date one hundred eighty (180) days after the effective date of suspension, and if the Carrier pays to the Port Authority for the period beginning the ninetieth (90<sup>th</sup>) day after the effective date of suspension, the same fees that were payable for the same calendar days in the year next preceding, the Port Authority shall not have the right of termination set forth above. In the event this Section comes into operation during the first year of the Term, then the Carrier shall pay fees based on the total number of Regular Route Operations Departures operated by it from Central Manhattan or Northern Manhattan, as applicable, on the same calendar days in the preceding year, as if the said Departures had been made under this Agreement.

## **Article 8. Entry for Inspection and Maintenance**

### **Section 8.1 Right of Entry**

The Port Authority, by its officers, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon the Space for the purpose of inspecting the same, for observing the performance by the Carrier 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. Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives and contractors, shall have the right, for the benefit of the Carrier or for the benefit of others at the Facility, or in connection with any reconstruction or redevelopment of the Facility, to maintain and replace existing and future utilities systems or portions thereof in the Space, including without limitation systems for the supply of heat, hot and cold water, gas, electricity, compressed air and fuel, and for the furnishing of fire-alarm, fire-protection, sprinkler,

sewerage, drainage, ventilation, air-conditioning, telephone and intercommunication services, including lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment connected with or appurtenant to such systems, and to enter upon the Space at all reasonable times to make such repairs, alterations and replacements 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, under or through the Space or any portion thereof new lines, pipes, mains, wires, conduits, tubes, ducts, fixtures and equipment; provided, however, that such repair, alterations, replacement or construction shall not unreasonably interfere with the Carrier's use of the Space.

#### Section 8.2 No Port Authority Obligation

Nothing in this Section shall impose upon the Port Authority any obligation so to maintain or so to make repairs, replacements, alterations or additions, or shall create any liability for failure to do so.

#### Section 8.3 No Abatement

No abatement of payments to be made under this Agreement by the Carrier shall be claimed by or allowed to the Carrier by reason of the exercise of the foregoing rights by the Port Authority or others.

### **Article 9. Indemnity and Insurance**

#### Section 9.1 Indemnity

*(a) Indemnification.* The Carrier shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from (and shall reimburse the Port Authority for the Port Authority's costs or expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries, or for property damages, arising out of (x) any default of the Carrier in performing or observing any term or provision of this Agreement, or (y) the use or occupancy of the Space by the Carrier or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) any of the acts or omissions of the Carrier, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Carrier or who are at the Space with the Carrier's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Carrier, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

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

#### Section 9.2 Liability Insurance

*(a) Required Coverages.* The Carrier in its own name as assured shall secure and pay the premium or premiums for the policies of insurance set forth in the attached Schedule 3, in the minimum limits provided in such Schedule. Each such policy shall be maintained in at least the

limit fixed with respect thereto, shall cover the operations of the Carrier under this Agreement and shall be effective throughout the Term.

*(b) Policy Requirements.*

(1) The Port Authority shall be named as an additional insured in each policy of liability insurance unless the Port Authority, at any time during the effective period of this Agreement, directs otherwise in writing, in which case the Carrier shall cause the Port Authority not to be so named.

(2) Each policy of insurance on property other than that of the Carrier shall name the Port Authority as the owner of the property.

(3) Each policy of liability insurance shall provide an ISO standard "separation of insureds" clause or contain a cross liability endorsement providing that the protection afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third party shall pertain and apply with like effect with respect to any claim or action against the Carrier by the Port Authority and against the Port Authority by the Carrier, but said clause or endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as an additional insured.

(4) Each policy of liability insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or 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.

(5) If at any time any policy is or becomes unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing such policy is or becomes unsatisfactory to the Port Authority, the Carrier shall promptly obtain a new and satisfactory policy in replacement.

*(c) Evidence of Insurance.* As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within ten (10) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.

## **Article 10. Utilization of the Space**

### **Section 10.1 Sharing of Loading Positions**

*(a) Pooling Arrangements.* The Carrier may enter into an arrangement, with any other bus carrier already licensed by the Port Authority to use space at the Facility, to share use of any Loading Position that is a part of the Space (a "**Pooling Arrangement**"; and any such already licensed carrier, a "**Pooling Partner**" of the Carrier).

*(b) Notification.* The Carrier shall give the Port Authority thirty (30) days' prior notice of any proposed Pooling Arrangement, stating the details of such arrangement and providing the Port Authority with a copy of the agreement covering such Pooling Arrangement.

(c) *Gate Fee and Other Responsibilities.* Notwithstanding any Pooling Arrangement, the Carrier shall continue to be wholly liable for the Gate Fee and all other obligations hereunder with respect to the Loading Position that is the subject of the Pooling Arrangement.

(d) *No Effect on Other Provisions.* Except as expressly provided, the foregoing shall not be deemed to abrogate, limit or otherwise diminish any restrictions, limitations or prohibitions on assignment, subcontracting or use of the Space by others under this Agreement, and shall not in any manner affect, waive or change any of the provisions hereof. The Carrier specifically acknowledges and agrees that the Carrier's Pooling Partners shall constitute persons using and occupying the Space with the Carrier's consent for purposes of Section 9.1 of this Agreement, entitled "Indemnity", and are accordingly covered by clauses (y) and (z) of paragraph (a) thereof.

Section 10.2 Performance Requirements

(a) *Minimum and Maximum Requirements.* Loading Positions shall be subject to minimum and maximum performance requirements in order to ensure efficient use of the Facility's limited capacity.

(1) With respect to the PABT, the minimum and maximum requirements shall be as set forth in the following chart, as revised from time to time by the General Manager:

Type of Loading Position	Minimum Average Peak Period* Departures	Maximum Peak Period* Departures
Short-Haul Gate	4 Departures/hour	6 Departures/hour
Short-Haul Platform Position	5 Departures/hour	8 Departures/hour
Long-Distance Gate	N/A	6 Departures/hour

\* "Peak Period" shall mean the period 4:00 – 7:00 p.m. on weekdays.

The number of average Peak Period Departures will be determined for each type of Loading Position for each hour in the Peak Period by adding the total number of Departures by the Carrier, as observed by a survey or obtained through dispatcher reports, in the Port Authority's discretion, and dividing by the number of Loading Positions used by the Carrier.

(2) With respect to the GWBBS, the minimum and maximum requirements shall be as determined from time to time by the General Manager.

(b) *Effect of Failure to Maintain Minimum.* If the Carrier fails to maintain the minimum required number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier fails to meet such minimum requirements within two weeks thereafter, the Port Authority shall have the right, upon sixty (60) days' notice, to remove a Loading Position from the Space.

(c) *Effect of Failure to Maintain Maximum.* If the Carrier exceeds the maximum allowable number of average Peak Period Departures, the Port Authority shall notify the Carrier to that effect. If the Carrier is found to exceed the maximum allowable number of average Peak Period Departures a second time during a twelve-month period, the Port Authority may impose a fine upon the Carrier.

(d) *No Effect on Other Provisions or Obligations.* The foregoing shall not be deemed in any way to affect, alter, modify or diminish (x) any other rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination by the Port Authority", (y) any obligation of the Carrier under this Agreement with respect to any Loading Positions that have not been removed pursuant to Paragraph (b) above, or (z) any outstanding obligation of the Carrier with respect to any Loading Position that has been removed pursuant to Paragraph (b) above. Failure to promptly pay any fine imposed pursuant to Paragraph (c) above shall constitute a Payment Default.

## **Article 11. Termination**

### **Section 11.1 Termination by Port Authority**

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

(1) the Carrier is adjudged insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files 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 any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of all of substantially all of its property, or

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

(3) a petition under any part of the federal bankruptcy laws or in action under any present or future insolvency law or statute is filed against the Carrier and is not dismissed within sixty (60) days after the filing thereof; or

(4) if the Carrier voluntarily abandons or discontinues the majority of its Regular Route Operations to or from the Facility (except when by order or direction of any appropriate governmental regulatory body) and such abandonment or discontinuance continues after ten (10) days' notice thereof from the Port Authority to the Carrier; or

(5) if the Carrier is, or the legal entities each of which is a party to this Agreement and fulfills the definition of the "Carrier" hereunder collectively are, doing business as, or constitute, a partnership, and the said partnership is dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court or for any other reason whatsoever; or

(6) after exhausting or abandoning any right of further appeal, the Carrier is prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Facility, regardless of the fault of the Carrier

then, upon the occurrence of any such event and at any time thereafter during the continuance thereof, the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(b) *Event of Default, General.* If the Carrier fails to keep, perform and observe each and every promise, covenant and agreement set forth in this Agreement on its part to be kept, performed or observed, and such failure continues after ten (10) days' notice thereof, then at any time during the continuance thereof the Port Authority may by thirty (30) days' notice terminate the rights of the Carrier under this Agreement, effective upon the date specified in such notice.

(c) *Event of Default, Payment.* If the Carrier fails duly and punctually to make any payment (including without limitation all fees, charges and fines) required hereunder (a "**Payment Default**"), then the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice; provided, however, that if the Carrier has cured such Payment Default by making payment in full on or before the day preceding the effective date of the notice, then the notice shall be deemed to have been withdrawn and to be of no effect. **Notwithstanding the foregoing, however, in the event of the occurrence of three (3) or more Payment Defaults within any period of twelve (12) consecutive months (and irrespective of any cure the Carrier may have effected with respect to any or all of such Payment Defaults in accordance with the proviso in the preceding sentence), the Port Authority may by ten (10) days' notice terminate the rights of the Carrier under this Agreement, effective on the date specified in such notice.**

(d) *No Waiver.* Except as provided in the proviso in the first sentence of the preceding Paragraph (c), the acceptance by the Port Authority of sums, charges or other payments for any period or periods after a default on the part of the Carrier in its performance of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Carrier shall not be deemed a waiver of any right on the part of the Port Authority to terminate the rights of the Carrier under this Agreement. No waiver of default by the Port Authority of any of the terms, covenants or conditions hereof to be performed, kept or observed by this Carrier shall be or be construed to be a waiver by the Port Authority of any other or subsequent default of any of the said terms, covenants and conditions.

#### Section 11.2 Port Authority's Remedies and Damages

(a) *Rights of Termination Additional to Other Rights.* The rights of termination provided above in this Article shall be in addition to all other rights and remedies that the Port Authority would have at law or in equity consequent upon a breach of this Agreement by the Carrier and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Port Authority of any such right of termination shall be without prejudice to any other such rights and remedies.

(b) *Damages.* In case of breach of this Agreement by the Carrier (whether or not followed by termination) entitling the Port Authority to damages, the parties contemplate and agree that non-use of the Facility in whole or in part by the Carrier at any time during the Term as originally fixed will damage the Port Authority by reason of its inability to utilize the full capacity of the Facility, the unique character of the Facility and the consequent inability of the Port Authority to convert it to other uses, and the diminution in value of viaducts owned by the Port Authority and connected with the Facility, all in addition to damages by reason of the loss of sums otherwise payable hereunder by the Carrier and by reason of the loss of revenues from other occupants of the Facility, the amount of whose rentals and fees depend upon use of the Facility by the Carrier and its passengers.

### Section 11.3 Termination by Carrier

(a) Except as otherwise expressly provided herein, if the Port Authority does not perform or commence the performance of any material obligation on its part to be performed under this Agreement, within thirty (30) days after the receipt of notice from the Carrier of a breach of such obligation, then in such event and during the continuance of such default, the Carrier shall have the right to terminate this Agreement by ten (10) days' notice.

(b) *Rights of Termination Additional to Other Rights.* The right of the Carrier to terminate under this Section shall be in addition to all other rights and remedies that the Carrier would have at law or in equity consequent upon a breach of this Agreement by the Port Authority, and all of such rights and remedies shall be cumulative and not alternative; the exercise by the Carrier of any such right of termination shall be without prejudice to any other such rights and remedies.

### Section 11.4 Thirty-Day Termination

Each of the Port Authority and the Carrier shall have the right to terminate this Agreement without cause at any time by giving at least thirty (30) days' prior notice to the other party.

### Section 11.5 Transfer or Partial Discontinuance

(a) *Transfer or Partial Discontinuance.* If, by order or decree of any administrative or judicial board, officer, court or other governmental agency having jurisdiction, any of the provisions of this Agreement, or any operation hereunder, or any operation conducted at the Facility by the Port Authority without obligation to do so which affects the Carrier or its passengers, is declared to be unlawful, or is determined to have the effect of permitting Federal regulation of the operations or financing of the Port Authority, whether in connection with the Facility or otherwise, the Port Authority shall have the right to elect as follows, in each case to take effect not sooner than the effective date of such order or decree: (x) to transfer the operation of the Facility and the Port Authority's interest in and obligations under this Agreement to a subsidiary agency or corporation or to a responsible independent organization as contractor, which will undertake to fulfill the obligations of the Port Authority; (y) to eliminate from this Agreement the said provision or provisions and to discontinue the operations provided for thereby, making an equitable adjustment of the charges hereunder (if any), and to continue this Agreement and operations hereunder as to all other parts thereof; or (z) to continue any operations theretofore conducted without obligation, but only as the agent and at the expense of the Carrier (or to discontinue the same).

(b) *Notice and Carrier's Right of Termination.* The Port Authority shall give notice of such election, which shall be sixty (60) days or, if less than sixty (60) days, at least the number of days between promulgation of the order and the effective date, less fifteen (15) days. In the event of the Port Authority's election of (y) or (z) in the foregoing paragraph (a), the Carrier shall have the right, exercisable by notice given within sixty (60) days of its receipt of the notice of election by the Port Authority, to terminate this Agreement in its entirety by not less than thirty (30) days' notice to the Port Authority.

### Section 11.6 Loss of Facility

(a) *Condemnation.* Notwithstanding any other provision of this Agreement, if any governmental agency or agencies shall take, by exercise of the power of eminent domain, all or a substantial part of the Facility or all or a substantial part of the Space; then, if the Port Authority shall not make a substitution of other space for the Space (or portion thereof, as required), or shall be unable to do so, and if in the Port Authority's opinion the continued operation of the Facility for motor-bus carriers would be impossible, impractical or uneconomical, the Port Authority may at its option terminate this Agreement by notice to the Carrier, specifying the

effective date of termination, which date may be retroactive to the date of taking. Such termination shall have the same effect as the expiration of this Agreement.

(b) *No Carrier Claim.* In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the Facility, the Carrier shall not be entitled to assert any claim to any award or part thereof or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, it being understood and agreed between the Port Authority and the Carrier that the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Carrier.

## Article 12. Security Deposit

### Section 12.1 Security Deposit

(a) *Required Deposit Amount.* As security for the Carrier's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, the Carrier shall, upon its execution and delivery of this Agreement, deposit with the Port Authority (and shall keep deposited throughout the Term) the sum set forth on Schedule 4 (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Carrier shall be required, instead, to deliver to the Port Authority a letter of credit as provided in Section 12.2 below.

(b) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Carrier may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Carrier) in a manner satisfactory to the Port Authority. The Carrier may request the Port Authority to accept a registered bond in the Carrier's name and, if acceptable to the Port Authority the Carrier shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Carrier, any expenses incurred by the Port Authority in re-registering a bond to the name of the Carrier shall be borne by the Carrier.

(c) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Carrier. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Carrier. With respect to any bonds deposited by the Carrier, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Carrier, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Carrier. The Carrier hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Carrier. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Carrier. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have

declined below the Required Deposit Amount, the Carrier shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(d) *No Encumbrance.* The Carrier agrees that it will not assign or encumber the deposit.

(e) *Interest.* The Carrier may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(f) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Carrier shall then be in no way in default under any part of this Agreement, and upon written request therefor by the Carrier, the Port Authority will return the deposit to the Carrier less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Carrier of this Agreement.

(g) *Tax Number.* For the purposes of the foregoing provisions, the Carrier hereby certifies that its federal Taxpayer Identification Number is as set forth on Schedule 4.

#### Section 12.2 Letter of Credit

(a) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding Section 12.1, the Carrier may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Carrier under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(b) *Form and Terms.* 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 (a sample of which is attached as Exhibit 6) 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 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) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Carrier made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of Section 12.1. The Carrier shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Carrier under this Agreement.

(d) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit the Carrier agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and

thereafter the Port Authority will hold the same as security under Section 12.1. If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Carrier, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(e) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to Section 12.1, any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Carrier.

(f) *No Waiver.* 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 such letter of credit, shall be deemed to be a waiver of any default by the Carrier under the terms of this Agreement, and all remedies under this Agreement of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

### **Article 13. Brokerage**

The Carrier represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Carrier shall indemnify and save harmless the Port Authority of and from and such claim, except such claims, if any, as may arise solely from the acts of the Port Authority and of its employees.

### **Article 14. Notices**

#### Section 14.1 Notices

(a) *Notices in Writing.* Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "**Notice**") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail.

(b) *Address for Notices.* Each party shall designate an office within any one of the fifty States or the District of Columbia and an officer or representative whose regular place of business is at such office, where and upon whom Notices may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Carrier designates the individual named as its representative on the Cover Page, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Carrier designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) *Effectiveness.* The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

## Article 15. Miscellaneous

### Section 15.1 No Personal Liability

No Commissioner, officer, agent or employee of the Port Authority shall be charged personally with any liability or held liable under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

### Section 15.2 Force Majeure

(a) *Force Majeure.* The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. “**Force Majeure**” or “**causes or conditions beyond its control**”, or words of similar import, shall mean acts of God, the elements, weather conditions, tides, earthquakes, settlement, fire, acts of any governmental authority (other than the Port Authority with respect to obligations to be performed by it under this Agreement), war, acts of terrorism, shortage of labor or materials, acts or omissions of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including those affecting the Port Authority or its contractors, suppliers or subcontractors) or any other conditions or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which are beyond the control of the Port Authority and which could not be prevented or remedied by reasonable effort and at reasonable expense.

(b) *Application of this Section.* The provisions of this Section shall apply to each and every obligation of the Port Authority under this Agreement, whether or not reference to Force Majeure or conditions beyond the control of the Port Authority is set forth in the provision of this Agreement which gives rise to such obligation. The fact that references to Force Majeure or conditions beyond the control of the Port Authority may be included in only certain of the provisions of this Agreement shall not be construed as making the provisions of this Section inapplicable to those provisions of this Agreement which do not contain such references.

### Section 15.3 Relationship of the Parties

This Agreement does not constitute the Carrier the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is created hereby.

### Section 15.4 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 15.5 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 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 15.6 Waiver of Trial by Jury; Counterclaims

The Carrier hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Carrier in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Carrier. The Carrier specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Carrier.

Section 15.7 Construction and Application of Terms

(a) *Headings.* The use of article, section and paragraph headings and a table of contents, and the organization of the various provisions of this Agreement thereunder, are for convenience of reference only and in no way define, limit or describe the scope or intent of any provision hereof.

(b) *Ambiguities.* Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any exhibits or schedules hereto.

(c) *Gender and Number.* Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Carrier or the Port Authority, the same shall be deemed to refer to the Carrier or the Port Authority, regardless of the actual gender or number thereof. Wherever in this Agreement a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective.

(d) *Carrier's Obligations.* Wherever in this Agreement the Carrier is placed under an obligation, or covenants to do or to refrain from doing, or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Carrier is a corporation, its obligation shall be performed and its rights and privileges shall be exercised only by its officers and employees.

(2) If the Carrier is a partnership, the obligation shall be that of its partners as well as of itself, and shall be performed only by its partners and employees, and the rights or privileges shall be exercised only by its partners and employees.

(3) If the Carrier is an individual, the obligation shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees, and the rights or privileges shall be exercised only by himself (or herself) and his (or her) employees.

(4) If the Carrier is a limited liability company, its obligation shall be performed and its rights and privileges shall be exercised only by its members, managers and employees.

(5) If the Carrier, as set forth on the Cover Page, consists of more than one individual or legal entity, then each and every obligation of the Carrier hereunder shall be the joint and several obligation of each such individual or legal entity.

(6) None of the provisions of this paragraph (d) shall be taken to alter, amend or diminish any obligation of the Carrier assumed in relation to its invitees, visitors, agents, representatives, contractors, customers, passengers, guests or other persons, firms or corporations doing business with it.

(e) *Exhibits and Schedules.* The provisions and obligations contained in any Exhibits or Schedules attached hereto shall have the same force and effect as if set forth in full in this Agreement.

(f) *Governing Law.* To the extent that any provisions of this Agreement are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

(g) *Successors and Assigns.* The covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Port Authority and the Carrier and their respective successors and permitted assigns, except as otherwise expressly set forth herein.

#### Section 15.8 Entire Agreement

(a) *Entire Agreement.* This Agreement, including the attached Cover Page, Schedules and Exhibits, which constitute integral parts of this Agreement, contains all of the promises, agreements, conditions, inducements and understandings between the Port Authority and the Carrier concerning the Port Authority's grant to the Carrier of a license to use the Space, and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between the Port Authority and the Carrier other than as expressly set forth herein and therein or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto.

(b) *Modifications to be in Writing.* No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the Carrier and the Port Authority.

(c) *No Waiver.* No failure by the Port Authority to insist upon the strict performance of any agreement, covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach or default of any agreement, covenant, term, or condition of this Agreement, and no extension, supplement or amendment of this Agreement during or after such breach or default, unless expressly stated to be a waiver, and no acceptance by the Port Authority of any payment required hereunder after or during the continuance of any such breach or default, shall constitute the waiver of such breach or default. No waiver of any default shall affect or alter this Agreement, but each and every agreement, covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent default thereof.

:This Space for Port Authority Use Only :

:Permit Number: BT-ACD-BTW-017 :

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
225 Park Avenue South  
New York, New York 10003

**PORT AUTHORITY BUS TERMINAL  
SPACE PERMIT**

The Port Authority of New York and New Jersey (herein called the "Port Authority") hereby grants to the Permittee hereinafter named permission to use and occupy the following described space (hereinafter referred to as the "Space") at the Port Authority Bus Terminal (hereafter sometimes called the "Facility") for the purposes hereinafter specified and all purposes incidental thereto in accordance with the Terms and Conditions hereof; and said Permittee agrees to pay the fee or fees hereinafter specified and to perform all other obligations imposed upon it in said Terms and Conditions.

1. PERMITTEE: ACADEMY LINES, L.L.C., a New Jersey limited liability company
2. PERMITTEE'S ADDRESS: 111 Paterson Avenue  
Hoboken, New Jersey 07030
3. PERMITTEE'S REPRESENTATIVE: Tom Scullin
4. SPACE: Per Special Endorsement No. 1.
5. PURPOSES: Per Special Endorsement No. 2.
6. FEES: Per Special Endorsement No. 4.
7. EFFECTIVE DATE: October 1, 2007
8. EXPIRATION DATE: December 31, 2012, unless sooner revoked or terminated as provided in this Permit.
9. ENDORSEMENTS ANNEXED AT TIME OF ISSUANCE: 6.4, 11.1, 14.1, 15.1, 17.1, 19.6, Special, Insurance Schedule and Exhibit A.

Dated: As of September 30, 2007

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

By 

Name CEDRICK T. FIUMI  
(Please Print Clearly)

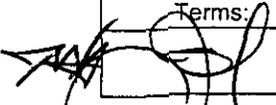
(Title) Deputy Director

**ACADEMY LINES, L.L.C., Permittee**

By 

Name Francis Tedesco  
(Please Print Clearly)

(Title) Manager/Member

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

NHR/ALQ

TERMS AND CONDITIONS

1. Certain Definitions:

(a) “**Effective Date**” shall mean the date designated as the “Effective Date” in Item 7 on the cover page of this Permit.

(b) “**Executive Director**” shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(c) “**Expiration Date**” shall mean the date designated as the “Expiration Date” in Item 8 on the cover page of this Permit.

(d) “**Facility**” shall have the meaning set forth in the granting clause on the cover page of this Permit.

(e) “**Hazardous Substance**” shall mean 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, endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(f) “**Manager of the Facility**” shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said Manager by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Manager (or temporary or Acting Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

(g) “**Permittee’s Representative**” shall mean the individual named in Item 3 on the cover page of this Permit or such other individual as the Permittee may designate by notice in accordance with the provisions of Section 18 below, entitled “Notices”.

2. Effectiveness:

(a) The permission granted by this Permit shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days’ prior notice, and terminated by the Permittee without cause upon thirty (30) days’ prior notice; provided, however, that it may be revoked on twenty-four (24) hours’ notice if the Permittee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Permit, including without limitation the obligation to pay fees. Further, in the event the Port Authority exercises its right to

revoke or terminate this Permit for any reason other than "without cause", the Permittee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space which may be used and occupied under this Permit (on failure of the Permittee to have it restored), preparing such space for use by a succeeding permittee, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the space in order (such as but not limited to cleaning and decorating the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this Permit or a waiver of any other rights or remedies which may be available to the Port Authority under this Permit or otherwise.

3. Use of Space by Permittee:

(a) The Space shall be used, pursuant to the permission hereby granted,

(i) if the Permittee is a corporation, by the Permittee acting only through the medium of its officers and employees,

(ii) if the Permittee is an unincorporated association, or a "Massachusetts" or business trust, by the Permittee acting only through the medium of its members, trustees, officers and employees,

(iii) if the Permittee is a partnership, by the Permittee acting only through the medium of its general partners and employees, or

(iv) if the Permittee is an individual, by the Permittee acting only personally or through the medium of his employees; or

(v) if the Permittee is a limited liability company, by the Permittee acting only through the medium of its members, managers and employees;

and the Permittee shall not, without the written approval of the Port Authority, use the Space through the medium of any other person, corporation or legal entity. The Permittee shall not assign or transfer this Permit or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this Permit to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Permittee shall be the joint and several obligation of each such individual or other legal entity.

(b) The Permittee's Representative specified in Item 3 of the cover page of this Permit (or such substitute as the Permittee may hereafter designate in writing) shall have full

authority to act for the Permittee in connection with this Permit and any act or things done or to be done hereunder, and to execute on the Permittee's behalf any amendments or supplements to this Permit or any extension hereof and to give and receive notices hereunder.

(c) This Permit shall not constitute the Permittee the agent or representative of the Port Authority for any purpose whatsoever.

(d) The Permittee hereby agrees that it will not carry on any business or operation in the Space or at the Facility other than as specifically provided herein without receiving the prior written consent of the Port Authority, which consent, if given, will be in the form of a Supplement hereto or a separate agreement with the Port Authority, which consent will specify whether the provisions regarding fees contained herein or any other provisions regarding fees shall apply thereto.

4. Condition of Space:

(a) The Permittee hereby acknowledges that prior to the execution of this Permit it has thoroughly examined and inspected the Space and has found the Space in good order and repair and has determined the Space to be suitable for the Permittee's operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Permittee for the purposes contemplated herein. The Permittee agrees to and shall take the Space in its "as is" condition and the Port Authority shall have no obligation hereunder for preparation of the Space for the Permittee's use. The Permittee agrees that no portion of the Space will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property and the Permittee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) Except to the extent required for the performance of any of the obligations of the Permittee under this Permit, nothing contained in this Permit shall grant to the Permittee any rights whatsoever in the air space above the height of the structures located on the Space as of the Effective Date hereof.

(c) The parties to this Permit hereby acknowledge that the Space is non-residential real estate.

5. Payment of Fees:

(a) Unless otherwise expressly provided in this Permit, the Permittee shall pay to the Port Authority a fee for its use and occupancy of the Space. The fee specified is a monthly fee, payable in advance on the Effective Date and on the first day of each and every calendar month thereafter.

(b) Payments made hereunder shall be sent to the following address:

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

or made via the following wire transfer instructions:

Bank: Commerce Bank  
Bank ABA Number: 031201360  
Account Number: Ex. 1

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by notice to the Permittee.

(c) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

(d) Upon execution of this Permit by the Permittee, the Permittee shall pay to the Port Authority all unpaid fees and other monies due and payable under this Permit as of the date of execution.

6. Late and Service Charges:

(a) If the Permittee should fail to pay any amount required under this Permit when due to the Port Authority or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this Permit. 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. 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 Permit, including without limitation the Port Authority's rights set forth in Section 2 hereof or (ii) any obligations of the Permittee under this Permit. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Permit shall be payable instead at such legal maximum.

(b) (i) The Permittee shall permit and/or cause to be permitted in ordinary business hours during the effective period of this Permit and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Permittee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be

relevant in connection with the Permittee's use and occupancy of the Space as permitted hereunder within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

(ii) In the event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority by the Permittee (the "**Audit Findings**"), the Permittee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Permittee under this Permit or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Permit with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Permit, including, without limitation, the Port Authority's rights to revoke this Permit or (ii) any obligations of the Permittee under this Permit.

7. Security Deposit: If the Permittee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Permittee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Permittee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any deposit pursuant thereto also shall be deemed obligations of the Permittee under this Permit and as security hereunder as well as under any such other agreement and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby 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.

8. Indemnification of Port Authority:

(a) The Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal costs and 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 of the operations, acts or omissions of the Permittee hereunder.

(b) The Permittee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any way connected with this Permit. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Permittee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or

arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Permittee under or in any way connected with this Permit.

(c) If so directed, the Permittee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal, the immunity of the Port Authority, its governmental nature or the provisions of any statutes respecting the Port Authority.

(d) In the event of any injury or death to any person (other than employees of the Permittee) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, or damage to any property (other than the Permittee's property) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, the Permittee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Permittee's insurance carrier.

9. Right of Entry Reserved: The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Space and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

10. Rules and Regulations: The Permittee shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of this Permit, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Permittee of every rule and regulation hereafter adopted by it at least five (5) days before the Permittee shall be required to comply therewith.

11. Conduct of Operations:

(a) The Permittee shall immediately comply with all orders, directives and procedures as may be issued by the Manager of the Facility covering the operations of the Permittee under this Permit at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder.

(b) The Permittee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(c) Unless otherwise expressly provided, the Permittee shall not install any vending machines or similar devices in the Space or use the Space (or permit it to be used) for the sale to its employees or to the public of any of the following goods and services: beverages, food, candy, gum, ice cream or ice cream products, tobacco or tobacco products, periodicals, books, drugs, toys, games, souvenirs, jewelry, novelties, clothing, flowers, sporting or photographic goods, toilet articles, theatre tickets, shoe shines, pressing and cleaning, developing and printing of photographs and films or baggage-checking. The specificity of the foregoing

enumeration of disallowed activities shall not be deemed to infer that any particular activities not so enumerated are permitted under this Permit.

(d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Space without the written approval of the Manager of the Facility; and any not approved by him may be removed by the Port Authority at the expense of the Permittee. The Permittee shall not display, or permit the display of, advertising of third parties in the Space.

(e) The Permittee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

(f) The operations of the Permittee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Permittee shall provide and its employees shall wear or carry badges or other suitable means of identification which shall be subject to the approval of the Manager. The Port Authority shall have the right to object to the Permittee as to the demeanor, conduct and appearance of the Permittee's employees, invitees and those doing business with it, whereupon the Permittee will take all steps necessary to remove the cause of the objection.

(g) The Permittee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Permittee. The receptacles shall be kept covered except when filling or emptying the same. The Permittee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

(h) The Permittee shall at all times maintain the Space in a clean and orderly condition and appearance.

12. Permittee Property:

(a) The personal property placed or installed by the Permittee in the Space shall remain the property of the Permittee and must be removed on or before the Expiration Date or on or before the revocation or termination of the permission hereby granted, whichever shall be earlier.

(b) If the Permittee shall fail to remove its property upon the expiration, termination or revocation hereof, the Port Authority may, at its option, as agent for the Permittee and at the Permittee's risk and expense, remove such property to a public warehouse for deposit or retain the same in its own possession and after the expiration of thirty (30) days sell the same at public auction, the proceeds of which shall be applied first to the expenses of sale, second to

any sums owed by the Permittee to the Port Authority, and any balance remaining shall be paid to the Permittee, or may take such other action as may be necessary or desirable. Any excess of the total cost of removal, storage and sale over the proceeds of sale shall be paid by the Permittee to the Port Authority upon demand.

13. Prohibited Acts:

(a) The Permittee 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 New York Board of Fire Underwriters and the New York Fire Insurance Exchange, and any other body or organization exercising similar functions which may pertain or apply to the Permittee's operations hereunder. If by reason of the Permittee's failure to comply with the provisions of this Section, any fire insurance, extended coverage or rental insurance rate on the Facility or any part thereof or upon the contents of any building thereon shall at any time be higher than it otherwise would be, then the Permittee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been charged because of such violation by the Permittee.

(b) The Permittee shall not do or permit to be done any act which

(i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or

(ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or

(iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this Permit, or

(iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or

(v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or

(vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.

(c) For purposes of this Section, "Facility" includes all structures located thereon.

14. Specifically Prohibited Activities:

(c) The Permittee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.

(d) The Permittee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Permittee (or permitted by the Permittee to be disposed of, released or discharged) on the Facility shall upon notice by the Port Authority to the Permittee be completely removed and/or remediated by the Permittee at its sole cost and expense.

(e) The Permittee shall not operate any engine or any item of automotive equipment in the Space without adequate ventilation.

(f) The Permittee shall not use any cleaning materials having a harmful or corrosive effect in the Space.

(g) The Permittee shall not fuel or defuel any equipment in the Space or elsewhere at the Facility without the prior approval of the Manager of the Facility except in accordance with Port Authority rules and regulations.

(h) The Permittee shall not start or operate any engine or any item of automotive equipment in the Space unless such space is adequately ventilated and unless such engine is equipped with a proper spark-arresting device.

(i) The Permittee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

15. Labor Disturbances:

(a) (i) The Permittee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Permittee under this Permit.

(ii) The Permittee shall immediately give notice to the Port Authority (to be followed by written notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Permittee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

(b) If any type of strike or other labor activity is directed against the Permittee at the Facility or against any operations pursuant to this Permit resulting in picketing or boycott for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority, adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Permittee, and whether caused by the employees of the Permittee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' notice, revoke this Permit, effective at the time specified in the notice. Revocation shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation.

16. Notices: A bill or statement may be rendered or any notice or communication which the Port Authority may desire to give the Permittee shall be deemed sufficiently rendered

or given if the same be in writing and sent by registered or certified mail addressed to the Permittee at the address specified on the cover page hereof or at the latest address that the Permittee may substitute therefor by notice to the Port Authority, or left at such address, or delivered to the Permittee's Representative, and the time of rendition of such bill or statement and of the giving of such notice or communication shall be deemed to be the time when the same is mailed, left or delivered as herein provided. Any notice from the Permittee to the Port Authority shall be validly given if sent by registered or certified mail addressed to the Executive Director of the Port Authority at 225 Park Avenue South, New York, New York 10003 or at such other address as the Port Authority shall hereafter designate by notice to the Permittee.

17. No Broker: The Permittee represents and warrants that no broker has been concerned in the negotiation or execution of this Permit and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Permittee shall indemnify the Port Authority and save it harmless from any and all claims which have been or which may be made by any and all persons, firms, or corporations whatsoever for services in connection with the negotiation and execution of this Permit or in connection with any permission to use the Space.

18. Waiver of Trial by Jury: The Permittee hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Permittee in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Permit. The Permittee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Permittee.

19. Effect of Use and Occupancy after Expiration, Revocation or Termination: Without in any way limiting any other provision of this Permit, unless otherwise notified by the Port Authority in writing, in the event the Permittee continues its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit, as such effective period of permission may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Permit or other remedies the Port Authority may have by law or otherwise, the Permittee shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such revocation or termination and ending on the date that the Permittee shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Permittee any right to continue its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit. The Permittee acknowledges that the failure of the Permittee to surrender, vacate and yield up the Space to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Permittee 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 Permittee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

20. No Personal Liability: No Commissioner, officer, agent or employee of the Port Authority shall be charged personally by the Permittee with any liability, or held liable to it,

under any term or provision of this Permit, or because of its execution or attempted execution, or because of any breach hereof.

21. No Waiver: No failure by the Port Authority to insist upon the strict performance of any agreement, term, covenant or condition of this Permit or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this Permit during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this Permit to be performed or complied with by the Permittee, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the Port Authority. No waiver by the Port Authority of any default or breach on the part of the Permittee in performance of any agreement, term, covenant or condition of this Permit shall affect or alter this Permit but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

22. Construction and Application of Terms:

(a) The use of headings in this Permit is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

(b) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Permit or any amendments, addendums or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

(c) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

(d) To the extent that any provisions of this Permit are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

23. Entire Agreement: This Permit, including the cover page, the Terms and Conditions and the attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on behalf of the parties and attached hereto. The Permittee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

(a) The Permittee shall at all times keep the Space in a clean and orderly condition and appearance, together with all fixtures, equipment and personal property of the Permittee and of the Port Authority located in or on the Space, including without limitation thereto the interior surface of windows and both sides of all entrance doors.

(b) The Permittee shall repair, replace, rebuild and paint all or any part of the Space or of the Facility which may be damaged or destroyed by the acts or omissions of the Permittee, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees or other persons who are doing business with the Permittee who are on or at the Space or the Facility with the consent of the Permittee.

(c) The Permittee shall take good care of the Space, including therein, without limitation thereto, walls, partitions, floors, ceilings, doors and columns, and all parts thereof, and all equipment and fixtures, and shall do all preventive maintenance and make all necessary non-structural repairs, replacements, rebuilding and painting necessary to keep the Space in the condition existing on the effective date and to keep any improvements, additions and fixtures made or installed during the effective period of this Agreement in the condition they were in when made or installed except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the building or adversely affect the efficient or proper utilization or the appearance of any part of the Space.

(d) In the event the Permittee fails to commence so to make or do any repair, replacement, rebuilding or painting required by this Agreement within a period of ten (10) days after notice from the Port Authority so to do, or fails diligently to continue to completion the repair, replacement, rebuilding or Painting of all the premises required to be repaired, replaced, rebuilt or painted by the Permittee under the terms of this Agreement, the Port Authority may, at its option, and in addition to any other remedies which may be available to it, repair, replace, rebuild or paint all or any part of the Space included in the said notice, the Port Authority's cost thereof to be paid by the Permittee on demand. This option or the exercise thereof shall not be deemed to create or imply any obligation or duty to the Permittee or others.

(e) The obligation of the Permittee as set forth in paragraphs (b) and (c) above, in the event of damage or destruction covered by any contract of insurance under which the Port Authority is the insured, is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that if at any time because of this release the insurance carrier of any policy covering the premises or any part thereof shall increase the premiums otherwise payable for fire, extended coverage or rental coverage applicable to the premises; the Permittee shall pay to the Port Authority an amount equivalent to such increase or increases on demand; and provided, further, that if at any time this release shall invalidate any such policy of insurance or reduce, limit or void the rights of

STANDARD ENDORSEMENT NO. 6.4 (Page 1)

**CARE OF SPACE**

All Installations

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the Port Authority thereunder, or if because of this release, any such insurance carrier shall cancel any such policy or shall refuse to issue or renew the same or shall refuse to issue a policy with an endorsement thereon under which this release is permitted without prejudice to the interest of the insured or shall cancel such endorsement or refuse to renew the same or shall take any other action to alter, decrease or diminish the benefits of the Port Authority under the policy, then the release shall be void and of no effect. Nothing herein shall be construed to imply an obligation on the Port Authority to carry any such insurance policy or to obtain or keep in force any such endorsement.

(f) The Port Authority shall have no duty of repair or maintenance as to the Space or any fixtures, equipment or personal property which is located in or on the Space.

(g) The Permittee shall immediately clear all drainage and supply stoppages and partial blocks, in and in connection with any plumbing fixtures, equipment and system which are a part of or are located in or on the Space. All glass in windows and doors which are a part of or are located in or on the Space and which may be broken shall be replaced by the Permittee not later than five days after breakage or at any earlier date if so directed by the Port Authority and immediately if such replacement is necessary to protect the Space, any part thereof or any other property of the Port Authority against damage, loss or theft. The Permittee shall have no obligation under this paragraph where the condition is caused by the negligence of the Port Authority.

(h) The Permittee shall immediately notify the Port Authority if any portion or all of the Space or any of the said Port Authority fixtures, equipment or personal property is destroyed, damaged or in need of repair, regardless of the Permittee's responsibility therefor.

(i) Nothing herein contained shall relieve the Permittee of its obligations to secure the Port Authority's written approval before installing any fixtures in or upon or making any alterations, decorations, additions or improvements in the Space.

(j) In the event of a partial or total destruction of the Space, the Permittee shall immediately remove any and all of its property and debris from the Space or portion thereof destroyed.

STANDARD ENDORSEMENT NO. 6.4 (Page 2)

**CARE OF SPACE**

All Installations

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The Port Authority, by its officers, employees, representatives, contractors, licensees, and their employees, shall have the right for the benefit of the Port Authority, or the Permittee and/or for the benefit of others than the Permittee to maintain existing and future heating, water, gas, electricity, sewerage, drainage, fire protection sprinkler, ventilating, refrigerating, fuel and communication systems and other such service systems, including all tubes, pipes, lines, mains, wires, conduits and equipment on or about the Space and to enter upon the Space at all reasonable times and to make such repairs, replacements and 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, on, in or under the Space new tubes, pipes, lines, mains, wires, conduits and equipment, provided however, that the same shall be done so as to interfere as little as reasonably possible with the Permittee's operations.

Nothing contained in this Endorsement shall or shall be construed to impose upon the Port Authority any obligations so to maintain or to make repairs, replacements, alterations or additions or any liability for failure to do so.

**STANDARD ENDORSEMENT NO. 11.1**  
**MAINTENANCE OF SERVICE FACILITIES**  
All Facilities  
7/21/49

Except as specifically provided herein to the contrary, the Permittee shall not, by virtue of the issue and acceptance of this Permit, be released or discharged from any liabilities or obligations whatsoever under any other Port Authority permits or agreements including but not limited to any permits to make alterations.

In the event that any space or location covered by this Permit is the same as is or has been covered by another Port Authority permit or other agreement with the Permittee, then any liabilities or obligations which by the terms of such permit or agreement, or permits thereunder to make alterations, mature at the expiration or revocation or termination of said permit or agreement, shall be deemed to survive and to mature at the expiration or sooner termination or revocation of this Permit, insofar as such liabilities or obligations require the removal of property from and/or the restoration of the space or location.

STANDARD ENDORSEMENT NO. 14.1  
**DUTIES UNDER OTHER AGREEMENTS**  
All Facilities  
7/21/49

Whenever in this Permit, including all endorsements and exhibits thereto, the pronoun "it" or the adjective "its" may occur, referring to the Permittee, the said pronoun or adjective shall be deemed and taken to mean "it", "he", "him", "she", "her", "they", "them", or "its", "his", "her", "hers", "their", or "theirs", as the circumstances of the reference and the gender and number of the Permittee may require.

STANDARD ENDORSEMENT NO. 15.1

**USE OF PERSONAL PRONOUN**

All Facilities

7/21/49

The Permittee shall procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Permittee's operations at the Facility which may be necessary for the Permittee's operations thereat.

The Permittee shall pay all taxes, license, certification, permit and examination fees and excises which may be assessed, levied, exacted or imposed on its property or operation hereunder or on the gross receipts or income therefrom, and shall make all applications, reports and returns required in connection therewith.

The Permittee shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, rules, regulations, requirements, orders and directions which may pertain or apply to the Permittee's operations at the Facility.

The Permittee's obligations to comply with governmental requirements are provided herein for the purpose of assuring proper safeguards for the protection of persons and property at the Facility and are not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

STANDARD ENDORSEMENT NO. 17.1

**LAW COMPLIANCE**

All Facilities

8/29/49

“Port Authority Bus Terminal” or “Terminal” shall mean the building bounded by 40<sup>th</sup> and 41<sup>st</sup> Streets, 8<sup>th</sup> and 9<sup>th</sup> Avenues, in the City, County and State of New York and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof; all of which now constitutes the Port Authority Bus Terminal.

STANDARD ENDORSEMENT NO. 19.6

**Port Authority Bus Terminal**

02/09/89

## SPECIAL ENDORSEMENTS

1. Subject to and in accordance with all the terms and conditions of this Permit and the Endorsements annexed thereto, the Port Authority hereby grants the Permittee permission to use and occupy the space on the Main Concourse Level of the South Wing of the Facility shown in diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A", together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon (hereinafter sometimes referred to as the "Ticket Windows") and the space on the Main Concourse Level of the South Wing of the Facility shown in diagonal cross-hatching on said Exhibit A, together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon (hereinafter sometimes referred to as the "Office Space") (the Ticket Windows and the Office Space hereinafter collectively referred to as the "Space"). The Port Authority and the Permittee hereby acknowledge that the Space constitutes non-residential real property.

2. The Permittee shall use the Ticket Windows for the purposes of passenger ticket sales and for no other purposes whatsoever, and the Permittee shall use the Office Space as administrative and clerical offices in connection with the Permittee's operations conducted elsewhere at the Facility and for no other purposes whatsoever.

3. (a) The Permittee shall not install any equipment, improvement or fixtures in the Space or perform any construction work therein without the prior written approval of the Port Authority as to the design and type of unit to be installed as well as the method and manner of installation. To such end the Permittee, prior to the installation of any unit in the Space, shall submit to the Port Authority for its approval an Alteration Application in the form supplied by the Port Authority including such terms and conditions and such plans and specifications as the Port Authority may require setting forth in detail the design and type of unit proposed by the Permittee to be installed and the method and manner of the installation work to be performed by the Permittee to prepare and equip the Space for its operations therein. The Permittee shall be responsible at its sole cost and expense for the performance of the installation work. Any installation, placement or attachment made without the approval of the Port Authority and any such that does not continue to meet with the continuing approval of the Port Authority shall immediately be removed by the Permittee and in the event of the Permittee's failure to remove the same the Port Authority may do so at the Permittee's cost and expense. The Port Authority reserves the right to require the Permittee to obtain the approval of the Port Authority as to the time and manner of any maintenance, servicing and repair operations upon any of the Permittee's equipment, facilities, fixtures or property installed in, placed upon, or attached to the Space.

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

4. (a) The Permittee shall pay a monthly fee for the Ticket Windows as follows:

(i) During the period commencing on October 1, 2007 and continuing through September 30, 2008, both dates inclusive, in the amount of Three Thousand Eight Hundred Fifty-four Dollars and Sixty Cents (\$3,854.60), payable on October 1, 2007 and on the first day of each and every calendar month occurring during such period; and

(ii) During the period commencing on October 1, 2008 and continuing through December 31, 2008, both dates inclusive, in the amount of Three Thousand Nine Hundred Eighty-nine Dollars and Fifty-one Cents (\$3,989.51), payable on October 1, 2008 and on the first day of each and every calendar month occurring during such period; and

(iii) During the period commencing on January 1, 2009 and continuing through December 31, 2009, both dates inclusive, in the amount of Four Thousand Twenty-four Dollars and Forty-two Cents (\$4,024.42), payable on January 1, 2009 and on the first day of each and every calendar month occurring during such period; and

(iv) During the period commencing on January 1, 2010 and continuing through December 31, 2010, both dates inclusive, in the amount of Four Thousand One Hundred Sixty-five Dollars and Twenty-seven Cents (\$4,165.27), payable on January 1, 2010 and on the first day of each and every calendar month occurring during such period; and

(v) During the period commencing on January 1, 2011 and continuing through December 31, 2011, both dates inclusive, in the amount of Four Thousand Three Hundred Eleven Dollars and Six Cents (\$4,311.06), payable on January 1, 2011 and on the first of each and every calendar month occurring during such period; and

(vi) From and after January 1, 2012, in the amount of Four Thousand Four Hundred Sixty-one Dollars and Ninety-four Cents (\$4,461.94), payable on January 1, 2012 and on the first day of each and every calendar month occurring thereafter.

(b) In addition to the monthly fee for the Ticket Windows as set forth above in this Special Endorsement, the Permittee shall pay a monthly fee for the Office Space as follows:

(i) During the period commencing on October 1, 2007 and continuing through September 30, 2008, both dates inclusive, in the amount of Three Hundred Sixty-five Dollars and Eighty-five Cents (\$365.85), payable on October 1, 2007 and on the first day of each and every calendar month occurring during such period; and

(ii) During the period commencing on October 1, 2008 and continuing through December 31, 2008, both dates inclusive, in the amount of Three Hundred Seventy-eight Dollars and Sixty-five Cents (\$378.65), payable on October 1, 2008 and on the first day of each and every calendar month occurring during such period; and

(iii) During the period commencing on January 1, 2009 and continuing through December 31, 2009, both dates inclusive, in the amount of Three Hundred Eighty-one Dollars and Ninety-six Cents (\$381.96), payable on January 1, 2009 and on the first day of each and every calendar month occurring during such period; and

(iv) During the period commencing on January 1, 2010 and continuing through December 31, 2010, both dates inclusive, in the amount of Three Hundred Ninety-five Dollars and Thirty-three Cents (\$395.33), payable on January 1, 2010 and on the first day of each and every calendar month occurring during such period; and

(v) During the period commencing on January 1, 2011 and continuing through December 31, 2011, both dates inclusive, in the amount of Four Hundred Nine Dollars and Seventeen Cents (\$409.17), payable on January 1, 2011 and on the first of each and every calendar month occurring during such period; and

(vi) From and after January 1, 2012, in the amount of Four Hundred Twenty-three Dollars and Forty-nine Cents (\$423.49), payable on January 1, 2012 and on the first day of each and every calendar month occurring thereafter.

(c) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

5. (a) (i) The Port Authority will supply electricity to the Permittee at the Space on such days and during such hours as the Permittee conducts its operations at the Space, to the extent that the Permittee's consumption does not exceed the capacity of feeders, risers or wiring in the Space or the Facility, the Permittee's consumption and demand for such electricity to be measured by a meter or meters installed by the Port Authority. From and after the Effective Date hereof, the Permittee shall take the same and pay at the greater of: (i) the rates (including the fuel or other adjustment factor) which the Permittee at the time of such purchase and under the service classification then applicable to it would have to pay for the same quantity of electricity to be used for the same purposes under the same conditions if it received the electricity directly from the public utility supplying the same to commercial buildings in the vicinity; or (ii) the Port Authority's cost of obtaining and supplying the same quantity of electricity. In the event any meter is out of service or fails to record the consumption and demand for electricity by the Permittee, the Permittee's consumption and demand for electricity will be considered to be the same as its consumption and demand for a like period as measured by such meter, either immediately before or immediately after such interruption or failure of a meter, which period shall be selected by the Port Authority. The Permittee shall pay the amount as so determined for each such billing period to the Port Authority upon demand therefor and the same shall be deemed an additional fee collectible in the same manner and with like remedies as if it were a part of the Basic Fee reserved hereunder.

(ii) Notwithstanding that the Port Authority has agreed to supply electricity to the Permittee, the Port Authority shall be under no obligation to provide or continue such service if the Port Authority is prevented by law, agreement or otherwise from metering or measuring consumption and demand as hereinabove set forth or elects not to so meter or measure the same, and in any such event the Permittee shall make all arrangements and conversions necessary to obtain electricity directly from the public utility. Also in such event, the Permittee shall perform the construction necessary for conversion and if any lines or equipment of the Port Authority are with the consent of the Port Authority used therefor the Port Authority may make an appropriate charge therefor to the Permittee based on its costs and expenses for the said lines and equipment.

(b) Without limiting the generality of rights of entry upon the Space elsewhere in this Permit reserved to the Port Authority, the Port Authority shall have, for itself, its officers, employees, representatives, contractors and subcontractors, the right to enter upon the Space at all times to construct, install, maintain, replace, repair or improve the air-cooling system or any part thereof providing service for the part of the Facility in which any portion of the Space

is located. Air-cooling shall be furnished subject to all the provisions of this Permit and in accordance with the following:

(1) If the air-cooling in or on the Space can be controlled by mechanisms within the Space, the Permittee shall shut off the air-cooling before closing and leaving the Space at any time for any period. The Port Authority shall have the rights of entry specified in Section 9 of the Terms and Conditions hereof for the purpose of observing the Permittee's compliance with the provisions hereof and the Port Authority may lock, seal or install any timing device on or in connection with any air-cooling control mechanism so as to provide that the Space shall only be air-cooled during the hours and days stipulated hereunder.

(2) If the Permittee, in accordance with Standard Endorsement 6.4 hereof or otherwise, erects any partitions or makes any improvements, which partitions or improvements stop, hinder, obstruct or interfere with the cooling of the air or the heating of the Space, then no such action by the Permittee shall impose any obligation on the Port Authority to install facilities, fixtures or equipment for air-cooling or for heating additional to those presently existing or presently contemplated or to increase the capacity or output of existing or presently contemplated facilities, equipment or fixtures, and the Permittee shall not in any such event be relieved of any of its obligations hereunder because a comfortable temperature is not maintained. No consent or approval given by the Port Authority in connection with the erection of partitions or the making of any improvements shall be or be deemed to be a representation that the work consented to or approved will not stop, hinder, obstruct or interfere with either the cooling of the air or heating of the Space or any portion thereof. It is hereby understood further that the installation by the Permittee of any equipment which itself requires air-cooling or which requires additional quantities of air-cooling shall not impose any obligation on the Port Authority to increase the capacity or output of initially existing facilities, equipment or fixtures for the cooling of the air or the heating of the Space and the Permittee shall not in any such event be relieved of any of its obligations hereunder.

(c) The Port Authority shall, without additional charge to the Permittee, furnish to the Permittee in the enclosed portion of the Space heat, to an even and comfortable temperature during the months of November to April, inclusive, occurring the period of permission granted hereunder.

(d) The Port Authority shall have no obligations or responsibility with respect to the performance of any services or providing, supplying or furnishing to the Permittee of any utilities or services whatsoever except as expressly provided in this Special Endorsement. Without limiting the generality of any other provisions of this Permit, or the Rules and Regulations of the Port Authority referred to herein, the Permittee shall not retain any contractor for the performance of any cleaning, janitorial or maintenance work in the Space without the prior written consent of the Port Authority.

(e) If any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, makes or increases any charge, fee or rent on the Port Authority for any service, system or utility now or in the future applied to or available to the Space or to any occupants or users thereof or to the structure or building of which the premises form a part (including but not limited to any sewer rent or charge for the use of sewer systems), the Permittee shall, at the option of the Port Authority exercised at any time and from time to time by notice to the Permittee, pay, in accordance with said notice, such charge, fee or rent or increase thereof (or the portion thereof allocated by the Port Authority to the Space or the Permittee's operations hereunder) either directly to the governmental body, authority or agency or to the public utility or directly to the Port Authority.

(f) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee where such service is to be metered, the Port Authority shall be under no obligation to provide or continue any such service if the Port Authority is prevented by law from submetering such service or has agreed with the supplier of such service not to submeter such service.

(g) The Port Authority shall have the right to temporarily discontinue the supply of any of the above services when necessary or desirable in the opinion of the Port Authority in order to make any repairs, alterations, changes or improvements in the Space or elsewhere in the building of which the Space forms a part including all systems for the supply of services.

(h) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee, the Port Authority shall be under no obligation to supply any such service 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. If by operation of this subdivision or the previous subdivision any service for which the Permittee has agreed to pay a flat sum is discontinued for any period during the effective period of the permission granted hereunder, the Permittee shall be relieved of its obligation to pay for such service for any such period or if any such service is supplied during fewer hours or in lesser amounts than agreed during any period during the effective period of the permission granted hereunder, the Permittee shall be relieved proportionately of its obligation to pay for any such service for any such period.

(i) No failure, delay or interruption in any of the above services shall be or shall be construed to be an eviction of the Permittee, shall be grounds for any diminution or abatement of the fees payable hereunder, or shall constitute grounds for any claim by the Permittee for damages, consequential or otherwise, unless due to the negligence of the Port Authority, its employees or agents. The Permittee shall not be entitled to receive any of the above services during any period during which the Permittee wastes any of the services or is in default under any of the provisions of this Permit.

6. The provisions of Section 19 of the Terms and Conditions of this Permit shall survive the expiration or the earlier revocation of the permission hereunder granted. Neither the receipt of any sum as damages pursuant to the provisions of said Section, nor any other act taken by the Port Authority pursuant to the provisions thereof in apparent affirmation of the Permittee's use and occupancy of the Space for any period beyond the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted shall or shall be deemed to grant the Permittee a right to remain in occupancy of the Space after the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted, or shall or shall be deemed to be a waiver by the Port Authority of or a limitation of the Port Authority's right to exercise any remedy available to it under this Permit or otherwise at law or in equity, to obtain possession of the Space should the Permittee fail to terminate its occupancy thereof and to deliver actual, physical possession thereof to the Port Authority on or before the Expiration Date or the earlier revocation of the permission hereunder granted, including without limitation the right to terminate this Permit pursuant to the terms hereof, and the right to institute summary proceedings.

7. (a) The Permittee shall not, on the grounds of race, creed, color, sex or national origin, discriminate or permit discrimination against any person or person in its selling

of merchandise or rendering of services hereunder or in its employment practices and procedures or in any of its operations or activities under or in connection with this Permit.

(b) Without limiting the generality of any other provision of this Permit, the Permittee shall not keep, maintain, place or install in the Space any fixtures or equipment the use of which is not consistent with and required for the purposes of this Permit and the Permittee shall not use or connect any equipment or engage in any activity or operation in the Space which will cause or tend to cause an overloading of the capacity of any existing or future utility, mechanical, electrical, communications or other systems or portions thereof on the Space or elsewhere at the Facility nor shall the Permittee do or permit to be done anything which may interfere with the effectiveness or accessibility thereof.

(c) The Permittee shall not overload any floor, roadway, passageway, pavement or other surface or any wall, partition, column or other supporting member or any elevator or other conveyance in the Space or at the Facility and, without limiting any other provision of this Permit, the Permittee shall repair, replace or rebuild any such as may be damaged by overloading.

(d) Subject to and in accordance with the provisions of Section 8 of the Terms and Conditions hereof, the Permittee shall make any and all improvements, alterations or repairs of the Space that may be required at any time hereafter by any present or future governmental law, rule, regulation, requirement, order or direction or by any present or future rule, regulation, requirement, order or direction of the National Fire Protection Association and the New York Fire Insurance Rating Organization, and of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Permittee on the Space.

8. The Port Authority shall not be liable to the Permittee or others for any personal injury, death or property damage from falling material, water, rain, hail, snow, gas, steam, dampness, explosion, smoke, radiation and/or electricity whether the same may leak into or fall, issue or flow from any part of the Space or of the Facility including, without limitation thereto, any utility, mechanical, electrical, communications or other systems therein or from any other place or quarter unless said damage, injury or death shall be due to the negligent acts of the Port Authority, its employees or agents.

9. Such provisions of this Permit as apply to the rights and obligations of the parties hereto upon the expiration of the permission granted by this Permit shall apply to the rights and obligations of the parties hereto upon the revocation of the said permission.

10. (a) During the effective period of the permission granted under this Permit, the Permittee shall not give or agree to give anything of value either to a Port Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority of duties involving transactions with the Permittee on behalf of the Port Authority whether or not such duties are related to this Permit or any other Port Authority lease, contract or matter. Any such conduct shall be deemed a material breach of this Permit.

(b) As used herein, "anything of value" shall include, but not be limited to, any (i) favors, such as meals, entertainment, transportation (other than that contemplated by this Permit or any other Port Authority lease or contract), etc., which might tend

to obligate the Port Authority employee to the Permittee, or (ii) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Permit or any other Port Authority lease or contract.

(c) In addition, during the effective period of the permission granted under this Permit, the Permittee shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated as of April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Port Authority).

(d) The Permittee shall include the provisions of this paragraph in each contract or subcontract entered into under and pursuant to the provisions of this Permit.

(e) The Permittee certifies that it has not made any offers or agreements or given or agreed to give anything of value (as defined in this paragraph) or taken any other action with respect to any Port Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated as of April 11, 1996 referred to in this paragraph nor does the Permittee have any knowledge of any act on the part of a Port Authority employee or former Port Authority employee relating either directly or indirectly to the Permittee which constitutes a breach of the ethical standards set forth in said Code.

11. Without limiting any other right of revocation or termination set forth in this Permit, the Port Authority may at any time and from time to time, in connection with a program of seismic and security related improvements, revoke the permission granted hereunder as to the Space on thirty (30) days' prior notice to the Permittee and may at any time and from time to time require the Permittee to relocate, temporarily or permanently, partially or entirely, to a different location within the Facility of comparable size to the Space and the Permittee agrees that it shall comply promptly at its own expense with any such direction or requirement from the Port Authority and to execute, upon receipt from the Port Authority, whatever amendments or other instruments as may be required to correctly reflect the foregoing. The Permittee shall leave the vacated area in the condition required under this Permit in the case of expiration and all obligations with respect to the vacated area which would have matured on the effective date of expiration of the Permit shall mature as to the vacated area on the required date of relocation hereunder. In the event of relocation, the Permittee shall promptly remove all property from the affected area. In the event the Permittee fails to immediately relocate to such new location, the Port Authority shall have the right to do so at the risk of the Permittee, and the Permittee shall pay the Port Authority the expense thereof on demand. Without in any way limiting any other right of entry set forth in this Permit, the Port Authority at any time and from time to time, shall also have the right to enter upon the Space to perform construction work related to such seismic and security program.

Initialed:

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

  
\_\_\_\_\_  
For the Permittee

**INSURANCE SCHEDULE**

(a) The Permittee named in the permit to which this Insurance Schedule is attached and of which it constitutes an integral part (the “Permit”), in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of the Permit on a policy or policies of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, 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:

	<u>Minimum Limits</u>
Commercial General Liability Insurance	
Combined single limit per occurrence for death, bodily injury and property damage liability:	\$2,000,000.00
Workers’ Compensation and Employers Liability Insurance	
Permittee’s obligations under the applicable State Workers’ Compensation Law for those employees of the Permittee employed in operations conducted pursuant to the Permit at or from the Airport:	Statutory

In the event the Permittee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers’ Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of the Permit, including without limitation this Insurance Schedule.

(b) Each policy of insurance, except for the Workers’ Compensation and Employers Liability Insurance policies, shall also contain an ISO standard “separation of insureds” clause or a cross liability endorsement providing that the protections afforded the Permittee thereunder with respect to any claim or action against the Permittee by a third person shall pertain and apply with like effect with respect to any claim or action against the Permittee by the Port Authority and any claim or action against the Port Authority by the Permittee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Permittee under Section 7 of the Terms and Conditions of the Permit.

(c) All insurance coverages and policies required under this Insurance Schedule 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 of permission under the Permit. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the above-scheduled insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Permittee shall promptly comply therewith.

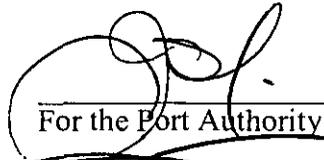
(d) Each policy shall contain a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days’ written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer

“shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.” The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of the Permit by the Permittee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance delivered to the Port Authority at least seven (7) days prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the Permit. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Permittee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Permittee under the Permit. The foregoing insurance requirements shall not constitute a representation or warranty as to the adequacy of the required coverage to protect the Permittee with respect to the obligations imposed on the Permittee by the Permit or any other agreement or by law.

Initialed:

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

  
\_\_\_\_\_  
For the Permittee

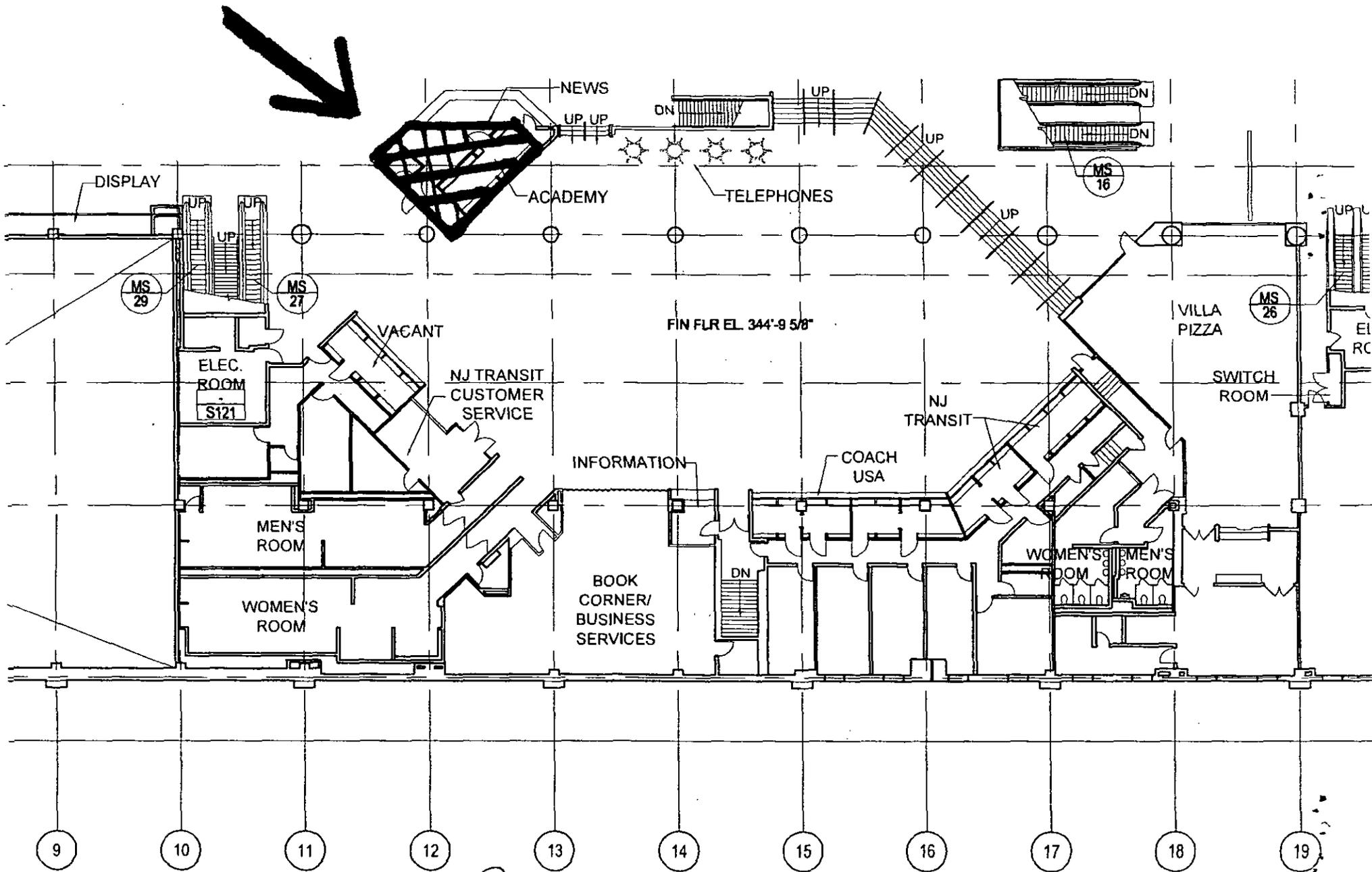


Exhibit A  
 BT-ACD-BTW-017  
 February 26, 2008

40th STREET

*[Handwritten Signature]*  
 For the Port Authority  
 For the Permittee

:This Space for Port Authority Use Only :

:Permit Number: BT-ACD-BTW-019 :

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
225 Park Avenue South  
New York, New York 10003

**PORT AUTHORITY BUS TERMINAL  
SPACE PERMIT**

The Port Authority of New York and New Jersey (herein called the "Port Authority") hereby grants to the Permittee hereinafter named permission to use and occupy the following described space (hereinafter referred to as the "Space") at the Port Authority Bus Terminal (hereafter sometimes called the "Facility") for the purposes hereinafter specified and all purposes incidental thereto in accordance with the Terms and Conditions hereof; and said Permittee agrees to pay the fee or fees hereinafter specified and to perform all other obligations imposed upon it in said Terms and Conditions.

1. PERMITTEE: ACADEMY LINES, L.L.C., a New Jersey limited liability company
2. PERMITTEE'S ADDRESS: 111 Paterson Avenue  
Hoboken, New Jersey 07030
3. PERMITTEE'S REPRESENTATIVE: Tom Scullin
4. SPACE: Per Special Endorsement No. 1.
5. PURPOSES: Per Special Endorsement No. 2.
6. FEES: Per Special Endorsement No. 4.
7. EFFECTIVE DATE: October 1, 2007
8. EXPIRATION DATE: December 31, 2012, unless sooner revoked or terminated as provided in this Permit.
9. ENDORSEMENTS ANNEXED AT TIME OF ISSUANCE: 6.4, 11.1, 14.1, 15.1, 17.1, 19.6, Special, Insurance Schedule and Exhibit A.

Dated: As of September 30, 2007

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

By 

Name ~~FR~~ Cedrick T. Fusch  
(Please Print Clearly)

(Title) Deputy Director

**ACADEMY LINES, L.L.C., Permittee**

By 

Name Francis Tedesco  
(Please Print Clearly)

(Title) Manager/Member

Port Authority Use Only	
Approval as to Terms:	Approval as to Form:
<u></u>	<u>NR</u>

NHR/ALQ

TERMS AND CONDITIONS

1. Certain Definitions:

(a) “**Effective Date**” shall mean the date designated as the “Effective Date” in Item 7 on the cover page of this Permit.

(b) “**Executive Director**” shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(c) “**Expiration Date**” shall mean the date designated as the “Expiration Date” in Item 8 on the cover page of this Permit.

(d) “**Facility**” shall have the meaning set forth in the granting clause on the cover page of this Permit.

(e) “**Hazardous Substance**” shall mean 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, endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(f) “**Manager of the Facility**” shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said Manager by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Manager (or temporary or Acting Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

(g) “**Permittee’s Representative**” shall mean the individual named in Item 3 on the cover page of this Permit or such other individual as the Permittee may designate by notice in accordance with the provisions of Section 18 below, entitled “Notices”.

2. Effectiveness:

(a) The permission granted by this Permit shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days’ prior notice, and terminated by the Permittee without cause upon thirty (30) days’ prior notice; provided, however, that it may be revoked on twenty-four (24) hours’ notice if the Permittee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Permit, including without limitation the obligation to pay fees. Further, in the event the Port Authority exercises its right to

revoke or terminate this Permit for any reason other than "without cause", the Permittee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space which may be used and occupied under this Permit (on failure of the Permittee to have it restored), preparing such space for use by a succeeding permittee, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the space in order (such as but not limited to cleaning and decorating the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this Permit or a waiver of any other rights or remedies which may be available to the Port Authority under this Permit or otherwise.

3. Use of Space by Permittee:

(a) The Space shall be used, pursuant to the permission hereby granted,

(i) if the Permittee is a corporation, by the Permittee acting only through the medium of its officers and employees,

(ii) if the Permittee is an unincorporated association, or a "Massachusetts" or business trust, by the Permittee acting only through the medium of its members, trustees, officers and employees,

(iii) if the Permittee is a partnership, by the Permittee acting only through the medium of its general partners and employees, or

(iv) if the Permittee is an individual, by the Permittee acting only personally or through the medium of his employees; or

(v) if the Permittee is a limited liability company, by the Permittee acting only through the medium of its members, managers and employees;

and the Permittee shall not, without the written approval of the Port Authority, use the Space through the medium of any other person, corporation or legal entity. The Permittee shall not assign or transfer this Permit or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this Permit to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Permittee shall be the joint and several obligation of each such individual or other legal entity.

(b) The Permittee's Representative specified in Item 3 of the cover page of this Permit (or such substitute as the Permittee may hereafter designate in writing) shall have full

authority to act for the Permittee in connection with this Permit and any act or things done or to be done hereunder, and to execute on the Permittee's behalf any amendments or supplements to this Permit or any extension hereof and to give and receive notices hereunder.

(c) This Permit shall not constitute the Permittee the agent or representative of the Port Authority for any purpose whatsoever.

(d) The Permittee hereby agrees that it will not carry on any business or operation in the Space or at the Facility other than as specifically provided herein without receiving the prior written consent of the Port Authority, which consent, if given, will be in the form of a Supplement hereto or a separate agreement with the Port Authority, which consent will specify whether the provisions regarding fees contained herein or any other provisions regarding fees shall apply thereto.

4. Condition of Space:

(a) The Permittee hereby acknowledges that prior to the execution of this Permit it has thoroughly examined and inspected the Space and has found the Space in good order and repair and has determined the Space to be suitable for the Permittee's operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Permittee for the purposes contemplated herein. The Permittee agrees to and shall take the Space in its "as is" condition and the Port Authority shall have no obligation hereunder for preparation of the Space for the Permittee's use. The Permittee agrees that no portion of the Space will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property and the Permittee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) Except to the extent required for the performance of any of the obligations of the Permittee under this Permit, nothing contained in this Permit shall grant to the Permittee any rights whatsoever in the air space above the height of the structures located on the Space as of the Effective Date hereof.

(c) The parties to this Permit hereby acknowledge that the Space is non-residential real estate.

5. Payment of Fees:

(a) Unless otherwise expressly provided in this Permit, the Permittee shall pay to the Port Authority a fee for its use and occupancy of the Space. The fee specified is a monthly fee, payable in advance on the Effective Date and on the first day of each and every calendar month thereafter.

(b) Payments made hereunder shall be sent to the following address:

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

or made via the following wire transfer instructions:

Bank: Commerce Bank  
Bank ABA Number: 031201360  
Account Number: Ex. 1

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by notice to the Permittee.

(c) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

(d) Upon execution of this Permit by the Permittee, the Permittee shall pay to the Port Authority all unpaid fees and other monies due and payable under this Permit as of the date of execution.

6. Late and Service Charges:

(a) If the Permittee should fail to pay any amount required under this Permit when due to the Port Authority or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this Permit. 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. 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 Permit, including without limitation the Port Authority's rights set forth in Section 2 hereof or (ii) any obligations of the Permittee under this Permit. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Permit shall be payable instead at such legal maximum.

(b) (i) The Permittee shall permit and/or cause to be permitted in ordinary business hours during the effective period of this Permit and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Permittee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be

relevant in connection with the Permittee's use and occupancy of the Space as permitted hereunder within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

(ii) In the event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority by the Permittee (the "**Audit Findings**"), the Permittee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Permittee under this Permit or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Permit with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Permit, including, without limitation, the Port Authority's rights to revoke this Permit or (ii) any obligations of the Permittee under this Permit.

7. Security Deposit: If the Permittee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Permittee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Permittee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any deposit pursuant thereto also shall be deemed obligations of the Permittee under this Permit and as security hereunder as well as under any such other agreement and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby 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.

8. Indemnification of Port Authority:

(a) The Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal costs and 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 of the operations, acts or omissions of the Permittee hereunder.

(b) The Permittee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any way connected with this Permit. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Permittee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or

arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Permittee under or in any way connected with this Permit.

(c) If so directed, the Permittee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal, the immunity of the Port Authority, its governmental nature or the provisions of any statutes respecting the Port Authority.

(d) In the event of any injury or death to any person (other than employees of the Permittee) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, or damage to any property (other than the Permittee's property) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, the Permittee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Permittee's insurance carrier.

9. Right of Entry Reserved: The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Space and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

10. Rules and Regulations: The Permittee shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of this Permit, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Permittee of every rule and regulation hereafter adopted by it at least five (5) days before the Permittee shall be required to comply therewith.

11. Conduct of Operations:

(a) The Permittee shall immediately comply with all orders, directives and procedures as may be issued by the Manager of the Facility covering the operations of the Permittee under this Permit at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder.

(b) The Permittee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(c) Unless otherwise expressly provided, the Permittee shall not install any vending machines or similar devices in the Space or use the Space (or permit it to be used) for the sale to its employees or to the public of any of the following goods and services: beverages, food, candy, gum, ice cream or ice cream products, tobacco or tobacco products, periodicals, books, drugs, toys, games, souvenirs, jewelry, novelties, clothing, flowers, sporting or photographic goods, toilet articles, theatre tickets, shoe shines, pressing and cleaning, developing and printing of photographs and films or baggage-checking. The specificity of the foregoing

enumeration of disallowed activities shall not be deemed to infer that any particular activities not so enumerated are permitted under this Permit.

(d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Space without the written approval of the Manager of the Facility; and any not approved by him may be removed by the Port Authority at the expense of the Permittee. The Permittee shall not display, or permit the display of, advertising of third parties in the Space.

(e) The Permittee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

(f) The operations of the Permittee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Permittee shall provide and its employees shall wear or carry badges or other suitable means of identification which shall be subject to the approval of the Manager. The Port Authority shall have the right to object to the Permittee as to the demeanor, conduct and appearance of the Permittee's employees, invitees and those doing business with it, whereupon the Permittee will take all steps necessary to remove the cause of the objection.

(g) The Permittee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Permittee. The receptacles shall be kept covered except when filling or emptying the same. The Permittee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

(h) The Permittee shall at all times maintain the Space in a clean and orderly condition and appearance.

12. Permittee Property:

(a) The personal property placed or installed by the Permittee in the Space shall remain the property of the Permittee and must be removed on or before the Expiration Date or on or before the revocation or termination of the permission hereby granted, whichever shall be earlier.

(b) If the Permittee shall fail to remove its property upon the expiration, termination or revocation hereof, the Port Authority may, at its option, as agent for the Permittee and at the Permittee's risk and expense, remove such property to a public warehouse for deposit or retain the same in its own possession and after the expiration of thirty (30) days sell the same at public auction, the proceeds of which shall be applied first to the expenses of sale, second to

any sums owed by the Permittee to the Port Authority, and any balance remaining shall be paid to the Permittee, or may take such other action as may be necessary or desirable. Any excess of the total cost of removal, storage and sale over the proceeds of sale shall be paid by the Permittee to the Port Authority upon demand.

13. Prohibited Acts:

(a) The Permittee 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 New York Board of Fire Underwriters and the New York Fire Insurance Exchange, and any other body or organization exercising similar functions which may pertain or apply to the Permittee's operations hereunder. If by reason of the Permittee's failure to comply with the provisions of this Section, any fire insurance, extended coverage or rental insurance rate on the Facility or any part thereof or upon the contents of any building thereon shall at any time be higher than it otherwise would be, then the Permittee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been charged because of such violation by the Permittee.

(b) The Permittee shall not do or permit to be done any act which

(i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or

(ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or

(iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this Permit, or

(iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or

(v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or

(vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.

(c) For purposes of this Section, "Facility" includes all structures located thereon.

14. Specifically Prohibited Activities:

(c) The Permittee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.

(d) The Permittee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Permittee (or permitted by the Permittee to be disposed of, released or discharged) on the Facility shall upon notice by the Port Authority to the Permittee be completely removed and/or remediated by the Permittee at its sole cost and expense.

(e) The Permittee shall not operate any engine or any item of automotive equipment in the Space without adequate ventilation.

(f) The Permittee shall not use any cleaning materials having a harmful or corrosive effect in the Space.

(g) The Permittee shall not fuel or defuel any equipment in the Space or elsewhere at the Facility without the prior approval of the Manager of the Facility except in accordance with Port Authority rules and regulations.

(h) The Permittee shall not start or operate any engine or any item of automotive equipment in the Space unless such space is adequately ventilated and unless such engine is equipped with a proper spark-arresting device.

(i) The Permittee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

15. Labor Disturbances:

(a) (i) The Permittee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Permittee under this Permit.

(ii) The Permittee shall immediately give notice to the Port Authority (to be followed by written notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Permittee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

(b) If any type of strike or other labor activity is directed against the Permittee at the Facility or against any operations pursuant to this Permit resulting in picketing or boycott for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority, adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Permittee, and whether caused by the employees of the Permittee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' notice, revoke this Permit, effective at the time specified in the notice. Revocation shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation.

16. Notices: A bill or statement may be rendered or any notice or communication which the Port Authority may desire to give the Permittee shall be deemed sufficiently rendered

or given if the same be in writing and sent by registered or certified mail addressed to the Permittee at the address specified on the cover page hereof or at the latest address that the Permittee may substitute therefor by notice to the Port Authority, or left at such address, or delivered to the Permittee's Representative, and the time of rendition of such bill or statement and of the giving of such notice or communication shall be deemed to be the time when the same is mailed, left or delivered as herein provided. Any notice from the Permittee to the Port Authority shall be validly given if sent by registered or certified mail addressed to the Executive Director of the Port Authority at 225 Park Avenue South, New York, New York 10003 or at such other address as the Port Authority shall hereafter designate by notice to the Permittee.

17. No Broker: The Permittee represents and warrants that no broker has been concerned in the negotiation or execution of this Permit and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Permittee shall indemnify the Port Authority and save it harmless from any and all claims which have been or which may be made by any and all persons, firms, or corporations whatsoever for services in connection with the negotiation and execution of this Permit or in connection with any permission to use the Space.

18. Waiver of Trial by Jury: The Permittee hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Permittee in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Permit. The Permittee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Permittee.

19. Effect of Use and Occupancy after Expiration, Revocation or Termination: Without in any way limiting any other provision of this Permit, unless otherwise notified by the Port Authority in writing, in the event the Permittee continues its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit, as such effective period of permission may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Permit or other remedies the Port Authority may have by law or otherwise, the Permittee shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such revocation or termination and ending on the date that the Permittee shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Permittee any right to continue its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit. The Permittee acknowledges that the failure of the Permittee to surrender, vacate and yield up the Space to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Permittee 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 Permittee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

20. No Personal Liability: No Commissioner, officer, agent or employee of the Port Authority shall be charged personally by the Permittee with any liability, or held liable to it,

under any term or provision of this Permit, or because of its execution or attempted execution, or because of any breach hereof.

21. No Waiver: No failure by the Port Authority to insist upon the strict performance of any agreement, term, covenant or condition of this Permit or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this Permit during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this Permit to be performed or complied with by the Permittee, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the Port Authority. No waiver by the Port Authority of any default or breach on the part of the Permittee in performance of any agreement, term, covenant or condition of this Permit shall affect or alter this Permit but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

22. Construction and Application of Terms:

(a) The use of headings in this Permit is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

(b) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Permit or any amendments, addendums or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

(c) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

(d) To the extent that any provisions of this Permit are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

23. Entire Agreement: This Permit, including the cover page, the Terms and Conditions and the attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on behalf of the parties and attached hereto. The Permittee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

(a) The Permittee shall at all times keep the Space in a clean and orderly condition and appearance, together with all fixtures, equipment and personal property of the Permittee and of the Port Authority located in or on the Space, including without limitation thereto the interior surface of windows and both sides of all entrance doors.

(b) The Permittee shall repair, replace, rebuild and paint all or any part of the Space or of the Facility which may be damaged or destroyed by the acts or omissions of the Permittee, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees or other persons who are doing business with the Permittee who are on or at the Space or the Facility with the consent of the Permittee.

(c) The Permittee shall take good care of the Space, including therein, without limitation thereto, walls, partitions, floors, ceilings, doors and columns, and all parts thereof, and all equipment and fixtures, and shall do all preventive maintenance and make all necessary non-structural repairs, replacements, rebuilding and painting necessary to keep the Space in the condition existing on the effective date and to keep any improvements, additions and fixtures made or installed during the effective period of this Agreement in the condition they were in when made or installed except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the building or adversely affect the efficient or proper utilization or the appearance of any part of the Space.

(d) In the event the Permittee fails to commence so to make or do any repair, replacement, rebuilding or painting required by this Agreement within a period of ten (10) days after notice from the Port Authority so to do, or fails diligently to continue to completion the repair, replacement, rebuilding or Painting of all the premises required to be repaired, replaced, rebuilt or painted by the Permittee under the terms of this Agreement, the Port Authority may, at its option, and in addition to any other remedies which may be available to it, repair, replace, rebuild or paint all or any part of the Space included in the said notice, the Port Authority's cost thereof to be paid by the Permittee on demand. This option or the exercise thereof shall not be deemed to create or imply any obligation or duty to the Permittee or others.

(e) The obligation of the Permittee as set forth in paragraphs (b) and (c) above, in the event of damage or destruction covered by any contract of insurance under which the Port Authority is the insured, is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that if at any time because of this release the insurance carrier of any policy covering the premises or any part thereof shall increase the premiums otherwise payable for fire, extended coverage or rental coverage applicable to the premises; the Permittee shall pay to the Port Authority an amount equivalent to such increase or increases on demand; and provided, further, that if at any time this release shall invalidate any such policy of insurance or reduce, limit or void the rights of

STANDARD ENDORSEMENT NO. 6.4 (Page 1)

**CARE OF SPACE**

All Installations

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the Port Authority thereunder, or if because of this release, any such insurance carrier shall cancel any such policy or shall refuse to issue or renew the same or shall refuse to issue a policy with an endorsement thereon under which this release is permitted without prejudice to the interest of the insured or shall cancel such endorsement or refuse to renew the same or shall take any other action to alter, decrease or diminish the benefits of the Port Authority under the policy, then the release shall be void and of no effect. Nothing herein shall be construed to imply an obligation on the Port Authority to carry any such insurance policy or to obtain or keep in force any such endorsement.

(f) The Port Authority shall have no duty of repair or maintenance as to the Space or any fixtures, equipment or personal property which is located in or on the Space.

(g) The Permittee shall immediately clear all drainage and supply stoppages and partial blocks, in and in connection with any plumbing fixtures, equipment and system which are a part of or are located in or on the Space. All glass in windows and doors which are a part of or are located in or on the Space and which may be broken shall be replaced by the Permittee not later than five days after breakage or at any earlier date if so directed by the Port Authority and immediately if such replacement is necessary to protect the Space, any part thereof or any other property of the Port Authority against damage, loss or theft. The Permittee shall have no obligation under this paragraph where the condition is caused by the negligence of the Port Authority.

(h) The Permittee shall immediately notify the Port Authority if any portion or all of the Space or any of the said Port Authority fixtures, equipment or personal property is destroyed, damaged or in need of repair, regardless of the Permittee's responsibility therefor.

(i) Nothing herein contained shall relieve the Permittee of its obligations to secure the Port Authority's written approval before installing any fixtures in or upon or making any alterations, decorations, additions or improvements in the Space.

(j) In the event of a partial or total destruction of the Space, the Permittee shall immediately remove any and all of its property and debris from the Space or portion thereof destroyed.

STANDARD ENDORSEMENT NO. 6.4 (Page 2)

**CARE OF SPACE**

All Installations

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The Port Authority, by its officers, employees, representatives, contractors, licensees, and their employees, shall have the right for the benefit of the Port Authority, or the Permittee and/or for the benefit of others than the Permittee to maintain existing and future heating, water, gas, electricity, sewerage, drainage, fire protection sprinkler, ventilating, refrigerating, fuel and communication systems and other such service systems, including all tubes, pipes, lines, mains, wires, conduits and equipment on or about the Space and to enter upon the Space at all reasonable times and to make such repairs, replacements and 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, on, in or under the Space new tubes, pipes, lines, mains, wires, conduits and equipment, provided however, that the same shall be done so as to interfere as little as reasonably possible with the Permittee's operations.

Nothing contained in this Endorsement shall or shall be construed to impose upon the Port Authority any obligations so to maintain or to make repairs, replacements, alterations or additions or any liability for failure to do so.

STANDARD ENDORSEMENT NO. 11.1  
**MAINTENANCE OF SERVICE FACILITIES**  
All Facilities  
7/21/49

Except as specifically provided herein to the contrary, the Permittee shall not, by virtue of the issue and acceptance of this Permit, be released or discharged from any liabilities or obligations whatsoever under any other Port Authority permits or agreements including but not limited to any permits to make alterations.

In the event that any space or location covered by this Permit is the same as is or has been covered by another Port Authority permit or other agreement with the Permittee, then any liabilities or obligations which by the terms of such permit or agreement, or permits thereunder to make alterations, mature at the expiration or revocation or termination of said permit or agreement, shall be deemed to survive and to mature at the expiration or sooner termination or revocation of this Permit, insofar as such liabilities or obligations require the removal of property from and/or the restoration of the space or location.

STANDARD ENDORSEMENT NO. 14.1  
**DUTIES UNDER OTHER AGREEMENTS**  
All Facilities  
7/21/49

Whenever in this Permit, including all endorsements and exhibits thereto, the pronoun "it" or the adjective "its" may occur, referring to the Permittee, the said pronoun or adjective shall be deemed and taken to mean "it", "he", "him", "she", "her", "they", "them", or "its", "his", "her", "hers", "their", or "theirs", as the circumstances of the reference and the gender and number of the Permittee may require.

STANDARD ENDORSEMENT NO. 15.1

**USE OF PERSONAL PRONOUN**

All Facilities

7/21/49

The Permittee shall procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Permittee's operations at the Facility which may be necessary for the Permittee's operations thereat.

The Permittee shall pay all taxes, license, certification, permit and examination fees and excises which may be assessed, levied, exacted or imposed on its property or operation hereunder or on the gross receipts or income therefrom, and shall make all applications, reports and returns required in connection therewith.

The Permittee shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, rules, regulations, requirements, orders and directions which may pertain or apply to the Permittee's operations at the Facility.

The Permittee's obligations to comply with governmental requirements are provided herein for the purpose of assuring proper safeguards for the protection of persons and property at the Facility and are not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

STANDARD ENDORSEMENT NO. 17.1

**LAW COMPLIANCE**

All Facilities

8/29/49

“Port Authority Bus Terminal” or “Terminal” shall mean the building bounded by 40<sup>th</sup> and 41<sup>st</sup> Streets, 8<sup>th</sup> and 9<sup>th</sup> Avenues, in the City, County and State of New York and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof; all of which now constitutes the Port Authority Bus Terminal.

STANDARD ENDORSEMENT NO. 19.6

**Port Authority Bus Terminal**

02/09/89

## SPECIAL ENDORSEMENTS

1. Subject to and in accordance with all the terms and conditions of this Permit and the Endorsements annexed thereto, the Port Authority hereby grants the Permittee permission to use and occupy the space on the Lower Level of the North Wing of the Facility shown in diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A", together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon (hereinafter sometimes referred to as the "Ticket Window") and the space on the lower level of the North Wing of the Facility shown in diagonal cross-hatching on Exhibit A, together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon (hereinafter sometimes referred to as the "Dispatch Booth") (the Ticket Window and the Dispatch Booth hereinafter collectively referred to as the "Space"). The Port Authority and the Permittee hereby acknowledge that the Space constitutes non-residential real property.

2. The Permittee shall use the Ticket Window for the purposes of passenger ticket sales and for no other purposes whatsoever, and the Permittee shall use the Dispatch Booth for the operation of employees engaged in the dispatching and routing of passenger buses of the Permittee at the Facility and for no other purposes whatsoever.

3. (a) The Permittee shall not install any equipment, improvement or fixtures in the Space or perform any construction work therein without the prior written approval of the Port Authority as to the design and type of unit to be installed as well as the method and manner of installation. To such end the Permittee, prior to the installation of any unit in the Space, shall submit to the Port Authority for its approval an Alteration Application in the form supplied by the Port Authority including such terms and conditions and such plans and specifications as the Port Authority may require setting forth in detail the design and type of unit proposed by the Permittee to be installed and the method and manner of the installation work to be performed by the Permittee to prepare and equip the Space for its operations therein. The Permittee shall be responsible at its sole cost and expense for the performance of the installation work. Any installation, placement or attachment made without the approval of the Port Authority and any such that does not continue to meet with the continuing approval of the Port Authority shall immediately be removed by the Permittee and in the event of the Permittee's failure to remove the same the Port Authority may do so at the Permittee's cost and expense. The Port Authority reserves the right to require the Permittee to obtain the approval of the Port Authority as to the time and manner of any maintenance, servicing and repair operations upon any of the Permittee's equipment, facilities, fixtures or property installed in, placed upon, or attached to the Space.

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

4. (a) The Permittee shall pay a monthly fee for the Ticket Window as follows:

(i) During the period commencing on October 1, 2007 and continuing through September 30, 2008, both dates inclusive, in the amount of Nine Hundred Sixty-three Dollars and Sixty-five Cents (\$963.65), payable on October 1, 2007 and on the first day of each and every calendar month occurring during such period; and

(ii) During the period commencing on October 1, 2008 and continuing through December 31, 2008, both dates inclusive, in the amount of Nine Hundred Ninety-seven Dollars and Thirty-eight Cents (\$997.38), payable on October 1, 2008 and on the first day of each and every calendar month occurring during such period; and

(iii) During the period commencing on January 1, 2009 and continuing through December 31, 2009, both dates inclusive, in the amount of One Thousand Six Dollars and Eleven Cents (\$1,006.11), payable on January 1, 2009 and on the first day of each and every calendar month occurring during such period; and

(iv) During the period commencing on January 1, 2010 and continuing through December 31, 2010, both dates inclusive, in the amount of One Thousand Forty-one Dollars and Thirty-two Cents (\$1,041.32), payable on January 1, 2010 and on the first day of each and every calendar month occurring during such period; and

(v) During the period commencing on January 1, 2011 and continuing through December 31, 2011, both dates inclusive, in the amount of One Thousand Seventy-seven Dollars and Seventy-seven Cents (\$1,077.77), payable on January 1, 2011 and on the first of each and every calendar month occurring during such period; and

(vi) From and after January 1, 2012, in the amount of One Thousand One Hundred Fifteen Dollars and Forty-nine Cents (\$1,115.49), payable on January 1, 2012 and on the first day of each and every calendar month occurring thereafter.

(b) In addition to the monthly fee for the Ticket Window as set forth above in this Special Endorsement, the Permittee shall pay a monthly fee for the Dispatch Office as follows:

(i) During the period commencing on October 1, 2007 and continuing through September 30, 2008, both dates inclusive, in the amount of One Hundred Forty-eight Dollars and Eighty-two Cents (\$148.82), payable on October 1, 2007 and on the first day of each and every calendar month occurring during such period; and

(ii) During the period commencing on October 1, 2008 and continuing through December 31, 2008, both dates inclusive, in the amount of One Hundred Fifty-four Dollars and Five Cents (\$154.05), payable on October 1, 2008 and on the first day of each and every calendar month occurring during such period; and

(iii) During the period commencing on January 1, 2009 and continuing through December 31, 2009, both dates inclusive, in the amount of One Hundred Fifty-five Dollars and Thirty-eight Cents (\$155.38), payable on January 1, 2009 and on the first day of each and every calendar month occurring during such period; and

(iv) During the period commencing on January 1, 2010 and continuing through December 31, 2010, both dates inclusive, in the amount of One Hundred Sixty Dollars and Forty-seven Cents (\$160.47), payable on January 1, 2010 and on the first day of each and every calendar month occurring during such period; and

(v) During the period commencing on January 1, 2011 and continuing through December 31, 2011, both dates inclusive, in the amount of One Hundred Sixty-six Dollars and Forty-seven Cents (\$166.47), payable on January 1, 2011 and on the first of each and every calendar month occurring during such period; and

(vi) From and after January 1, 2012, in the amount of One Hundred Seventy-two Dollars and Twenty-nine Cents (\$172.29), payable on January 1, 2012 and on the first day of each and every calendar month occurring thereafter.

(c) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

5. (a) (i) The Port Authority will supply electricity to the Permittee at the Space on such days and during such hours as the Permittee conducts its operations at the Space, to the extent that the Permittee's consumption does not exceed the capacity of feeders, risers or wiring in the Space or the Facility, the Permittee's consumption and demand for such electricity to be measured by a meter or meters installed by the Port Authority. From and after the Effective Date hereof, the Permittee shall take the same and pay at the greater of: (i) the rates (including the fuel or other adjustment factor) which the Permittee at the time of such purchase and under the service classification then applicable to it would have to pay for the same quantity of electricity to be used for the same purposes under the same conditions if it received the electricity directly from the public utility supplying the same to commercial buildings in the vicinity; or (ii) the Port Authority's cost of obtaining and supplying the same quantity of electricity. In the event any meter is out of service or fails to record the consumption and demand for electricity by the Permittee, the Permittee's consumption and demand for electricity will be considered to be the same as its consumption and demand for a like period as measured by such meter, either immediately before or immediately after such interruption or failure of a meter, which period shall be selected by the Port Authority. The Permittee shall pay the amount as so determined for each such billing period to the Port Authority upon demand therefor and the same shall be deemed an additional fee collectible in the same manner and with like remedies as if it were a part of the Basic Fee reserved hereunder.

(ii) Notwithstanding that the Port Authority has agreed to supply electricity to the Permittee, the Port Authority shall be under no obligation to provide or continue such service if the Port Authority is prevented by law, agreement or otherwise from metering or measuring consumption and demand as hereinabove set forth or elects not to so meter or measure the same, and in any such event the Permittee shall make all arrangements and conversions necessary to obtain electricity directly from the public utility. Also in such event, the Permittee shall perform the construction necessary for conversion and if any lines or equipment of the Port Authority are with the consent of the Port Authority used therefor the Port Authority may make an appropriate charge therefor to the Permittee based on its costs and expenses for the said lines and equipment.

(b) Without limiting the generality of rights of entry upon the Space elsewhere in this Permit reserved to the Port Authority, the Port Authority shall have, for itself, its officers, employees, representatives, contractors and subcontractors, the right to enter upon the Space at all times to construct, install, maintain, replace, repair or improve the air-cooling system or any part thereof providing service for the part of the Facility in which any portion of the Space

is located. Air-cooling shall be furnished subject to all the provisions of this Permit and in accordance with the following:

(1) If the air-cooling in or on the Space can be controlled by mechanisms within the Space, the Permittee shall shut off the air-cooling before closing and leaving the Space at any time for any period. The Port Authority shall have the rights of entry specified in Section 9 of the Terms and Conditions hereof for the purpose of observing the Permittee's compliance with the provisions hereof and the Port Authority may lock, seal or install any timing device on or in connection with any air-cooling control mechanism so as to provide that the Space shall only be air-cooled during the hours and days stipulated hereunder.

(2) If the Permittee, in accordance with Standard Endorsement 6.4 hereof or otherwise, erects any partitions or makes any improvements, which partitions or improvements stop, hinder, obstruct or interfere with the cooling of the air or the heating of the Space, then no such action by the Permittee shall impose any obligation on the Port Authority to install facilities, fixtures or equipment for air-cooling or for heating additional to those presently existing or presently contemplated or to increase the capacity or output of existing or presently contemplated facilities, equipment or fixtures, and the Permittee shall not in any such event be relieved of any of its obligations hereunder because a comfortable temperature is not maintained. No consent or approval given by the Port Authority in connection with the erection of partitions or the making of any improvements shall be or be deemed to be a representation that the work consented to or approved will not stop, hinder, obstruct or interfere with either the cooling of the air or heating of the Space or any portion thereof. It is hereby understood further that the installation by the Permittee of any equipment which itself requires air-cooling or which requires additional quantities of air-cooling shall not impose any obligation on the Port Authority to increase the capacity or output of initially existing facilities, equipment or fixtures for the cooling of the air or the heating of the Space and the Permittee shall not in any such event be relieved of any of its obligations hereunder.

(c) The Port Authority shall, without additional charge to the Permittee, furnish to the Permittee in the enclosed portion of the Space heat, to an even and comfortable temperature during the months of November to April, inclusive, occurring the period of permission granted hereunder.

(d) The Port Authority shall have no obligations or responsibility with respect to the performance of any services or providing, supplying or furnishing to the Permittee of any utilities or services whatsoever except as expressly provided in this Special Endorsement. Without limiting the generality of any other provisions of this Permit, or the Rules and Regulations of the Port Authority referred to herein, the Permittee shall not retain any contractor for the performance of any cleaning, janitorial or maintenance work in the Space without the prior written consent of the Port Authority.

(e) If any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, makes or increases any charge, fee or rent on the Port Authority for any service, system or utility now or in the future applied to or available to the Space or to any occupants or users thereof or to the structure or building of which the premises form a part (including but not limited to any sewer rent or charge for the use of sewer systems), the Permittee shall, at the option of the Port Authority exercised at any time and from time to time by notice to the Permittee, pay, in accordance with said notice, such charge, fee or rent or increase thereof (or the portion thereof allocated by the Port Authority to the Space or the Permittee's operations hereunder) either directly to the governmental body, authority or agency or to the public utility or directly to the Port Authority.

(f) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee where such service is to be metered, the Port Authority shall be under no obligation to provide or continue any such service if the Port Authority is prevented by law from submetering such service or has agreed with the supplier of such service not to submeter such service.

(g) The Port Authority shall have the right to temporarily discontinue the supply of any of the above services when necessary or desirable in the opinion of the Port Authority in order to make any repairs, alterations, changes or improvements in the Space or elsewhere in the building of which the Space forms a part including all systems for the supply of services.

(h) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee, the Port Authority shall be under no obligation to supply any such service 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. If by operation of this subdivision or the previous subdivision any service for which the Permittee has agreed to pay a flat sum is discontinued for any period during the effective period of the permission granted hereunder, the Permittee shall be relieved of its obligation to pay for such service for any such period or if any such service is supplied during fewer hours or in lesser amounts than agreed during any period during the effective period of the permission granted hereunder, the Permittee shall be relieved proportionately of its obligation to pay for any such service for any such period.

(i) No failure, delay or interruption in any of the above services shall be or shall be construed to be an eviction of the Permittee, shall be grounds for any diminution or abatement of the fees payable hereunder, or shall constitute grounds for any claim by the Permittee for damages, consequential or otherwise, unless due to the negligence of the Port Authority, its employees or agents. The Permittee shall not be entitled to receive any of the above services during any period during which the Permittee wastes any of the services or is in default under any of the provisions of this Permit.

6. The provisions of Section 19 of the Terms and Conditions of this Permit shall survive the expiration or the earlier revocation of the permission hereunder granted. Neither the receipt of any sum as damages pursuant to the provisions of said Section, nor any other act taken by the Port Authority pursuant to the provisions thereof in apparent affirmation of the Permittee's use and occupancy of the Space for any period beyond the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted shall or shall be deemed to grant the Permittee a right to remain in occupancy of the Space after the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted, or shall or shall be deemed to be a waiver by the Port Authority of or a limitation of the Port Authority's right to exercise any remedy available to it under this Permit or otherwise at law or in equity, to obtain possession of the Space should the Permittee fail to terminate its occupancy thereof and to deliver actual, physical possession thereof to the Port Authority on or before the Expiration Date or the earlier revocation of the permission hereunder granted, including without limitation the right to terminate this Permit pursuant to the terms hereof, and the right to institute summary proceedings.

7. (a) The Permittee shall not, on the grounds of race, creed, color, sex or national origin, discriminate or permit discrimination against any person or person in its selling

of merchandise or rendering of services hereunder or in its employment practices and procedures or in any of its operations or activities under or in connection with this Permit.

(b) Without limiting the generality of any other provision of this Permit, the Permittee shall not keep, maintain, place or install in the Space any fixtures or equipment the use of which is not consistent with and required for the purposes of this Permit and the Permittee shall not use or connect any equipment or engage in any activity or operation in the Space which will cause or tend to cause an overloading of the capacity of any existing or future utility, mechanical, electrical, communications or other systems or portions thereof on the Space or elsewhere at the Facility nor shall the Permittee do or permit to be done anything which may interfere with the effectiveness or accessibility thereof.

(c) The Permittee shall not overload any floor, roadway, passageway, pavement or other surface or any wall, partition, column or other supporting member or any elevator or other conveyance in the Space or at the Facility and, without limiting any other provision of this Permit, the Permittee shall repair, replace or rebuild any such as may be damaged by overloading.

(d) Subject to and in accordance with the provisions of Section 8 of the Terms and Conditions hereof, the Permittee shall make any and all improvements, alterations or repairs of the Space that may be required at any time hereafter by any present or future governmental law, rule, regulation, requirement, order or direction or by any present or future rule, regulation, requirement, order or direction of the National Fire Protection Association and the New York Fire Insurance Rating Organization, and of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Permittee on the Space.

8. The Port Authority shall not be liable to the Permittee or others for any personal injury, death or property damage from falling material, water, rain, hail, snow, gas, steam, dampness, explosion, smoke, radiation and/or electricity whether the same may leak into or fall, issue or flow from any part of the Space or of the Facility including, without limitation thereto, any utility, mechanical, electrical, communications or other systems therein or from any other place or quarter unless said damage, injury or death shall be due to the negligent acts of the Port Authority, its employees or agents.

9. Such provisions of this Permit as apply to the rights and obligations of the parties hereto upon the expiration of the permission granted by this Permit shall apply to the rights and obligations of the parties hereto upon the revocation of the said permission.

10. (a) During the effective period of the permission granted under this Permit, the Permittee shall not give or agree to give anything of value either to a Port Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority of duties involving transactions with the Permittee on behalf of the Port Authority whether or not such duties are related to this Permit or any other Port Authority lease, contract or matter. Any such conduct shall be deemed a material breach of this Permit.

(b) As used herein, "anything of value" shall include, but not be limited to, any (i) favors, such as meals, entertainment, transportation (other than that contemplated by this Permit or any other Port Authority lease or contract), etc., which might tend

to obligate the Port Authority employee to the Permittee, or (ii) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Permit or any other Port Authority lease or contract.

(c) In addition, during the effective period of the permission granted under this Permit, the Permittee shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated as of April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Port Authority).

(d) The Permittee shall include the provisions of this paragraph in each contract or subcontract entered into under and pursuant to the provisions of this Permit.

(e) The Permittee certifies that it has not made any offers or agreements or given or agreed to give anything of value (as defined in this paragraph) or taken any other action with respect to any Port Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated as of April 11, 1996 referred to in this paragraph nor does the Permittee have any knowledge of any act on the part of a Port Authority employee or former Port Authority employee relating either directly or indirectly to the Permittee which constitutes a breach of the ethical standards set forth in said Code.

Initialed:

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

  
\_\_\_\_\_  
For the Permittee

**INSURANCE SCHEDULE**

(a) The Permittee named in the permit to which this Insurance Schedule is attached and of which it constitutes an integral part (the “Permit”), in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of the Permit on a policy or policies of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, 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:

	<u>Minimum Limits</u>
Commercial General Liability Insurance Combined single limit per occurrence for death, bodily injury and property damage liability:	\$2,000,000.00
Workers’ Compensation and Employers Liability Insurance Permittee's obligations under the applicable State Workers' Compensation Law for those employees of the Permittee employed in operations conducted pursuant to the Permit at or from the Airport:	Statutory

In the event the Permittee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers’ Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of the Permit, including without limitation this Insurance Schedule.

(b) Each policy of insurance, except for the Workers’ Compensation and Employers Liability Insurance policies, shall also contain an ISO standard “separation of insureds” clause or a cross liability endorsement providing that the protections afforded the Permittee thereunder with respect to any claim or action against the Permittee by a third person shall pertain and apply with like effect with respect to any claim or action against the Permittee by the Port Authority and any claim or action against the Port Authority by the Permittee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Permittee under Section 7 of the Terms and Conditions of the Permit.

(c) All insurance coverages and policies required under this Insurance Schedule 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 of permission under the Permit. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the above-scheduled insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Permittee shall promptly comply therewith.

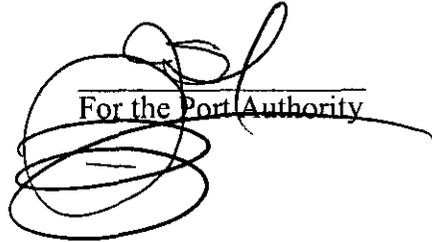
(d) Each policy shall contain a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer

“shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.” The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of the Permit by the Permittee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance delivered to the Port Authority at least seven (7) days prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the Permit. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Permittee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Permittee under the Permit. The foregoing insurance requirements shall not constitute a representation or warranty as to the adequacy of the required coverage to protect the Permittee with respect to the obligations imposed on the Permittee by the Permit or any other agreement or by law.

Initialed:

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

\_\_\_\_\_  
For the Permittee

:This Space for Port Authority Use Only :  
:  
:Permit Number: BT-ADR-BTP-003 :

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
**225 Park Avenue South**  
**New York, New York 10003**

**PORT AUTHORITY BUS TERMINAL**  
**SPACE PERMIT**

The Port Authority of New York and New Jersey (herein called the "Port Authority") hereby grants to the Permittee hereinafter named permission to use and occupy the following described space (hereinafter referred to as the "Space") at the Port Authority Bus Terminal (hereafter sometimes called the "Facility") for the purposes hereinafter specified and all purposes incidental thereto in accordance with the Terms and Conditions hereof; and said Permittee agrees to pay the fee or fees hereinafter specified and to perform all other obligations imposed upon it in said Terms and Conditions.

1. PERMITTEE: ADIRONDACK TRANSIT LINES, INC., a New York corporation
2. PERMITTEE'S ADDRESS: 499 Hurley Avenue  
Hurley, New York 12443
3. PERMITTEE'S REPRESENTATIVE: Mark Boungard
4. SPACE: Per Special Endorsement No. 1.
5. PURPOSES: Per Special Endorsement No. 2.
6. FEES: Per Special Endorsement No. 4.
7. EFFECTIVE DATE: October 1, 2008
8. EXPIRATION DATE: December 31, 2012, unless sooner revoked or terminated as provided in this Permit.
9. ENDORSEMENTS ANNEXED AT TIME OF ISSUANCE: 6.4, 11.1, 14.1, 17.1, 19.6, Special Endorsements, Exhibits A and B and Insurance Schedule.

Dated: As of September 15, 2008

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

By *Victoria Cross Kelly*

Name Victoria Cross Kelly  
(Please Print Clearly)

(Title) Director, TB&T, PANYNJ

Port Authority Use Only	
Approval as to Terms:	Approval as to Form:
<u><i>OK</i></u>	<u>NR</u>

**ADIRONDACK TRANSIT LINES, INC., Permittee**

By *Eugene J. Berardi, Jr.*

Name Eugene J. Berardi, Jr.  
(Please Print Clearly)

(Title) President

TERMS AND CONDITIONS

1. Certain Definitions:

(a) “**Effective Date**” shall mean the date designated as the “Effective Date” in Item 7 on the cover page of this Permit.

(b) “**Executive Director**” shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(c) “**Expiration Date**” shall mean the date designated as the “Expiration Date” in Item 8 on the cover page of this Permit.

(d) “**Facility**” shall have the meaning set forth in the granting clause on the cover page of this Permit.

(e) “**Hazardous Substance**” shall mean 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, endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(f) “**Manager of the Facility**” shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said Manager by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Manager (or temporary or Acting Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

(g) “**Permittee’s Representative**” shall mean the individual named in Item 3 on the cover page of this Permit or such other individual as the Permittee may designate by notice in accordance with the provisions of Section 18 below, entitled “Notices”.

2. Effectiveness:

(a) The permission granted by this Permit shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days’ prior notice, and terminated by the Permittee without cause upon thirty (30) days’ prior notice; provided, however, that it may be revoked on twenty-four (24) hours’ notice if the Permittee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Permit, including without limitation the obligation to pay fees. Further, in the event the Port Authority exercises its right to

revoke or terminate this Permit for any reason other than "without cause", the Permittee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space which may be used and occupied under this Permit (on failure of the Permittee to have it restored), preparing such space for use by a succeeding permittee, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the space in order (such as but not limited to cleaning and decorating the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this Permit or a waiver of any other rights or remedies which may be available to the Port Authority under this Permit or otherwise.

3. Use of Space by Permittee:

(a) The Space shall be used, pursuant to the permission hereby granted,

(i) if the Permittee is a corporation, by the Permittee acting only through the medium of its officers and employees,

(ii) if the Permittee is an unincorporated association, or a "Massachusetts" or business trust, by the Permittee acting only through the medium of its members, trustees, officers and employees,

(iii) if the Permittee is a partnership, by the Permittee acting only through the medium of its general partners and employees, or

(iv) if the Permittee is an individual, by the Permittee acting only personally or through the medium of his employees; or

(v) if the Permittee is a limited liability company, by the Permittee acting only through the medium of its members, managers and employees;

and the Permittee shall not, without the written approval of the Port Authority, use the Space through the medium of any other person, corporation or legal entity. The Permittee shall not assign or transfer this Permit or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this Permit to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Permittee shall be the joint and several obligation of each such individual or other legal entity.

(b) The Permittee's Representative specified in Item 3 of the cover page of this Permit (or such substitute as the Permittee may hereafter designate in writing) shall have full

authority to act for the Permittee in connection with this Permit and any act or things done or to be done hereunder, and to execute on the Permittee's behalf any amendments or supplements to this Permit or any extension hereof and to give and receive notices hereunder.

(c) This Permit shall not constitute the Permittee the agent or representative of the Port Authority for any purpose whatsoever.

(d) The Permittee hereby agrees that it will not carry on any business or operation in the Space or at the Facility other than as specifically provided herein without receiving the prior written consent of the Port Authority, which consent, if given, will be in the form of a Supplement hereto or a separate agreement with the Port Authority, which consent will specify whether the provisions regarding fees contained herein or any other provisions regarding fees shall apply thereto.

4. Condition of Space:

(a) The Permittee hereby acknowledges that prior to the execution of this Permit it has thoroughly examined and inspected the Space and has found the Space in good order and repair and has determined the Space to be suitable for the Permittee's operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Permittee for the purposes contemplated herein. The Permittee agrees to and shall take the Space in its "as is" condition and the Port Authority shall have no obligation hereunder for preparation of the Space for the Permittee's use. The Permittee agrees that no portion of the Space will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property and the Permittee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) Except to the extent required for the performance of any of the obligations of the Permittee under this Permit, nothing contained in this Permit shall grant to the Permittee any rights whatsoever in the air space above the height of the structures located on the Space as of the Effective Date hereof.

(c) The parties to this Permit hereby acknowledge that the Space is non-residential real estate.

5. Payment of Fees:

(a) Unless otherwise expressly provided in this Permit, the Permittee shall pay to the Port Authority a fee for its use and occupancy of the Space. The fee specified is a monthly fee, payable in advance on the Effective Date and on the first day of each and every calendar month thereafter.

(b) Payments made hereunder shall be sent to the following address:

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

or made via the following wire transfer instructions:

Bank: Commerce Bank  
Bank ABA Number: 031201360  
Account Number: Ex. 1

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by notice to the Permittee.

(c) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

(d) Upon execution of this Permit by the Permittee, the Permittee shall pay to the Port Authority all unpaid fees and other monies due and payable under this Permit as of the date of execution.

6. Late and Service Charges:

(a) If the Permittee should fail to pay any amount required under this Permit when due to the Port Authority or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this Permit. 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. 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 Permit, including without limitation the Port Authority's rights set forth in Section 2 hereof or (ii) any obligations of the Permittee under this Permit. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Permit shall be payable instead at such legal maximum.

(b) (i) The Permittee shall permit and/or cause to be permitted in ordinary business hours during the effective period of this Permit and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Permittee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be

relevant in connection with the Permittee's use and occupancy of the Space as permitted hereunder within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

(ii) In the event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority by the Permittee (the "**Audit Findings**"), the Permittee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Permittee under this Permit or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Permit with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Permit, including, without limitation, the Port Authority's rights to revoke this Permit or (ii) any obligations of the Permittee under this Permit.

7. Security Deposit: If the Permittee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Permittee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Permittee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any deposit pursuant thereto also shall be deemed obligations of the Permittee under this Permit and as security hereunder as well as under any such other agreement and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby 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.

8. Indemnification of Port Authority:

(a) The Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal costs and 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 of the operations, acts or omissions of the Permittee hereunder.

(b) The Permittee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any way connected with this Permit. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Permittee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or

arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Permittee under or in any way connected with this Permit.

(c) If so directed, the Permittee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal, the immunity of the Port Authority, its governmental nature or the provisions of any statutes respecting the Port Authority.

(d) In the event of any injury or death to any person (other than employees of the Permittee) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, or damage to any property (other than the Permittee's property) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, the Permittee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Permittee's insurance carrier.

9. Right of Entry Reserved: The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Space and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

10. Rules and Regulations: The Permittee shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of this Permit, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Permittee of every rule and regulation hereafter adopted by it at least five (5) days before the Permittee shall be required to comply therewith.

11. Conduct of Operations:

(a) The Permittee shall immediately comply with all orders, directives and procedures as may be issued by the Manager of the Facility covering the operations of the Permittee under this Permit at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder.

(b) The Permittee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(c) Unless otherwise expressly provided, the Permittee shall not install any vending machines or similar devices in the Space or use the Space (or permit it to be used) for the sale to its employees or to the public of any of the following goods and services: beverages, food, candy, gum, ice cream or ice cream products, tobacco or tobacco products, periodicals, books, drugs, toys, games, souvenirs, jewelry, novelties, clothing, flowers, sporting or photographic goods, toilet articles, theatre tickets, shoe shines, pressing and cleaning, developing and printing of photographs and films or baggage-checking. The specificity of the foregoing

enumeration of disallowed activities shall not be deemed to infer that any particular activities not so enumerated are permitted under this Permit.

(d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Space without the written approval of the Manager of the Facility; and any not approved by him may be removed by the Port Authority at the expense of the Permittee. The Permittee shall not display, or permit the display of, advertising of third parties in the Space.

(e) The Permittee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

(f) The operations of the Permittee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Permittee shall provide and its employees shall wear or carry badges or other suitable means of identification which shall be subject to the approval of the Manager. The Port Authority shall have the right to object to the Permittee as to the demeanor, conduct and appearance of the Permittee's employees, invitees and those doing business with it, whereupon the Permittee will take all steps necessary to remove the cause of the objection.

(g) The Permittee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Permittee. The receptacles shall be kept covered except when filling or emptying the same. The Permittee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

(h) The Permittee shall at all times maintain the Space in a clean and orderly condition and appearance.

12. Permittee Property:

(a) The personal property placed or installed by the Permittee in the Space shall remain the property of the Permittee and must be removed on or before the Expiration Date or on or before the revocation or termination of the permission hereby granted, whichever shall be earlier.

(b) If the Permittee shall fail to remove its property upon the expiration, termination or revocation hereof, the Port Authority may, at its option, as agent for the Permittee and at the Permittee's risk and expense, remove such property to a public warehouse for deposit or retain the same in its own possession and after the expiration of thirty (30) days sell the same at public auction, the proceeds of which shall be applied first to the expenses of sale, second to

any sums owed by the Permittee to the Port Authority, and any balance remaining shall be paid to the Permittee, or may take such other action as may be necessary or desirable. Any excess of the total cost of removal, storage and sale over the proceeds of sale shall be paid by the Permittee to the Port Authority upon demand.

13. Prohibited Acts:

(a) The Permittee 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 New York Board of Fire Underwriters and the New York Fire Insurance Exchange, and any other body or organization exercising similar functions which may pertain or apply to the Permittee's operations hereunder. If by reason of the Permittee's failure to comply with the provisions of this Section, any fire insurance, extended coverage or rental insurance rate on the Facility or any part thereof or upon the contents of any building thereon shall at any time be higher than it otherwise would be, then the Permittee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been charged because of such violation by the Permittee.

(b) The Permittee shall not do or permit to be done any act which

(i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or

(ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or

(iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this Permit, or

(iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or

(v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or

(vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.

(c) For purposes of this Section, "Facility" includes all structures located thereon.

14. Specifically Prohibited Activities:

(c) The Permittee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.

(d) The Permittee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Permittee (or permitted by the Permittee to be disposed of, released or discharged) on the Facility shall upon notice by the Port Authority to the Permittee be completely removed and/or remediated by the Permittee at its sole cost and expense.

(e) The Permittee shall not operate any engine or any item of automotive equipment in the Space without adequate ventilation.

(f) The Permittee shall not use any cleaning materials having a harmful or corrosive effect in the Space.

(g) The Permittee shall not fuel or defuel any equipment in the Space or elsewhere at the Facility without the prior approval of the Manager of the Facility except in accordance with Port Authority rules and regulations.

(h) The Permittee shall not start or operate any engine or any item of automotive equipment in the Space unless such space is adequately ventilated and unless such engine is equipped with a proper spark-arresting device.

(i) The Permittee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

15. Labor Disturbances:

(a) (i) The Permittee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Permittee under this Permit.

(ii) The Permittee shall immediately give notice to the Port Authority (to be followed by written notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Permittee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

(b) If any type of strike or other labor activity is directed against the Permittee at the Facility or against any operations pursuant to this Permit resulting in picketing or boycott for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority, adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Permittee, and whether caused by the employees of the Permittee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' notice, revoke this Permit, effective at the time specified in the notice. Revocation shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation.

16. Notices: A bill or statement may be rendered or any notice or communication which the Port Authority may desire to give the Permittee shall be deemed sufficiently rendered

or given if the same be in writing and sent by registered or certified mail addressed to the Permittee at the address specified on the cover page hereof or at the latest address that the Permittee may substitute therefor by notice to the Port Authority, or left at such address, or delivered to the Permittee's Representative, and the time of rendition of such bill or statement and of the giving of such notice or communication shall be deemed to be the time when the same is mailed, left or delivered as herein provided. Any notice from the Permittee to the Port Authority shall be validly given if sent by registered or certified mail addressed to the Executive Director of the Port Authority at 225 Park Avenue South, New York, New York 10003 or at such other address as the Port Authority shall hereafter designate by notice to the Permittee.

17. No Broker: The Permittee represents and warrants that no broker has been concerned in the negotiation or execution of this Permit and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Permittee shall indemnify the Port Authority and save it harmless from any and all claims which have been or which may be made by any and all persons, firms, or corporations whatsoever for services in connection with the negotiation and execution of this Permit or in connection with any permission to use the Space.

18. Waiver of Trial by Jury: The Permittee hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Permittee in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Permit. The Permittee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Permittee.

19. Effect of Use and Occupancy after Expiration, Revocation or Termination: Without in any way limiting any other provision of this Permit, unless otherwise notified by the Port Authority in writing, in the event the Permittee continues its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit, as such effective period of permission may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Permit or other remedies the Port Authority may have by law or otherwise, the Permittee shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such revocation or termination and ending on the date that the Permittee shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Permittee any right to continue its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit. The Permittee acknowledges that the failure of the Permittee to surrender, vacate and yield up the Space to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Permittee 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 Permittee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

20. No Personal Liability: No Commissioner, officer, agent or employee of the Port Authority shall be charged personally by the Permittee with any liability, or held liable to it,

under any term or provision of this Permit, or because of its execution or attempted execution, or because of any breach hereof.

21. No Waiver: No failure by the Port Authority to insist upon the strict performance of any agreement, term, covenant or condition of this Permit or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this Permit during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this Permit to be performed or complied with by the Permittee, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the Port Authority. No waiver by the Port Authority of any default or breach on the part of the Permittee in performance of any agreement, term, covenant or condition of this Permit shall affect or alter this Permit but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

22. Construction and Application of Terms:

(a) The use of headings in this Permit is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

(b) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Permit or any amendments, addendums or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

(c) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

(d) To the extent that any provisions of this Permit are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

23. Entire Agreement: This Permit, including the cover page, the Terms and Conditions and the attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on behalf of the parties and attached hereto. The Permittee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

(a) The Permittee shall at all times keep the Space in a clean and orderly condition and appearance, together with all fixtures, equipment and personal property of the Permittee and of the Port Authority located in or on the Space, including without limitation thereto the interior surface of windows and both sides of all entrance doors.

(b) The Permittee shall repair, replace, rebuild and paint all or any part of the Space or of the Facility which may be damaged or destroyed by the acts or omissions of the Permittee, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees or other persons who are doing business with the Permittee who are on or at the Space or the Facility with the consent of the Permittee.

(c) The Permittee shall take good care of the Space, including therein, without limitation thereto, walls, partitions, floors, ceilings, doors and columns, and all parts thereof, and all equipment and fixtures, and shall do all preventive maintenance and make all necessary non-structural repairs, replacements, rebuilding and painting necessary to keep the Space in the condition existing on the effective date and to keep any improvements, additions and fixtures made or installed during the effective period of this Agreement in the condition they were in when made or installed except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the building or adversely affect the efficient or proper utilization or the appearance of any part of the Space.

(d) In the event the Permittee fails to commence so to make or do any repair, replacement, rebuilding or painting required by this Agreement within a period of ten (10) days after notice from the Port Authority so to do, or fails diligently to continue to completion the repair, replacement, rebuilding or Painting of all the premises required to be repaired, replaced, rebuilt or painted by the Permittee under the terms of this Agreement, the Port Authority may, at its option, and in addition to any other remedies which may be available to it, repair, replace, rebuild or paint all or any part of the Space included in the said notice, the Port Authority's cost thereof to be paid by the Permittee on demand. This option or the exercise thereof shall not be deemed to create or imply any obligation or duty to the Permittee or others.

(e) The obligation of the Permittee as set forth in paragraphs (b) and (c) above, in the event of damage or destruction covered by any contract of insurance under which the Port Authority is the insured, is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that if at any time because of this release the insurance carrier of any policy covering the premises or any part thereof shall increase the premiums otherwise payable for fire, extended coverage or rental coverage applicable to the premises; the Permittee shall pay to the Port Authority an amount equivalent to such increase or increases on demand; and provided, further, that if at any time this release shall invalidate any such policy of insurance or reduce, limit or void the rights of

STANDARD ENDORSEMENT NO. 6.4 (Page 1)

**CARE OF SPACE**

All Installations

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the Port Authority thereunder, or if because of this release, any such insurance carrier shall cancel any such policy or shall refuse to issue or renew the same or shall refuse to issue a policy with an endorsement thereon under which this release is permitted without prejudice to the interest of the insured or shall cancel such endorsement or refuse to renew the same or shall take any other action to alter, decrease or diminish the benefits of the Port Authority under the policy, then the release shall be void and of no effect. Nothing herein shall be construed to imply an obligation on the Port Authority to carry any such insurance policy or to obtain or keep in force any such endorsement.

(f) The Port Authority shall have no duty of repair or maintenance as to the Space or any fixtures, equipment or personal property which is located in or on the Space.

(g) The Permittee shall immediately clear all drainage and supply stoppages and partial blocks, in and in connection with any plumbing fixtures, equipment and system which are a part of or are located in or on the Space. All glass in windows and doors which are a part of or are located in or on the Space and which may be broken shall be replaced by the Permittee not later than five days after breakage or at any earlier date if so directed by the Port Authority and immediately if such replacement is necessary to protect the Space, any part thereof or any other property of the Port Authority against damage, loss or theft. The Permittee shall have no obligation under this paragraph where the condition is caused by the negligence of the Port Authority.

(h) The Permittee shall immediately notify the Port Authority if any portion or all of the Space or any of the said Port Authority fixtures, equipment or personal property is destroyed, damaged or in need of repair, regardless of the Permittee's responsibility therefor.

(i) Nothing herein contained shall relieve the Permittee of its obligations to secure the Port Authority's written approval before installing any fixtures in or upon or making any alterations, decorations, additions or improvements in the Space.

(j) In the event of a partial or total destruction of the Space, the Permittee shall immediately remove any and all of its property and debris from the Space or portion thereof destroyed.

STANDARD ENDORSEMENT NO. 6.4 (Page 2)

**CARE OF SPACE**

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The Port Authority, by its officers, employees, representatives, contractors, licensees, and their employees, shall have the right for the benefit of the Port Authority, or the Permittee and/or for the benefit of others than the Permittee to maintain existing and future heating, water, gas, electricity, sewerage, drainage, fire protection sprinkler, ventilating, refrigerating, fuel and communication systems and other such service systems, including all tubes, pipes, lines, mains, wires, conduits and equipment on or about the Space and to enter upon the Space at all reasonable times and to make such repairs, replacements and 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, on, in or under the Space new tubes, pipes, lines, mains, wires, conduits and equipment, provided however, that the same shall be done so as to interfere as little as reasonably possible with the Permittee's operations.

Nothing contained in this Endorsement shall or shall be construed to impose upon the Port Authority any obligations so to maintain or to make repairs, replacements, alterations or additions or any liability for failure to do so.

Except as specifically provided herein to the contrary, the Permittee shall not, by virtue of the issue and acceptance of this Permit, be released or discharged from any liabilities or obligations whatsoever under any other Port Authority permits or agreements including but not limited to any permits to make alterations.

In the event that any space or location covered by this Permit is the same as is or has been covered by another Port Authority permit or other agreement with the Permittee, then any liabilities or obligations which by the terms of such permit or agreement, or permits thereunder to make alterations, mature at the expiration or revocation or termination of said permit or agreement, shall be deemed to survive and to mature at the expiration or sooner termination or revocation of this Permit, insofar as such liabilities or obligations require the removal of property from and/or the restoration of the space or location.

STANDARD ENDORSEMENT NO. 14.1  
**DUTIES UNDER OTHER AGREEMENTS**  
All Facilities  
7/21/49

The Permittee shall procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Permittee's operations at the Facility which may be necessary for the Permittee's operations thereat.

The Permittee shall pay all taxes, license, certification, permit and examination fees and excises which may be assessed, levied, exacted or imposed on its property or operation hereunder or on the gross receipts or income therefrom, and shall make all applications, reports and returns required in connection therewith.

The Permittee shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, rules, regulations, requirements, orders and directions which may pertain or apply to the Permittee's operations at the Facility.

The Permittee's obligations to comply with governmental requirements are provided herein for the purpose of assuring proper safeguards for the protection of persons and property at the Facility and are not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

STANDARD ENDORSEMENT NO. 17.1

**LAW COMPLIANCE**

All Facilities

8/29/49

“Port Authority Bus Terminal” or “Terminal” shall mean the building bounded by 40<sup>th</sup> and 41<sup>st</sup> Streets, 8<sup>th</sup> and 9<sup>th</sup> Avenues, in the City, County and State of New York and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof; all of which now constitutes the Port Authority Bus Terminal.

STANDARD ENDORSEMENT NO. 19.6

**Port Authority Bus Terminal**

02/09/89

## SPECIAL ENDORSEMENTS

1. Subject to and in accordance with all the terms and conditions of this Permit and the Endorsements annexed thereto, the Port Authority hereby grants the Permittee permission to use and occupy the space on the Main Concourse Level of the South Wing of the Facility shown in diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A", together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon (hereinafter sometimes referred to as the "Main Concourse Ticket Windows") and the space on the Subway Level of the North Wing of the Facility shown in diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit B", together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon (hereinafter sometimes referred to as the "Subway Level Ticket Windows") (the Main Concourse Ticket Windows and the Subway Level Ticket Windows hereinafter collectively referred to as the "Space"). The Port Authority and the Permittee hereby acknowledge that the Space constitutes non-residential real property.

2. The Permittee shall use the Space for the purposes of passenger ticket sales and for no other purposes whatsoever.

3. (a) The Permittee shall not install any equipment, improvement or fixtures in the Space or perform any construction work therein without the prior written approval of the Port Authority as to the design and type of unit to be installed as well as the method and manner of installation. To such end the Permittee, prior to the installation of any unit in the Space, shall submit to the Port Authority for its approval an Alteration Application in the form supplied by the Port Authority including such terms and conditions and such plans and specifications as the Port Authority may require setting forth in detail the design and type of unit proposed by the Permittee to be installed and the method and manner of the installation work to be performed by the Permittee to prepare and equip the Space for its operations therein. The Permittee shall be responsible at its sole cost and expense for the performance of the installation work. Any installation, placement or attachment made without the approval of the Port Authority and any such that does not continue to meet with the continuing approval of the Port Authority shall immediately be removed by the Permittee and in the event of the Permittee's failure to remove the same the Port Authority may do so at the Permittee's cost and expense. The Port Authority reserves the right to require the Permittee to obtain the approval of the Port Authority as to the time and manner of any maintenance, servicing and repair operations upon any of the Permittee's equipment, facilities, fixtures or property installed in, placed upon, or attached to the Space.

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

4. (a) Except as specifically provided in Paragraph 13 of these Special Endorsements, the Permittee shall pay a monthly fee for the Main Concourse Ticket Windows as follows:

(i) During the period commencing on October 1, 2008 and continuing through December 31, 2008, both dates inclusive, in the amount of Twenty-two Thousand Four Hundred Dollars and No Cents (\$22,400.00), payable on October 1, 2008 and on the first day of each and every calendar month occurring during such period; and

(ii) During the period commencing on January 1, 2009 and continuing through December 31, 2009, both dates inclusive, in the amount of Twenty-three Thousand Five Hundred Twenty Dollars and No Cents (\$23,520.00), payable on January 1, 2009 and on the first day of each and every calendar month occurring during such period; and

(iii) During the period commencing on January 1, 2010 and continuing through December 31, 2010, both dates inclusive, in the amount of Twenty-four Thousand Six Hundred Forty Dollars and No Cents (\$24,640.00), payable on January 1, 2010 and on the first day of each and every calendar month occurring during such period; and

(iv) During the period commencing on January 1, 2011 and continuing through December 31, 2011, both dates inclusive, in the amount of Twenty-five Thousand Seven Hundred Sixty Dollars and No Cents (\$25,760.00), payable on January 1, 2011 and on the first of each and every calendar month occurring during such period; and

(v) From and after January 1, 2012, in the amount of Twenty-six Thousand Eight Hundred Eighty Dollars and No Cents (\$26,880.00), payable on January 1, 2012 and on the first day of each and every calendar month occurring thereafter.

(b) In addition to the monthly fee for the Main Concourse Ticket Windows as set forth above in this Special Endorsement, the Permittee shall pay a monthly fee for the Subway Level Ticket Windows as follows:

(i) During the period commencing on October 1, 2008 and continuing through December 31, 2008, both dates inclusive, in the amount of Five Thousand Four Hundred Eighty-two Dollars and Fifty Cents (\$5,482.50), payable on October 1, 2008 and on the first day of each and every calendar month occurring during such period; and

(ii) During the period commencing on January 1, 2009 and continuing through December 31, 2009, both dates inclusive, in the amount of Five Thousand Six Hundred Ninety-seven Dollars and Fifty Cents (\$5,697.50), payable on January 1, 2009 and on the first day of each and every calendar month occurring during such period; and

(iii) During the period commencing on January 1, 2010 and continuing through December 31, 2010, both dates inclusive, in the amount of Five Thousand Nine Hundred Twelve Dollars and Fifty Cents (\$5,912.50), payable on January 1, 2010 and on the first day of each and every calendar month occurring during such period; and

(iv) During the period commencing on January 1, 2011 and continuing through December 31, 2011, both dates inclusive, in the amount of Six Thousand One Hundred Twenty-seven Dollars and Fifty Cents (\$6,127.50), payable on January 1, 2011 and on the first of each and every calendar month occurring during such period; and

(v) From and after January 1, 2012, in the amount of Six Thousand Three Hundred Forty-two Dollars and Fifty Cents (\$6,342.50), payable on January 1, 2012 and on the first day of each and every calendar month occurring thereafter.

(c) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

5. (a) (i) The Port Authority will supply electricity to the Permittee at the Space on such days and during such hours as the Permittee conducts its operations at the Space, to the extent that the Permittee's consumption does not exceed the capacity of feeders, risers or wiring in the Space or the Facility, the Permittee's consumption and demand for such electricity to be measured by a meter or meters installed by the Port Authority. From and after the Effective Date hereof, the Permittee shall take the same and pay at the greater of: (i) the rates (including the fuel or other adjustment factor) which the Permittee at the time of such purchase and under the service classification then applicable to it would have to pay for the same quantity of electricity to be used for the same purposes under the same conditions if it received the electricity directly from the public utility supplying the same to commercial buildings in the vicinity; or (ii) the Port Authority's cost of obtaining and supplying the same quantity of electricity. In the event any meter is out of service or fails to record the consumption and demand for electricity by the Permittee, the Permittee's consumption and demand for electricity will be considered to be the same as its consumption and demand for a like period as measured by such meter, either immediately before or immediately after such interruption or failure of a meter, which period shall be selected by the Port Authority. The Permittee shall pay the amount as so determined for each such billing period to the Port Authority upon demand therefor and the same shall be deemed an additional fee collectible in the same manner and with like remedies as if it were a part of the Basic Fee reserved hereunder.

(ii) Notwithstanding that the Port Authority has agreed to supply electricity to the Permittee, the Port Authority shall be under no obligation to provide or continue such service if the Port Authority is prevented by law, agreement or otherwise from metering or measuring consumption and demand as hereinabove set forth or elects not to so meter or measure the same, and in any such event the Permittee shall make all arrangements and conversions necessary to obtain electricity directly from the public utility. Also in such event, the Permittee shall perform the construction necessary for conversion and if any lines or equipment of the Port Authority are with the consent of the Port Authority used therefor the Port Authority may make an appropriate charge therefor to the Permittee based on its costs and expenses for the said lines and equipment.

(b) Without limiting the generality of rights of entry upon the Space elsewhere in this Permit reserved to the Port Authority, the Port Authority shall have, for itself, its officers, employees, representatives, contractors and subcontractors, the right to enter upon the Space at all times to construct, install, maintain, replace, repair or improve the air-cooling system or any part thereof providing service for the part of the Facility in which any portion of the Space is located. Air-cooling shall be furnished subject to all the provisions of this Permit and in accordance with the following:

(i) If the air-cooling in or on the Space can be controlled by mechanisms within the Space, the Permittee shall shut off the air-cooling before closing and leaving the Space at any time for any period. The Port Authority shall have the rights of entry specified in Section 9 of the Terms and Conditions hereof for the purpose of observing the Permittee's compliance with the provisions hereof and the Port Authority may lock, seal or install any timing device on or in connection with any air-cooling control mechanism so as to provide that the Space shall only be air-cooled during the hours and days stipulated hereunder.

(ii) If the Permittee, in accordance with Standard Endorsement 6.4 hereof or otherwise, erects any partitions or makes any improvements, which partitions or improvements stop, hinder, obstruct or interfere with the cooling of the air or the heating of the Space, then no such action by the Permittee shall impose any obligation on the Port Authority to install facilities, fixtures or equipment for air-cooling or for heating additional to those presently existing or presently contemplated or to increase the capacity or output of existing or presently contemplated facilities, equipment or fixtures, and the Permittee shall not in any such event be relieved of any of its obligations hereunder because a comfortable temperature is not maintained. No consent or approval given by the Port Authority in connection with the erection of partitions or the making of any improvements shall be or be deemed to be a representation that the work consented to or approved will not stop, hinder, obstruct or interfere with either the cooling of the air or heating of the Space or any portion thereof. It is hereby understood further that the installation by the Permittee of any equipment which itself requires air-cooling or which requires additional quantities of air-cooling shall not impose any obligation on the Port Authority to increase the capacity or output of initially existing facilities, equipment or fixtures for the cooling of the air or the heating of the Space and the Permittee shall not in any such event be relieved of any of its obligations hereunder.

(c) The Port Authority shall, without additional charge to the Permittee, furnish to the Permittee in the enclosed portion of the Space heat, to an even and comfortable temperature during the months of November to April, inclusive, occurring the period of permission granted hereunder.

(d) The Port Authority shall have no obligations or responsibility with respect to the performance of any services or providing, supplying or furnishing to the Permittee of any utilities or services whatsoever except as expressly provided in this Special Endorsement. Without limiting the generality of any other provisions of this Permit; or the Rules and Regulations of the Port Authority referred to herein, the Permittee shall not retain any contractor for the performance of any cleaning, janitorial or maintenance work in the Space without the prior written consent of the Port Authority.

(e) If any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, makes or increases any charge, fee or rent on the Port Authority for any service, system or utility now or in the future applied to or available to the Space or to any occupants or users thereof or to the structure or building of which the premises form a part (including but not limited to any sewer rent or charge for the use of sewer systems), the Permittee shall, at the option of the Port Authority exercised at any time and from time to time by notice to the Permittee, pay, in accordance with said notice, such charge, fee or rent or increase thereof (or the portion thereof allocated by the Port Authority to the Space or the Permittee's operations hereunder) either directly to the governmental body, authority or agency or to the public utility or directly to the Port Authority.

(f) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee where such service is to be metered, the Port Authority shall be under no obligation to provide or continue any such service if the Port Authority is prevented by law from submetering such service or has agreed with the supplier of such service not to submeter such service.

(g) The Port Authority shall have the right to temporarily discontinue the supply of any of the above services when necessary or desirable in the opinion of the Port Authority in order to make any repairs, alterations, changes or improvements in the Space or elsewhere in the building of which the Space forms a part including all systems for the supply of services.

(h) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee, the Port Authority shall be under no obligation to supply any such service 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. If by operation of this subdivision or the previous subdivision any service for which the Permittee has agreed to pay a flat sum is discontinued for any period during the effective period of the permission granted hereunder, the Permittee shall be relieved of its obligation to pay for such service for any such period or if any such service is supplied during fewer hours or in lesser amounts than agreed during any period during the effective period of the permission granted hereunder, the Permittee shall be relieved proportionately of its obligation to pay for any such service for any such period.

(i) No failure, delay or interruption in any of the above services shall be or shall be construed to be an eviction of the Permittee, shall be grounds for any diminution or abatement of the fees payable hereunder, or shall constitute grounds for any claim by the Permittee for damages, consequential or otherwise, unless due to the negligence of the Port Authority, its employees or agents. The Permittee shall not be entitled to receive any of the above services during any period during which the Permittee wastes any of the services or is in default under any of the provisions of this Permit.

6. The provisions of Section 19 of the Terms and Conditions of this Permit shall survive the expiration or the earlier revocation of the permission hereunder granted. Neither the receipt of any sum as damages pursuant to the provisions of said Section, nor any other act taken by the Port Authority pursuant to the provisions thereof in apparent affirmation of the Permittee's use and occupancy of the Space for any period beyond the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted shall or shall be deemed to grant the Permittee a right to remain in occupancy of the Space after the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted, or shall or shall be deemed to be a waiver by the Port Authority of or a limitation of the Port Authority's right to exercise any remedy available to it under this Permit or otherwise at law or in equity, to obtain possession of the Space should the Permittee fail to terminate its occupancy thereof and to deliver actual, physical possession thereof to the Port Authority on or before the Expiration Date or the earlier revocation of the permission hereunder granted, including without limitation the right to terminate this Permit pursuant to the terms hereof, and the right to institute summary proceedings.

7. (a) The Permittee shall not, on the grounds of race, creed, color, sex or national origin, discriminate or permit discrimination against any person or person in its selling of merchandise or rendering of services hereunder or in its employment practices and procedures or in any of its operations or activities under or in connection with this Permit.

(b) Without limiting the generality of any other provision of this Permit, the Permittee shall not keep, maintain, place or install in the Space any fixtures or equipment the use of which is not consistent with and required for the purposes of this Permit and the Permittee shall not use or connect any equipment or engage in any activity or operation in the Space which will cause or tend to cause an overloading of the capacity of any existing or future utility, mechanical, electrical, communications or other systems or portions thereof on the Space or elsewhere at the Facility nor shall the Permittee do or permit to be done anything which may interfere with the effectiveness or accessibility thereof.

(c) The Permittee shall not overload any floor, roadway, passageway, pavement or other surface or any wall, partition, column or other supporting member or any elevator or other conveyance in the Space or at the Facility and, without limiting any other provision of this Permit, the Permittee shall repair, replace or rebuild any such as may be damaged by overloading.

(d) Subject to and in accordance with the provisions of Section 8 of the Terms and Conditions hereof, the Permittee shall make any and all improvements, alterations or repairs of the Space that may be required at any time hereafter by any present or future governmental law, rule, regulation, requirement, order or direction or by any present or future rule, regulation, requirement, order or direction of the National Fire Protection Association and the New York Fire Insurance Rating Organization, and of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Permittee on the Space.

8. The Port Authority shall not be liable to the Permittee or others for any personal injury, death or property damage from falling material, water, rain, hail, snow, gas, steam, dampness, explosion, smoke, radiation and/or electricity whether the same may leak into or fall, issue or flow from any part of the Space or of the Facility including, without limitation thereto, any utility, mechanical, electrical, communications or other systems therein or from any other place or quarter unless said damage, injury or death shall be due to the negligent acts of the Port Authority, its employees or agents.

9. Such provisions of this Permit as apply to the rights and obligations of the parties hereto upon the expiration of the permission granted by this Permit shall apply to the rights and obligations of the parties hereto upon the revocation of the said permission.

10. (a) Without limiting any other right of termination or revocation under this Permit, the Port Authority shall have the right to revoke this Permit and the Permittee's use and occupancy of the Space under this Permit without cause, but for the purposes set forth in paragraph (b) of this Special Endorsement, at any time on thirty (30) days' prior notice to the Permittee. In the event of revocation pursuant to this Special Endorsement, the effective period of the permission granted under this Permit shall cease and expire on the effective date of revocation stated in the notice as if such date were the date originally fixed in Item 8 of the first page of this Permit for the expiration of the effective period of the permission granted under this Permit.

(b) The right of revocation contained in paragraph (a) shall be exercised by the Port Authority only when the portion of the Terminal in which the either the Main Concourse Ticket Windows, the Subway Level Ticket Windows or both, as the case may be, is located is required by the Port Authority to be vacated pursuant to the provisions of an agreement providing for the construction, letting or operation of an office tower in the air space above the Facility and to perform certain related development of and improvements to the Facility.

(c) The Permittee acknowledges that it has been advised by the Port Authority that any failure of the Permittee to surrender, vacate and yield up to the Port Authority either the Main Concourse Ticket Windows, the Subway Level Ticket Windows or both, as the case may be, on the effective date of revocation set forth in the notice described in paragraph (a) hereof will or may cause the Port Authority injury, damage or loss. The Permittee 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 Permittee hereby expressly agrees to

indemnify and hold the Port Authority harmless against any such injury, damage or loss. The foregoing shall not constitute or be deemed to constitute the sole and exclusive remedy of the Port Authority for such failure of the Permittee.

(d) Without limiting the provisions of paragraph (c) of this Special Endorsement of Section 19 of the foregoing Terms and Conditions, in the event the Permittee remains in possession of the Main Concourse Ticket Windows, the Subway Level Ticket Windows or both, as the case may be, after the revocation of the effective period of permission granted under this Permit pursuant to paragraph (a) of this Special Endorsement without the consent of the Port Authority, the Permittee, at the option of the Port Authority and without waiving the liability of the Permittee, shall be deemed to be occupying the Space at a monthly fee for the Space equal to two hundred percent (200%) of the monthly fee for the Space payable hereunder by the Permittee for the last full month of the term of this Permit, subject to all of the other terms of this Permit.

11. (a) During the effective period of the permission granted under this Permit, the Permittee shall not give or agree to give anything of value either to a Port Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority of duties involving transactions with the Permittee on behalf of the Port Authority whether or not such duties are related to this Permit or any other Port Authority lease, contract or matter. Any such conduct shall be deemed a material breach of this Permit.

(b) As used herein, "anything of value" shall include, but not be limited to, any (i) favors, such as meals, entertainment, transportation (other than that contemplated by this Permit or any other Port Authority lease or contract), etc., which might tend to obligate the Port Authority employee to the Permittee, or (ii) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Permit or any other Port Authority lease or contract.

(c) In addition, during the effective period of the permission granted under this Permit, the Permittee shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated as of April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Port Authority).

(d) The Permittee shall include the provisions of this paragraph in each contract or subcontract entered into under and pursuant to the provisions of this Permit.

(e) The Permittee certifies that it has not made any offers or agreements or given or agreed to give anything of value (as defined in this paragraph) or taken any other action with respect to any Port Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated as of April 11, 1996 referred to in this paragraph nor does the Permittee have any knowledge of any act on the part of a Port Authority employee or former Port Authority employee relating either directly or indirectly to the Permittee which constitutes a breach of the ethical standards set forth in said Code.

12. Notwithstanding anything to the contrary contained in this Permit, the Permittee hereby agrees that this Permit is one of the "Agreements", as such term is defined in that certain security agreement entered into between the Port Authority and the Permittee, dated as of July 1, 2008, and identified by Port Authority Agreement No. TBT-ADR-SEC-007 (the "Security Agreement"), and that a breach or failure to perform or comply with any of the terms and conditions of the Security Agreement, including without limitation failure to provide a letter of credit in accordance with the terms and provisions of the Security Agreement at any time during the term under any of the Agreements valid and available to the Port Authority or any failure of any banking institution issuing a letter of credit to make one or more payments as provided in such letter of credit, shall constitute a material breach of this Permit and the Security Agreement thereby entitling the Port Authority to immediately exercise any and all rights available to it, including without limitation the right to terminate this Permit for cause.

13. Notwithstanding the provisions of subparagraph (a) of Paragraph 4 of these Special Endorsements, for the period commencing on the Effective Date of this Permit and ending on the date that the portion of the Main Concourse Ticket Windows used by the Port Authority for Facility construction work is tendered to the Permittee following such construction (the "Completion Date"), the Permittee shall pay a monthly fee for the Main Concourse Ticket Windows as follows:

(i) During the period commencing on October 1, 2008 and continuing through December 31, 2008, both dates inclusive, in the amount of Nineteen Thousand Seven Hundred Ten Dollars and No Cents (\$19,710.00), payable on October 1, 2008 and on the first day of each and every calendar month occurring during such period; and

(ii) During the period commencing on January 1, 2009 and continuing through December 31, 2009, both dates inclusive, in the amount of Twenty Thousand Six Hundred Ninety-five Dollars and No Cents (\$20,695.00), payable on January 1, 2009 and on the first day of each and every calendar month occurring during such period; and

(iii) During the period commencing on January 1, 2010 and continuing through December 31, 2010, both dates inclusive, in the amount of Twenty-one Thousand Six Hundred Eighty-one Dollars and No Cents (\$21,681.00), payable on January 1, 2010 and on the first day of each and every calendar month occurring during such period; and

(iv) During the period commencing on January 1, 2011 and continuing through December 31, 2011, both dates inclusive, in the amount of Twenty-two Thousand Six Hundred Sixty-six Dollars and No Cents (\$22,666.00), payable on January 1, 2011 and on the first of each and every calendar month occurring during such period; and

(v) From and after January 1, 2012, in the amount of Twenty-three Thousand Six Hundred Fifty-two Dollars and No Cents (\$23,652.00), payable on January 1, 2012 and on the first day of each and every calendar month occurring thereafter.

If the Completion Date occurs on a day which is other than the last day of a calendar month, the fee for the Main Concourse Ticket Windows for the portion of the month during which the Completion Date occurs following such date shall be the product obtained by multiplying (x) the excess over the monthly fee for the period in which the Completion date occurs set forth in this

Paragraph of the amount of the monthly fee set forth in the clause of subparagraph (a) of Paragraph 4 covering the same period by (y) a fraction, the numerator of which shall be the number of days in the period from the day immediately following the Completion Date to the end of such calendar month and the denominator of which shall be the total number of days in that calendar month.

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

Initialed:

  
\_\_\_\_\_  
For the Permittee

## INSURANCE SCHEDULE

(a) The Permittee named in the permit to which this Insurance Schedule is attached and of which it constitutes an integral part (the “Permit”), in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of the Permit on a policy or policies of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, 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:

	<u>Minimum Limits</u>
Commercial General Liability Insurance	
Combined single limit per occurrence for death, bodily injury and property damage liability:	\$2,000,000.00
Workers’ Compensation and Employers Liability Insurance	
Permittee’s obligations under the applicable State Workers’ Compensation Law for those employees of the Permittee employed in operations conducted pursuant to the Permit at or from the Airport:	Statutory

In the event the Permittee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers’ Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of the Permit, including without limitation this Insurance Schedule.

(b) Each policy of insurance, except for the Workers’ Compensation and Employers Liability Insurance policies, shall also contain an ISO standard “separation of insureds” clause or a cross liability endorsement providing that the protections afforded the Permittee thereunder with respect to any claim or action against the Permittee by a third person shall pertain and apply with like effect with respect to any claim or action against the Permittee by the Port Authority and any claim or action against the Port Authority by the Permittee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Permittee under Section 7 of the Terms and Conditions of the Permit.

(c) All insurance coverages and policies required under this Insurance Schedule 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 of permission under the Permit. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the above-scheduled insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Permittee shall promptly comply therewith.

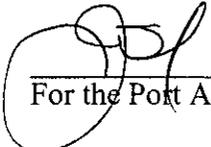
(d) Each policy shall contain a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer

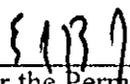
“shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.” The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of the Permit by the Permittee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance delivered to the Port Authority at least seven (7) days prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the Permit. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Permittee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Permittee under the Permit. The foregoing insurance requirements shall not constitute a representation or warranty as to the adequacy of the required coverage to protect the Permittee with respect to the obligations imposed on the Permittee by the Permit or any other agreement or by law.

Initialed:

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

  
\_\_\_\_\_  
For the Permittee

: This Space for Port Authority Use Only :  
:  
: Permit Number: BT-FMC-BOF-019 :

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
**225 Park Avenue South**  
**New York, New York 10003**

**PORT AUTHORITY BUS TERMINAL**  
**SPACE PERMIT**

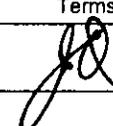
The Port Authority of New York and New Jersey (the "Port Authority") hereby grants to the Permittee hereinafter named permission to use and occupy the following described space (the "Space") at the Port Authority Bus Terminal (the "Facility") for the purposes hereinafter specified and all purposes incidental thereto in accordance with the Terms and Conditions hereof; and said Permittee agrees to pay the fee or fees hereinafter specified and to perform all other obligations imposed upon it in said Terms and Conditions.

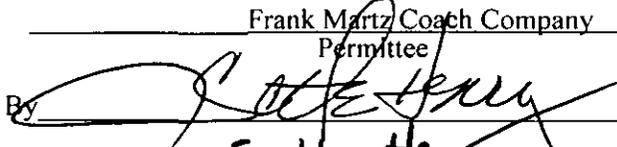
1. PERMITTEE: FRANK MARTZ COACH COMPANY, a Delaware corporation
2. PERMITTEE'S ADDRESS: 239 Old River Road  
Wilkes Barre, Pennsylvania 18702
3. PERMITTEE'S REPRESENTATIVE: Scott Henry
4. SPACE: Per Special Endorsement No. 1.
5. PURPOSES: Per Special Endorsement No. 2.
6. FEES: Per Special Endorsement No. 4.
7. EFFECTIVE DATE: As of January 1, 2013
8. EXPIRATION DATE: December 31, 2017, unless sooner revoked or terminated as provided in this Permit.
9. ENDORSEMENTS ANNEXED AT TIME OF ISSUANCE: 6.4, 11.1, 14.1, 15.1, 17.1, 19.6, Special, Insurance Schedule and Exhibit A.

Dated: As of July 1, 2012

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

By   
Name CEDRICK T. FULTON  
(Title) DIRECTOR, TUNNELS, BRIDGES & TERMINALS DEPT.  
(Please Print Clearly)

Port Authority Use Only: P. 1000-1000	
Approval as to Terms:	Approval as to Form:
<u></u>	<u></u>

Frank Martz Coach Company  
Permittee  
By   
Name Scott Henry  
(Please Print Clearly)  
(Title) President

From

TERMS AND CONDITIONS

1. Certain Definitions:

(a) “**Effective Date**” shall mean the date designated as the “Effective Date” in Item 7 on the cover page of this Permit.

(b) “**Executive Director**” shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(c) “**Expiration Date**” shall mean the date designated as the “Expiration Date” in Item 8 on the cover page of this Permit.

(d) “**Facility**” shall have the meaning set forth in the granting clause on the cover page of this Permit.

(e) “**Hazardous Substance**” shall mean 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, endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(f) “**Manager of the Facility**” shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said Manager by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Manager (or temporary or Acting Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

(g) “**Permittee’s Representative**” shall mean the individual named in Item 3 on the cover page of this Permit or such other individual as the Permittee may designate by notice in accordance with the provisions of Section 18 below, entitled “Notices”.

2. Effectiveness:

(a) The permission granted by this Permit shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days’ prior notice, and terminated by the Permittee without cause upon thirty (30) days’ prior notice; provided, however, that it may be revoked on twenty-four (24) hours’ notice if the Permittee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Permit, including without

limitation the obligation to pay fees. Further, in the event the Port Authority exercises its right to revoke or terminate this Permit for any reason other than "without cause", the Permittee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space which may be used and occupied under this Permit (on failure of the Permittee to have it restored), preparing such space for use by a succeeding permittee, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the space in order (such as but not limited to cleaning and decorating the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this Permit or a waiver of any other rights or remedies which may be available to the Port Authority under this Permit or otherwise.

3. Use of Space by Permittee:

(a) The Space shall be used, pursuant to the permission hereby granted,

(i) if the Permittee is a corporation, by the Permittee acting only through the medium of its officers and employees,

(ii) if the Permittee is an unincorporated association, or a "Massachusetts" or business trust, by the Permittee acting only through the medium of its members, trustees, officers and employees,

(iii) if the Permittee is a partnership, by the Permittee acting only through the medium of its general partners and employees, or

(iv) if the Permittee is an individual, by the Permittee acting only personally or through the medium of his employees; or

(v) if the Permittee is a limited liability company, by the Permittee acting only through the medium of its members, managers and employees;

and the Permittee shall not, without the written approval of the Port Authority, use the Space through the medium of any other person, corporation or legal entity. The Permittee shall not assign or transfer this Permit or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this Permit to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Permittee shall be the joint and several obligation of each such individual or other legal entity.

(b) The Permittee's Representative specified in Item 3 of the cover page of this Permit (or such substitute as the Permittee may hereafter designate in writing) shall have full authority to act for the Permittee in connection with this Permit and any act or things done or to be done hereunder, and to execute on the Permittee's behalf any amendments or supplements to this Permit or any extension hereof and to give and receive notices hereunder.

(c) This Permit shall not constitute the Permittee the agent or representative of the Port Authority for any purpose whatsoever.

(d) The Permittee hereby agrees that it will not carry on any business or operation in the Space or at the Facility other than as specifically provided herein without receiving the prior written consent of the Port Authority, which consent, if given, will be in the form of a Supplement hereto or a separate agreement with the Port Authority, which consent will specify whether the provisions regarding fees contained herein or any other provisions regarding fees shall apply thereto.

4. Condition of Space:

(a) The Permittee hereby acknowledges that prior to the execution of this Permit it has thoroughly examined and inspected the Space and has found the Space in good order and repair and has determined the Space to be suitable for the Permittee's operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Permittee for the purposes contemplated herein. The Permittee agrees to and shall take the Space in its "as is" condition and the Port Authority shall have no obligation hereunder for preparation of the Space for the Permittee's use. The Permittee agrees that no portion of the Space will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property and the Permittee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) Except to the extent required for the performance of any of the obligations of the Permittee under this Permit, nothing contained in this Permit shall grant to the Permittee any rights whatsoever in the air space above the height of the structures located on the Space as of the Effective Date hereof.

(c) The parties to this Permit hereby acknowledge that the Space is non-residential real estate.

5. Payment of Fees:

(a) Unless otherwise expressly provided in this Permit, the Permittee shall pay to the Port Authority a fee for its use and occupancy of the Space. The fee specified is a monthly fee, payable in advance on the Effective Date and on the first day of each and every calendar month thereafter.

(b) Payments made hereunder shall be sent to the following address:

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

or made via the following wire transfer instructions:

Bank: Commerce Bank  
Bank ABA Number: 031201360  
Account Number: Ex. 1

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by notice to the Permittee.

(c) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

(d) Upon execution of this Permit by the Permittee, the Permittee shall pay to the Port Authority all unpaid fees and other monies due and payable under this Permit as of the date of execution.

6. Late and Service Charges:

(a) If the Permittee should fail to pay any amount required under this Permit when due to the Port Authority or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this Permit. 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. 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 Permit, including without limitation the Port Authority's rights set forth in Section 2 hereof or (ii) any obligations of the Permittee under this Permit. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Permit shall be payable instead at such legal maximum.

(b) (i) The Permittee shall permit and/or cause to be permitted in ordinary business hours during the effective period of this Permit and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Permittee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be relevant in connection with the Permittee's use and occupancy of the Space as permitted hereunder within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

(ii) In the event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority by the Permittee (the "**Audit Findings**"), the Permittee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Permittee under this Permit or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Permit with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Permit, including, without limitation, the Port Authority's rights to revoke this Permit or (ii) any obligations of the Permittee under this Permit.

7. Security Deposit: If the Permittee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Permittee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Permittee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any deposit pursuant thereto also shall be deemed obligations of the Permittee under this Permit and as security hereunder as well as under any such other agreement and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby 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.

8. Indemnification of Port Authority:

(a) The Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal costs and 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 of the operations, acts or omissions of the Permittee hereunder.

(b) The Permittee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any way connected with this Permit. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Permittee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Permittee under or in any way connected with this Permit.

(c) If so directed, the Permittee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal, the immunity of the Port Authority, its governmental nature or the provisions of any statutes respecting the Port Authority.

(d) In the event of any injury or death to any person (other than employees of the Permittee) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, or damage to any property (other than the Permittee's property) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, the Permittee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Permittee's insurance carrier.

9. Right of Entry Reserved: The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Space and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

10. Rules and Regulations: The Permittee shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of this Permit, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Permittee of every rule and regulation hereafter adopted by it at least five (5) days before the Permittee shall be required to comply therewith.

11. Conduct of Operations:

(a) The Permittee shall immediately comply with all orders, directives and procedures as may be issued by the Manager of the Facility covering the operations of the Permittee under this Permit at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder.

(b) The Permittee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(c) Unless otherwise expressly provided, the Permittee shall not install any vending machines or similar devices in the Space or use the Space (or permit it to be used) for the sale to its employees or to the public of any of the following goods and services: beverages, food, candy, gum, ice cream or ice cream products, tobacco or tobacco products, periodicals, books, drugs, toys, games, souvenirs, jewelry, novelties, clothing, flowers, sporting or photographic goods, toilet articles, theatre tickets, shoe shines, pressing and cleaning, developing and printing of photographs and films or baggage-checking. The specificity of the foregoing enumeration of disallowed activities shall not be deemed to infer that any particular activities not so enumerated are permitted under this Permit.

(d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Space without the written approval of the Manager of the Facility; and any not approved by him may be removed by the Port Authority at the expense of the Permittee. The Permittee shall not display, or permit the display of, advertising of third parties in the Space.

(e) The Permittee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

(f) The operations of the Permittee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Permittee shall provide and its employees shall wear or carry badges or other suitable means of identification which shall be subject to the approval of the Manager. The Port Authority shall have the right to object to the Permittee as to the demeanor, conduct and appearance of the Permittee's employees, invitees and those doing business with it, whereupon the Permittee will take all steps necessary to remove the cause of the objection.

(g) The Permittee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Permittee. The receptacles shall be kept covered except when filling or emptying the same. The Permittee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

(h) The Permittee shall at all times maintain the Space in a clean and orderly condition and appearance.

12. Permittee Property:

(a) The personal property placed or installed by the Permittee in the Space shall remain the property of the Permittee and must be removed on or before the Expiration Date or on or before the revocation or termination of the permission hereby granted, whichever shall be earlier.

(b) If the Permittee shall fail to remove its property upon the expiration, termination or revocation hereof, the Port Authority may, at its option, as agent for the Permittee and at the Permittee's risk and expense, remove such property to a public warehouse for deposit or retain the same in its own possession and after the expiration of thirty (30) days sell the same at public auction, the proceeds of which shall be applied first to the expenses of sale, second to any sums owed by the Permittee to the Port Authority, and any balance remaining shall be paid to the Permittee, or may take such other action as may be necessary or desirable. Any excess of the total cost of removal, storage and sale over the proceeds of sale shall be paid by the Permittee to the Port Authority upon demand.

13. Prohibited Acts:

(a) The Permittee 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 New York Board of Fire Underwriters and the New York Fire Insurance Exchange, and any other body or organization exercising similar functions which may pertain or apply to the Permittee's operations hereunder. If by reason of the Permittee's failure to comply with the provisions of this Section, any fire insurance, extended coverage or rental insurance rate on the Facility or any part thereof or upon the contents of any building thereon shall at any time be higher than it otherwise would be, then the Permittee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been charged because of such violation by the Permittee.

(b) The Permittee shall not do or permit to be done any act which

(i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or

(ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or

(iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this Permit, or

(iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or

(v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or

(vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.

(c) For purposes of this Section, "Facility" includes all structures located thereon.

14. Specifically Prohibited Activities:

(c) The Permittee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.

(d) The Permittee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Permittee (or permitted by the Permittee to be disposed of, released or discharged) on the Facility shall upon notice by the Port Authority to the Permittee be completely removed and/or remediated by the Permittee at its sole cost and expense.

(e) The Permittee shall not operate any engine or any item of automotive equipment in the Space without adequate ventilation.

(f) The Permittee shall not use any cleaning materials having a harmful or corrosive effect in the Space.

(g) The Permittee shall not fuel or defuel any equipment in the Space or elsewhere at the Facility without the prior approval of the Manager of the Facility except in accordance with Port Authority rules and regulations.

(h) The Permittee shall not start or operate any engine or any item of automotive equipment in the Space unless such space is adequately ventilated and unless such engine is equipped with a proper spark-arresting device.

(i) The Permittee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

15. Labor Disturbances:

(a) (i) The Permittee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Permittee under this Permit.

(ii) The Permittee shall immediately give notice to the Port Authority (to be followed by written notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Permittee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

(b) If any type of strike or other labor activity is directed against the Permittee at the Facility or against any operations pursuant to this Permit resulting in picketing or boycott

for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority, adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Permittee, and whether caused by the employees of the Permittee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' notice, revoke this Permit, effective at the time specified in the notice. Revocation shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation.

16. Notices: A bill or statement may be rendered or any notice or communication which the Port Authority may desire to give the Permittee shall be deemed sufficiently rendered or given if the same be in writing and sent by registered or certified mail addressed to the Permittee at the address specified on the cover page hereof or at the latest address that the Permittee may substitute therefor by notice to the Port Authority, or left at such address, or delivered to the Permittee's Representative, and the time of rendition of such bill or statement and of the giving of such notice or communication shall be deemed to be the time when the same is mailed, left or delivered as herein provided. Any notice from the Permittee to the Port Authority shall be validly given if sent by registered or certified mail addressed to the Executive Director of the Port Authority at 225 Park Avenue South, New York, New York 10003 or at such other address as the Port Authority shall hereafter designate by notice to the Permittee.

17. No Broker: The Permittee represents and warrants that no broker has been concerned in the negotiation or execution of this Permit and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Permittee shall indemnify the Port Authority and save it harmless from any and all claims which have been or which may be made by any and all persons, firms, or corporations whatsoever for services in connection with the negotiation and execution of this Permit or in connection with any permission to use the Space.

18. Waiver of Trial by Jury: The Permittee hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Permittee in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Permit. The Permittee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Permittee.

19. Effect of Use and Occupancy after Expiration, Revocation or Termination: Without in any way limiting any other provision of this Permit, unless otherwise notified by the Port Authority in writing, in the event the Permittee continues its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit, as such effective period of permission may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Permit or other remedies the Port Authority may have by law or otherwise, the Permittee shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such revocation or termination and ending on the date that the Permittee shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the

Permittee any right to continue its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit. The Permittee acknowledges that the failure of the Permittee to surrender, vacate and yield up the Space to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Permittee 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 Permittee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

20. No Personal Liability: No Commissioner, officer, agent or employee of the Port Authority shall be charged personally by the Permittee with any liability, or held liable to it, under any term or provision of this Permit, or because of its execution or attempted execution, or because of any breach hereof.

21. No Waiver: No failure by the Port Authority to insist upon the strict performance of any agreement, term, covenant or condition of this Permit or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this Permit during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this Permit to be performed or complied with by the Permittee, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the Port Authority. No waiver by the Port Authority of any default or breach on the part of the Permittee in performance of any agreement, term, covenant or condition of this Permit shall affect or alter this Permit but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

22. Construction and Application of Terms:

(a) The use of headings in this Permit is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

(b) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Permit or any amendments, addendums or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

(c) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

(d) To the extent that any provisions of this Permit are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

23. Entire Agreement: This Permit, including the cover page, the Terms and Conditions and the attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on

behalf of the parties and attached hereto. The Permittee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

(a) The Permittee shall at all times keep the Space in a clean and orderly condition and appearance, together with all fixtures, equipment and personal property of the Permittee and of the Port Authority located in or on the Space, including without limitation thereto the interior surface of windows and both sides of all entrance doors.

(b) The Permittee shall repair, replace, rebuild and paint all or any part of the Space or of the Facility which may be damaged or destroyed by the acts or omissions of the Permittee, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees or other persons who are doing business with the Permittee who are on or at the Space or the Facility with the consent of the Permittee.

(c) The Permittee shall take good care of the Space, including therein, without limitation thereto, walls, partitions, floors, ceilings, doors and columns, and all parts thereof, and all equipment and fixtures, and shall do all preventive maintenance and make all necessary non-structural repairs, replacements, rebuilding and painting necessary to keep the Space in the condition existing on the effective date and to keep any improvements, additions and fixtures made or installed during the effective period of this Agreement in the condition they were in when made or installed except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the building or adversely affect the efficient or proper utilization or the appearance of any part of the Space.

(d) In the event the Permittee fails to commence so to make or do any repair, replacement, rebuilding or painting required by this Agreement within a period of ten (10) days after notice from the Port Authority so to do, or fails diligently to continue to completion the repair, replacement, rebuilding or Painting of all the premises required to be repaired, replaced, rebuilt or painted by the Permittee under the terms of this Agreement, the Port Authority may, at its option, and in addition to any other remedies which may be available to it, repair, replace, rebuild or paint all or any part of the Space included in the said notice, the Port Authority's cost thereof to be paid by the Permittee on demand. This option or the exercise thereof shall not be deemed to create or imply any obligation or duty to the Permittee or others.

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(e) The obligation of the Permittee as set forth in paragraphs (b) and (c) above, in the event of damage or destruction covered by any contract of insurance under which the Port Authority is the insured, is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that if at any time because of this release the insurance carrier of any policy covering the premises or any part thereof shall increase the premiums otherwise payable for fire, extended coverage or rental coverage applicable to the premises; the Permittee shall pay to the Port Authority an amount equivalent to such increase or increases on demand; and provided, further, that if at any time this release shall invalidate any such policy of insurance or reduce, limit or void the rights of the Port Authority thereunder, or if because of this release, any such insurance carrier shall cancel any such policy or shall refuse to issue or renew the same or shall refuse to issue a policy with an endorsement thereon under which this release is permitted without prejudice to the interest of the insured or shall cancel such endorsement or refuse to renew the same or shall take any other action to alter, decrease or diminish the benefits of the Port Authority under the policy, then the release shall be void and of no effect. Nothing herein shall be construed to imply an obligation on the Port Authority to carry any such insurance policy or to obtain or keep in force any such endorsement.

(f) The Port Authority shall have no duty of repair or maintenance as to the Space or any fixtures, equipment or personal property which is located in or on the Space.

(g) The Permittee shall immediately clear all drainage and supply stoppages and partial blocks, in and in connection with any plumbing fixtures, equipment and system which are a part of or are located in or on the Space. All glass in windows and doors which are a part of or are located in or on the Space and which may be broken shall be replaced by the Permittee not later than five days after breakage or at any earlier date if so directed by the Port Authority and immediately if such replacement is necessary to protect the Space, any part thereof or any other property of the Port Authority against damage, loss or theft. The Permittee shall have no obligation under this paragraph where the condition is caused by the negligence of the Port Authority.

(h) The Permittee shall immediately notify the Port Authority if any portion or all of the Space or any of the said Port Authority fixtures, equipment or personal property is destroyed, damaged or in need of repair, regardless of the Permittee's responsibility therefor.

(i) Nothing herein contained shall relieve the Permittee of its obligations to secure the Port Authority's written approval before installing any fixtures in or upon or making any alterations, decorations, additions or improvements in the Space.

(j) In the event of a partial or total destruction of the Space, the Permittee shall immediately remove any and all of its property and debris from the Space or portion thereof destroyed.

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**CARE OF SPACE**

All Installations

7/22/69

The Port Authority, by its officers, employees, representatives, contractors, licensees, and their employees, shall have the right for the benefit of the Port Authority, or the Permittee and/or for the benefit of others than the Permittee to maintain existing and future heating, water, gas, electricity, sewerage, drainage, fire protection sprinkler, ventilating, refrigerating, fuel and communication systems and other such service systems, including all tubes, pipes, lines, mains, wires, conduits and equipment on or about the Space and to enter upon the Space at all reasonable times and to make such repairs, replacements and 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, on, in or under the Space new tubes, pipes, lines, mains, wires, conduits and equipment, provided however, that the same shall be done so as to interfere as little as reasonably possible with the Permittee's operations.

Nothing contained in this Endorsement shall or shall be construed to impose upon the Port Authority any obligations so to maintain or to make repairs, replacements, alterations or additions or any liability for failure to do so.

STANDARD ENDORSEMENT NO. 11.1  
**MAINTENANCE OF SERVICE FACILITIES**  
All Facilities  
7/21/49

Except as specifically provided herein to the contrary, the Permittee shall not, by virtue of the issue and acceptance of this Permit, be released or discharged from any liabilities or obligations whatsoever under any other Port Authority permits or agreements including but not limited to any permits to make alterations.

In the event that any space or location covered by this Permit is the same as is or has been covered by another Port Authority permit or other agreement with the Permittee, then any liabilities or obligations which by the terms of such permit or agreement, or permits thereunder to make alterations, mature at the expiration or revocation or termination of said permit or agreement, shall be deemed to survive and to mature at the expiration or sooner termination or revocation of this Permit, insofar as such liabilities or obligations require the removal of property from and/or the restoration of the space or location.

STANDARD ENDORSEMENT NO. 14.1  
**DUTIES UNDER OTHER AGREEMENTS**  
All Facilities  
7/21/49

Whenever in this Permit, including all endorsements and exhibits thereto, the pronoun "it" or the adjective "its" may occur, referring to the Permittee, the said pronoun or adjective shall be deemed and taken to mean "it", "he", "him", "she", "her", "they", "them", or "its", "his", "her", "hers", "their", or "theirs", as the circumstances of the reference and the gender and number of the Permittee may require.

**STANDARD ENDORSEMENT NO. 15.1**  
**PERSONAL PRONOUNS**

The Permittee shall procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Permittee's operations at the Facility which may be necessary for the Permittee's operations thereat.

The Permittee shall pay all taxes, license, certification, permit and examination fees and excises which may be assessed, levied, exacted or imposed on its property or operation hereunder or on the gross receipts or income therefrom, and shall make all applications, reports and returns required in connection therewith.

The Permittee shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, rules, regulations, requirements, orders and directions which may pertain or apply to the Permittee's operations at the Facility.

The Permittee's obligations to comply with governmental requirements are provided herein for the purpose of assuring proper safeguards for the protection of persons and property at the Facility and are not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

STANDARD ENDORSEMENT NO. 17.1

**LAW COMPLIANCE**

All Facilities

8/29/49

“Port Authority Bus Terminal” or “Terminal” shall mean the building bounded by 40<sup>th</sup> and 41<sup>st</sup> Streets, 8<sup>th</sup> and 9<sup>th</sup> Avenues, in the City, County and State of New York and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof; all of which now constitutes the Port Authority Bus Terminal.

## SPECIAL ENDORSEMENTS

1. Subject to and in accordance with all the terms and conditions of this Permit and the Endorsements annexed thereto, the Port Authority hereby grants the Permittee permission to use and occupy the space on the lower level of the South Wing of the Facility shown in diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A", together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon (the "Space"). The Port Authority and the Permittee hereby acknowledge that the Space constitutes non-residential real property.

2. The Permittee shall use the Space as a supervisor's break room and for no other purpose whatsoever.

3. (a) The Permittee shall not install any equipment, improvement or fixtures in the Space or perform any construction work therein without the prior written approval of the Port Authority as to the design and type of unit to be installed as well as the method and manner of installation. To such end the Permittee, prior to the installation of any unit in the Space, shall submit to the Port Authority for its approval an Alteration Application in the form supplied by the Port Authority including such terms and conditions and such plans and specifications as the Port Authority may require setting forth in detail the design and type of unit proposed by the Permittee to be installed and the method and manner of the installation work to be performed by the Permittee to prepare and equip the Space for its operations therein. The Permittee shall be responsible at its sole cost and expense for the performance of the installation work. Any installation, placement or attachment made without the approval of the Port Authority and any such that does not continue to meet with the continuing approval of the Port Authority shall immediately be removed by the Permittee and in the event of the Permittee's failure to remove the same the Port Authority may do so at the Permittee's cost and expense. The Port Authority reserves the right to require the Permittee to obtain the approval of the Port Authority as to the time and manner of any maintenance, servicing and repair operations upon any of the Permittee's equipment, facilities, fixtures or property installed in, placed upon, or attached to the Space.

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

4. (a) The Permittee shall pay a monthly fee for the Space as follows:

(i) During the period commencing on January 1, 2013, and continuing through December 31, 2013, both dates inclusive, in the amount of Three Hundred Ninety-eight Dollars and Seventy-eight Cents (\$398.78), payable on January 1, 2013, and on the first day of each and every calendar month occurring during such period; and

(ii) During the period commencing on January 1, 2014, and continuing through December 31, 2014, both dates inclusive, in the amount of Four Hundred Twelve Dollars and Seventy-four Cents (\$412.74), payable on January 1, 2014, and on the first day of each and every calendar month occurring during such period; and

(iii) During the period commencing on January 1, 2015, and continuing through December 31, 2015, both dates inclusive, in the amount of Four Hundred Twenty-seven Dollars and Eighteen Cents (\$427.18), payable on January 1, 2015, and on the first day of each and every calendar month occurring during such period; and

(iv) During the period commencing on January 1, 2016, and continuing through December 31, 2016, both dates inclusive, in the amount of Four Hundred Forty-two Dollars and Thirteen Cents (\$442.13), payable on January 1, 2016, and on the first day of each and every calendar month occurring during such period; and

(v) During the period commencing on January 1, 2017, and continuing through December 31, 2017, both dates inclusive, in the amount of Four Hundred Fifty-seven Dollars and Sixty Cents (\$457.60), payable on January 1, 2017, and on the first of each and every calendar month occurring during such period.

(b) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

5. (a) (i) The Port Authority will supply electricity to the Permittee at the Space on such days and during such hours as the Permittee conducts its operations at the Space, to the extent that the Permittee's consumption does not exceed the capacity of feeders, risers or wiring in the Space or the Facility, the Permittee's consumption and demand for such electricity to be measured by a meter or meters installed by the Port Authority. From and after the Effective Date hereof, the Permittee shall take the same and pay at the greater of: (i) the rates (including the fuel or other adjustment factor) which the Permittee at the time of such purchase and under the service classification then applicable to it would have to pay for the same quantity of electricity to be used for the same purposes under the same conditions if it received the electricity directly from the public utility supplying the same to commercial buildings in the vicinity; or (ii) the Port Authority's cost of obtaining and supplying the same quantity of electricity. In the event any meter is out of service or fails to record the consumption and demand for electricity by the Permittee, the Permittee's consumption and demand for electricity will be considered to be the same as its consumption and demand for a like period as measured by such meter, either immediately before or immediately after such interruption or failure of a meter, which period shall be selected by the Port Authority. The Permittee shall pay the amount as so determined for each such billing period to the Port Authority upon demand therefor and the same shall be deemed an additional fee collectible in the same manner and with like remedies as if it were a part of the Basic Fee reserved hereunder.

(ii) Notwithstanding that the Port Authority has agreed to supply electricity to the Permittee, the Port Authority shall be under no obligation to provide or continue such service if the Port Authority is prevented by law, agreement or otherwise from metering or measuring consumption and demand as hereinabove set forth or elects not to so meter or measure the same, and in any such event the Permittee shall make all arrangements and conversions necessary to obtain electricity directly from the public utility. Also in such event,

the Permittee shall perform the construction necessary for conversion and if any lines or equipment of the Port Authority are with the consent of the Port Authority used therefor the Port Authority may make an appropriate charge therefor to the Permittee based on its costs and expenses for the said lines and equipment.

(b) Without limiting the generality of rights of entry upon the Space elsewhere in this Permit reserved to the Port Authority, the Port Authority shall have, for itself, its officers, employees, representatives, contractors and subcontractors, the right to enter upon the Space at all times to construct, install, maintain, replace, repair or improve the air-cooling system or any part thereof providing service for the part of the Facility in which any portion of the Space is located. Air-cooling shall be furnished subject to all the provisions of this Permit and in accordance with the following:

(i) If the air-cooling in or on the Space can be controlled by mechanisms within the Space, the Permittee shall shut off the air-cooling before closing and leaving the Space at any time for any period. The Port Authority shall have the rights of entry specified in Section 9 of the Terms and Conditions hereof for the purpose of observing the Permittee's compliance with the provisions hereof and the Port Authority may lock, seal or install any timing device on or in connection with any air-cooling control mechanism so as to provide that the Space shall only be air-cooled during the hours and days stipulated hereunder.

(ii) If the Permittee, in accordance with Standard Endorsement 6.4 hereof or otherwise, erects any partitions or makes any improvements, which partitions or improvements stop, hinder, obstruct or interfere with the cooling of the air or the heating of the Space, then no such action by the Permittee shall impose any obligation on the Port Authority to install facilities, fixtures or equipment for air-cooling or for heating additional to those presently existing or presently contemplated or to increase the capacity or output of existing or presently contemplated facilities, equipment or fixtures, and the Permittee shall not in any such event be relieved of any of its obligations hereunder because a comfortable temperature is not maintained. No consent or approval given by the Port Authority in connection with the erection of partitions or the making of any improvements shall be or be deemed to be a representation that the work consented to or approved will not stop, hinder, obstruct or interfere with either the cooling of the air or heating of the Space or any portion thereof. It is hereby understood further that the installation by the Permittee of any equipment which itself requires air-cooling or which requires additional quantities of air-cooling shall not impose any obligation on the Port Authority to increase the capacity or output of initially existing facilities, equipment or fixtures for the cooling of the air or the heating of the Space and the Permittee shall not in any such event be relieved of any of its obligations hereunder.

(c) The Port Authority shall, without additional charge to the Permittee, furnish to the Permittee in the enclosed portion of the Space heat, to an even and comfortable temperature during the months of November to April, inclusive, occurring the period of permission granted hereunder.

(d) The Port Authority shall have no obligations or responsibility with respect to the performance of any services or providing, supplying or furnishing to the Permittee of any utilities or services whatsoever except as expressly provided in this Special Endorsement. Without limiting the generality of any other provisions of this Permit, or the Rules and Regulations of the Port Authority referred to herein, the Permittee shall not retain any contractor for the performance of any cleaning, janitorial or maintenance work in the Space without the prior written consent of the Port Authority.

(e) If any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, makes or increases any charge, fee or rent on the Port Authority for any service, system or utility now or in the future applied to or available to the Space or to any occupants or users thereof or to the structure or building of which the premises form a part (including but not limited to any sewer rent or charge for the use of sewer systems), the Permittee shall, at the option of the Port Authority exercised at any time and from time to time by notice to the Permittee, pay, in accordance with said notice, such charge, fee or rent or increase thereof (or the portion thereof allocated by the Port Authority to the Space or the Permittee's operations hereunder) either directly to the governmental body, authority or agency or to the public utility or directly to the Port Authority.

(f) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee where such service is to be metered, the Port Authority shall be under no obligation to provide or continue any such service if the Port Authority is prevented by law from submetering such service or has agreed with the supplier of such service not to submeter such service.

(g) The Port Authority shall have the right to temporarily discontinue the supply of any of the above services when necessary or desirable in the opinion of the Port Authority in order to make any repairs, alterations, changes or improvements in the Space or elsewhere in the building of which the Space forms a part including all systems for the supply of services.

(h) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee, the Port Authority shall be under no obligation to supply any such service 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. If by operation of this subdivision or the previous subdivision any service for which the Permittee has agreed to pay a flat sum is discontinued for any period during the effective period of the permission granted hereunder, the Permittee shall be relieved of its obligation to pay for such service for any such period or if any such service is supplied during fewer hours or in lesser amounts than agreed during any period during the effective period of the permission granted hereunder, the Permittee shall be relieved proportionately of its obligation to pay for any such service for any such period.

(i) No failure, delay or interruption in any of the above services shall be or shall be construed to be an eviction of the Permittee, shall be grounds for any diminution or abatement of the fees payable hereunder, or shall constitute grounds for any claim by the Permittee for damages, consequential or otherwise, unless due to the negligence of the Port Authority, its employees or agents. The Permittee shall not be entitled to receive any of the above services during any period during which the Permittee wastes any of the services or is in default under any of the provisions of this Permit.

6. The provisions of Section 19 of the Terms and Conditions of this Permit shall survive the expiration or the earlier revocation of the permission hereunder granted. Neither the receipt of any sum as damages pursuant to the provisions of said Section, nor any other act taken by the Port Authority pursuant to the provisions thereof in apparent affirmation of the Permittee's use and occupancy of the Space for any period beyond the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted shall or shall be

deemed to grant the Permittee a right to remain in occupancy of the Space after the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted, or shall or shall be deemed to be a waiver by the Port Authority of or a limitation of the Port Authority's right to exercise any remedy available to it under this Permit or otherwise at law or in equity, to obtain possession of the Space should the Permittee fail to terminate its occupancy thereof and to deliver actual, physical possession thereof to the Port Authority on or before the Expiration Date or the earlier revocation of the permission hereunder granted, including without limitation the right to terminate this Permit pursuant to the terms hereof, and the right to institute summary proceedings.

7. (a) The Permittee shall not, on the grounds of race, creed, color, sex or national origin, discriminate or permit discrimination against any person or person in its selling of merchandise or rendering of services hereunder or in its employment practices and procedures or in any of its operations or activities under or in connection with this Permit.

(b) Without limiting the generality of any other provision of this Permit, the Permittee shall not keep, maintain, place or install in the Space any fixtures or equipment the use of which is not consistent with and required for the purposes of this Permit and the Permittee shall not use or connect any equipment or engage in any activity or operation in the Space which will cause or tend to cause an overloading of the capacity of any existing or future utility, mechanical, electrical, communications or other systems or portions thereof on the Space or elsewhere at the Facility nor shall the Permittee do or permit to be done anything which may interfere with the effectiveness or accessibility thereof.

(c) The Permittee shall not overload any floor, roadway, passageway, pavement or other surface or any wall, partition, column or other supporting member or any elevator or other conveyance in the Space or at the Facility and, without limiting any other provision of this Permit, the Permittee shall repair, replace or rebuild any such as may be damaged by overloading.

(d) Subject to and in accordance with the provisions of Section 8 of the Terms and Conditions hereof, the Permittee shall make any and all improvements, alterations or repairs of the Space that may be required at any time hereafter by any present or future governmental law, rule, regulation, requirement, order or direction or by any present or future rule, regulation, requirement, order or direction of the National Fire Protection Association and the New York Fire Insurance Rating Organization, and of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Permittee on the Space.

8. The Port Authority shall not be liable to the Permittee or others for any personal injury, death or property damage from falling material, water, rain, hail, snow, gas, steam, dampness, explosion, smoke, radiation and/or electricity whether the same may leak into or fall, issue or flow from any part of the Space or of the Facility including, without limitation thereto, any utility, mechanical, electrical, communications or other systems therein or from any other place or quarter unless said damage, injury or death shall be due to the negligent acts of the Port Authority, its employees or agents.

9. Such provisions of this Permit as apply to the rights and obligations of the parties hereto upon the expiration of the permission granted by this Permit shall apply to the rights and obligations of the parties hereto upon the revocation of the said permission.

10. (a) During the effective period of the permission granted under this Permit, the Permittee shall not give or agree to give anything of value either to a Port Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority of duties involving transactions with the Permittee on behalf of the Port Authority whether or not such duties are related to this Permit or any other Port Authority lease, contract or matter. Any such conduct shall be deemed a material breach of this Permit.

(b) As used herein, "anything of value" shall include, but not be limited to, any (i) favors, such as meals, entertainment, transportation (other than that contemplated by this Permit or any other Port Authority lease or contract), etc., which might tend to obligate the Port Authority employee to the Permittee, or (ii) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Permit or any other Port Authority lease or contract.

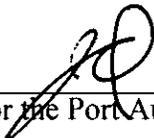
(c) In addition, during the effective period of the permission granted under this Permit, the Permittee shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated as of April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Port Authority).

(d) The Permittee shall include the provisions of this paragraph in each contract or subcontract entered into under and pursuant to the provisions of this Permit.

(e) The Permittee certifies that it has not made any offers or agreements or given or agreed to give anything of value (as defined in this paragraph) or taken any other action with respect to any Port Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated as of April 11, 1996 referred to in this paragraph nor does the Permittee have any knowledge of any act on the part of a Port Authority employee or former Port Authority employee relating either directly or indirectly to the Permittee which constitutes a breach of the ethical standards set forth in said Code.

11. Without limiting any other right of revocation or termination set forth in this Permit, the Port Authority may at any time and from time to time, in connection with a program of seismic and security related improvements, revoke the permission granted hereunder as to the Space on thirty (30) days' prior notice to the Permittee and may at any time and from time to time require the Permittee to relocate, temporarily or permanently, partially or entirely, to a different location within the Facility of comparable size to the Space and the Permittee agrees that it shall comply promptly at its own expense with any such direction or requirement from the Port Authority and to execute, upon receipt from the Port Authority, whatever amendments or other instruments as may be required to correctly reflect the foregoing. The Permittee shall leave the vacated area in the condition required under this Permit in the case of expiration and all obligations with respect to the vacated area which would have matured on the effective date of expiration of the Permit shall mature as to the vacated area on the required date of relocation hereunder. In the event of relocation, the Permittee shall promptly remove all property from the affected area. In the event the Permittee fails to immediately relocate to such new location, the

Port Authority shall have the right to do so at the risk of the Permittee, and the Permittee shall pay the Port Authority the expense thereof on demand. Without in any way limiting any other right of entry set forth in this Permit, the Port Authority at any time and from time to time, shall also have the right to enter upon the Space to perform construction work related to such seismic and security program.

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

Initialed:

  
\_\_\_\_\_  
For the Permittee

## INSURANCE SCHEDULE

(a) The Permittee named in the permit to which this Insurance Schedule is attached and of which it constitutes an integral part (the "Permit"), in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of the Permit on a policy or policies of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, 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, and Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles and including automatic coverage for newly acquired vehicles and providing for coverage in the limit set forth below:

	<u>Minimum Limits</u>
Commercial General Liability Insurance	
Combined single limit per occurrence for death, bodily injury and property damage liability:	\$2,000,000.00
Workers' Compensation and Employers Liability Insurance	
Permittee's obligations under the applicable State Workers' Compensation Law for those employees of the Permittee employed in operations conducted pursuant to the Permit at or from the Facility:	Statutory

In the event the Permittee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers' Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of the Permit, including without limitation this Insurance Schedule.

(b) Each policy of insurance, except for the Workers' Compensation and Employers Liability Insurance policies, shall also contain an ISO standard "separation of insureds" clause or a cross liability endorsement providing that the protections afforded the Permittee thereunder with respect to any claim or action against the Permittee by a third person shall pertain and apply with like effect with respect to any claim or action against the Permittee by the Port Authority and any claim or action against the Port Authority by the Permittee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Permittee under Section 8 of the Terms and Conditions of the Permit.

(c) All insurance coverages and policies required under this Insurance Schedule 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 of permission under the Permit. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the above-scheduled insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Permittee shall promptly comply therewith.

(d) Each policy shall contain a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer "shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority." The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of the Permit by the Permittee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance delivered to the Port Authority at least seven (7) days prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the Permit. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Permittee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Permittee under the Permit. The foregoing insurance requirements shall not constitute a representation or warranty as to the adequacy of the required coverage to protect the Permittee with respect to the obligations imposed on the Permittee by the Permit or any other agreement or by law.

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

Initialed:

  
\_\_\_\_\_  
For the Permittee

:This Space for Port Authority Use Only:  
:  
:Permit Number: BTW-028 :

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
225 Park Avenue South  
New York, New York 10003

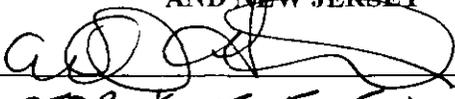
**PORT AUTHORITY BUS TERMINAL  
SPACE PERMIT**

The Port Authority of New York and New Jersey (herein called the "Port Authority") hereby grants to the Permittee hereinafter named permission to use and occupy the following described space (hereinafter referred to as the "Space") at the Port Authority Bus Terminal (hereafter sometimes called the "Facility") for the purposes hereinafter specified and all purposes incidental thereto in accordance with the Terms and Conditions hereof; and said Permittee agrees to pay the fee or fees hereinafter specified and to perform all other obligations imposed upon it in said Terms and Conditions.

1. PERMITTEE: Midtown Bus Terminal of New York, Inc., a New York corporation
2. PERMITTEE'S ADDRESS: 4 Leisure Lane  
Mahway, NJ 07041
3. PERMITTEE'S REPRESENTATIVE: George Grieve
4. SPACE: Per Special Endorsement No. 1.
5. PURPOSES: Per Special Endorsement No. 2.
6. FEES: Per Special Endorsement No. 4.
7. EFFECTIVE DATE: As of January 1, 2013
8. EXPIRATION DATE: December 31, 2017 unless sooner revoked or terminated  
as provided in this Permit.
9. ENDORSEMENTS ANNEXED AT TIME OF ISSUANCE: 6.4, 11.1, 14.1, 15.1, 17.1, 19.6, Special,  
Insurance Schedule and Exhibit A.

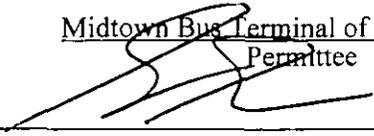
Dated: July 21, 2012

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

By   
Name CEDRICK T. FULTON  
(Please Print Clearly)  
(Title) DIRECTOR, TUNNELS BRIDGES & TERMINALS DEPT.

Port Authority Use Only	
Approval as to Terms:	Approval as to Form:
<u></u>	<u>ILL</u>

Midtown Bus Terminal of New York, Inc.  
Permittee

By   
Name GEORGE GRIEVE  
(Please Print Clearly)  
(Title) President

*Revised*

TERMS AND CONDITIONS

1. Certain Definitions:

(a) **“Effective Date”** shall mean the date designated as the “Effective Date” in Item 7 on the cover page of this Permit.

(b) **“Executive Director”** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(c) **“Expiration Date”** shall mean the date designated as the “Expiration Date” in Item 8 on the cover page of this Permit.

(d) **“Facility”** shall have the meaning set forth in the granting clause on the cover page of this Permit.

(e) **“Hazardous Substance”** shall mean 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, endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(f) **“Manager of the Facility”** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said Manager by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Manager (or temporary or Acting Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

(g) **“Permittee’s Representative”** shall mean the individual named in Item 3 on the cover page of this Permit or such other individual as the Permittee may designate by notice in accordance with the provisions of Section 18 below, entitled “Notices”.

2. Effectiveness:

(a) The permission granted by this Permit shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days’ prior notice, and terminated by the Permittee without cause upon thirty (30) days’ prior notice; provided, however, that it may be revoked on twenty-four (24) hours’ notice if the Permittee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Permit, including without

limitation the obligation to pay fees. Further, in the event the Port Authority exercises its right to revoke or terminate this Permit for any reason other than "without cause", the Permittee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space which may be used and occupied under this Permit (on failure of the Permittee to have it restored), preparing such space for use by a succeeding permittee, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the space in order (such as but not limited to cleaning and decorating the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this Permit or a waiver of any other rights or remedies which may be available to the Port Authority under this Permit or otherwise.

3. Use of Space by Permittee:

(a) The Space shall be used, pursuant to the permission hereby granted,

(i) if the Permittee is a corporation, by the Permittee acting only through the medium of its officers and employees,

(ii) if the Permittee is an unincorporated association, or a "Massachusetts" or business trust, by the Permittee acting only through the medium of its members, trustees, officers and employees,

(iii) if the Permittee is a partnership, by the Permittee acting only through the medium of its general partners and employees, or

(iv) if the Permittee is an individual, by the Permittee acting only personally or through the medium of his employees; or

(v) if the Permittee is a limited liability company, by the Permittee acting only through the medium of its members, managers and employees;

and the Permittee shall not, without the written approval of the Port Authority, use the Space through the medium of any other person, corporation or legal entity. The Permittee shall not assign or transfer this Permit or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this Permit to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Permittee shall be the joint and several obligation of each such individual or other legal entity.

(b) The Permittee's Representative specified in Item 3 of the cover page of this Permit (or such substitute as the Permittee may hereafter designate in writing) shall have full authority to act for the Permittee in connection with this Permit and any act or things done or to be done hereunder, and to execute on the Permittee's behalf any amendments or supplements to this Permit or any extension hereof and to give and receive notices hereunder.

(c) This Permit shall not constitute the Permittee the agent or representative of the Port Authority for any purpose whatsoever.

(d) The Permittee hereby agrees that it will not carry on any business or operation in the Space or at the Facility other than as specifically provided herein without receiving the prior written consent of the Port Authority, which consent, if given, will be in the form of a Supplement hereto or a separate agreement with the Port Authority, which consent will specify whether the provisions regarding fees contained herein or any other provisions regarding fees shall apply thereto.

4. Condition of Space:

(a) The Permittee hereby acknowledges that prior to the execution of this Permit it has thoroughly examined and inspected the Space and has found the Space in good order and repair and has determined the Space to be suitable for the Permittee's operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Permittee for the purposes contemplated herein. The Permittee agrees to and shall take the Space in its "as is" condition and the Port Authority shall have no obligation hereunder for preparation of the Space for the Permittee's use. The Permittee agrees that no portion of the Space will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property and the Permittee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) Except to the extent required for the performance of any of the obligations of the Permittee under this Permit, nothing contained in this Permit shall grant to the Permittee any rights whatsoever in the air space above the height of the structures located on the Space as of the Effective Date hereof.

(c) The parties to this Permit hereby acknowledge that the Space is non-residential real estate.

5. Payment of Fees:

(a) Unless otherwise expressly provided in this Permit, the Permittee shall pay to the Port Authority a fee for its use and occupancy of the Space. The fee specified is a monthly fee, payable in advance on the Effective Date and on the first day of each and every calendar month thereafter.

(b) Payments made hereunder shall be sent to the following address:

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

or made via the following wire transfer instructions:

Bank: Commerce Bank  
Bank ABA Number: 031201360  
Account Number: Ex. 1

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by notice to the Permittee.

(c) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

(d) Upon execution of this Permit by the Permittee, the Permittee shall pay to the Port Authority all unpaid fees and other monies due and payable under this Permit as of the date of execution.

6. Late and Service Charges:

(a) If the Permittee should fail to pay any amount required under this Permit when due to the Port Authority or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this Permit. 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. 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 Permit, including without limitation the Port Authority's rights set forth in Section 2 hereof or (ii) any obligations of the Permittee under this Permit. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Permit shall be payable instead at such legal maximum.

(b) (i) The Permittee shall permit and/or cause to be permitted in ordinary business hours during the effective period of this Permit and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Permittee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be relevant in connection with the Permittee's use and occupancy of the Space as permitted hereunder within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

(ii) In the event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority by the Permittee (the "**Audit Findings**"), the Permittee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Permittee under this Permit or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Permit with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Permit, including, without limitation, the Port Authority's rights to revoke this Permit or (ii) any obligations of the Permittee under this Permit.

7. Security Deposit: If the Permittee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Permittee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Permittee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any deposit pursuant thereto also shall be deemed obligations of the Permittee under this Permit and as security hereunder as well as under any such other agreement and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby 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.

8. Indemnification of Port Authority:

(a) The Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal costs and 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 of the operations, acts or omissions of the Permittee hereunder.

(b) The Permittee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold

by it in its operations under or in any way connected with this Permit. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Permittee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Permittee under or in any way connected with this Permit.

(c) If so directed, the Permittee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal, the immunity of the Port Authority, its governmental nature or the provisions of any statutes respecting the Port Authority.

(d) In the event of any injury or death to any person (other than employees of the Permittee) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, or damage to any property (other than the Permittee's property) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, the Permittee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Permittee's insurance carrier.

9. Right of Entry Reserved: The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Space and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

10. Rules and Regulations: The Permittee shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of this Permit, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Permittee of every rule and regulation hereafter adopted by it at least five (5) days before the Permittee shall be required to comply therewith.

11. Conduct of Operations:

(a) The Permittee shall immediately comply with all orders, directives and procedures as may be issued by the Manager of the Facility covering the operations of the Permittee under this Permit at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder.

(b) The Permittee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(c) Unless otherwise expressly provided, the Permittee shall not install any vending machines or similar devices in the Space or use the Space (or permit it to be used) for the sale to its employees or to the public of any of the following goods and services: beverages, food, candy, gum, ice cream or ice cream products, tobacco or tobacco products, periodicals, books, drugs, toys, games, souvenirs, jewelry, novelties, clothing, flowers, sporting or photographic goods, toilet articles, theatre tickets, shoe shines, pressing and cleaning, developing and printing of photographs and films or baggage-checking. The specificity of the foregoing enumeration of disallowed activities shall not be deemed to infer that any particular activities not so enumerated are permitted under this Permit.

(d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Space without the written approval of the Manager of the Facility; and any not approved by him may be removed by the Port Authority at the expense of the Permittee. The Permittee shall not display, or permit the display of, advertising of third parties in the Space.

(e) The Permittee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

(f) The operations of the Permittee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Permittee shall provide and its employees shall wear or carry badges or other suitable means of identification which shall be subject to the approval of the Manager. The Port Authority shall have the right to object to the Permittee as to the demeanor, conduct and appearance of the Permittee's employees, invitees and those doing business with it, whereupon the Permittee will take all steps necessary to remove the cause of the objection.

(g) The Permittee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Permittee. The receptacles shall be kept covered except when filling or emptying the same. The Permittee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

(h) The Permittee shall at all times maintain the Space in a clean and orderly condition and appearance.

12. Permittee Property:

(a) The personal property placed or installed by the Permittee in the Space shall remain the property of the Permittee and must be removed on or before the Expiration Date

or on or before the revocation or termination of the permission hereby granted, whichever shall be earlier.

(b) If the Permittee shall fail to remove its property upon the expiration, termination or revocation hereof, the Port Authority may, at its option, as agent for the Permittee and at the Permittee's risk and expense, remove such property to a public warehouse for deposit or retain the same in its own possession and after the expiration of thirty (30) days sell the same at public auction, the proceeds of which shall be applied first to the expenses of sale, second to any sums owed by the Permittee to the Port Authority, and any balance remaining shall be paid to the Permittee, or may take such other action as may be necessary or desirable. Any excess of the total cost of removal, storage and sale over the proceeds of sale shall be paid by the Permittee to the Port Authority upon demand.

13. Prohibited Acts:

(a) The Permittee 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 New York Board of Fire Underwriters and the New York Fire Insurance Exchange, and any other body or organization exercising similar functions which may pertain or apply to the Permittee's operations hereunder. If by reason of the Permittee's failure to comply with the provisions of this Section, any fire insurance, extended coverage or rental insurance rate on the Facility or any part thereof or upon the contents of any building thereon shall at any time be higher than it otherwise would be, then the Permittee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been charged because of such violation by the Permittee.

(b) The Permittee shall not do or permit to be done any act which

(i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or

(ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or

(iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this Permit, or

(iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or

(v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or

(vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.

(c) For purposes of this Section, "Facility" includes all structures located thereon.

14. Specifically Prohibited Activities:

(c) The Permittee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.

(d) The Permittee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Permittee (or permitted by the Permittee to be disposed of, released or discharged) on the Facility shall upon notice by the Port Authority to the Permittee be completely removed and/or remediated by the Permittee at its sole cost and expense.

(e) The Permittee shall not operate any engine or any item of automotive equipment in the Space without adequate ventilation.

(f) The Permittee shall not use any cleaning materials having a harmful or corrosive effect in the Space.

(g) The Permittee shall not fuel or defuel any equipment in the Space or elsewhere at the Facility without the prior approval of the Manager of the Facility except in accordance with Port Authority rules and regulations.

(h) The Permittee shall not start or operate any engine or any item of automotive equipment in the Space unless such space is adequately ventilated and unless such engine is equipped with a proper spark-arresting device.

(i) The Permittee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

15. Labor Disturbances:

(a) (i) The Permittee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Permittee under this Permit.

(ii) The Permittee shall immediately give notice to the Port Authority (to be followed by written notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Permittee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

(b) If any type of strike or other labor activity is directed against the Permittee at the Facility or against any operations pursuant to this Permit resulting in picketing or boycott for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority,

adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Permittee, and whether caused by the employees of the Permittee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' notice, revoke this Permit, effective at the time specified in the notice. Revocation shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation.

16. Notices: A bill or statement may be rendered or any notice or communication which the Port Authority may desire to give the Permittee shall be deemed sufficiently rendered or given if the same be in writing and sent by registered or certified mail addressed to the Permittee at the address specified on the cover page hereof or at the latest address that the Permittee may substitute therefor by notice to the Port Authority, or left at such address, or delivered to the Permittee's Representative, and the time of rendition of such bill or statement and of the giving of such notice or communication shall be deemed to be the time when the same is mailed, left or delivered as herein provided. Any notice from the Permittee to the Port Authority shall be validly given if sent by registered or certified mail addressed to the Executive Director of the Port Authority at 225 Park Avenue South, New York, New York 10003 or at such other address as the Port Authority shall hereafter designate by notice to the Permittee.

17. No Broker: The Permittee represents and warrants that no broker has been concerned in the negotiation or execution of this Permit and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Permittee shall indemnify the Port Authority and save it harmless from any and all claims which have been or which may be made by any and all persons, firms, or corporations whatsoever for services in connection with the negotiation and execution of this Permit or in connection with any permission to use the Space.

18. Waiver of Trial by Jury: The Permittee hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Permittee in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Permit. The Permittee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Permittee.

19. Effect of Use and Occupancy after Expiration, Revocation or Termination: Without in any way limiting any other provision of this Permit, unless otherwise notified by the Port Authority in writing, in the event the Permittee continues its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit, as such effective period of permission may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Permit or other remedies the Port Authority may have by law or otherwise, the Permittee shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such revocation or termination and ending on the date that the Permittee shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Permittee any right to continue its use and occupancy of the Space after the expiration,

revocation or termination of the effective period of the permission granted under this Permit. The Permittee acknowledges that the failure of the Permittee to surrender, vacate and yield up the Space to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Permittee 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 Permittee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

20. No Personal Liability: No Commissioner, officer, agent or employee of the Port Authority shall be charged personally by the Permittee with any liability, or held liable to it, under any term or provision of this Permit, or because of its execution or attempted execution, or because of any breach hereof.

21. No Waiver: No failure by the Port Authority to insist upon the strict performance of any agreement, term, covenant or condition of this Permit or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this Permit during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this Permit to be performed or complied with by the Permittee, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the Port Authority. No waiver by the Port Authority of any default or breach on the part of the Permittee in performance of any agreement, term, covenant or condition of this Permit shall affect or alter this Permit but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

22. Construction and Application of Terms:

(a) The use of headings in this Permit is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

(b) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Permit or any amendments, addendums or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

(c) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

(d) To the extent that any provisions of this Permit are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

23. Entire Agreement: This Permit, including the cover page, the Terms and Conditions and the attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on

behalf of the parties and attached hereto. The Permittee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

(a) The Permittee shall at all times keep the Space in a clean and orderly condition and appearance, together with all fixtures, equipment and personal property of the Permittee and of the Port Authority located in or on the Space, including without limitation thereto the interior surface of windows and both sides of all entrance doors.

(b) The Permittee shall repair, replace, rebuild and paint all or any part of the Space or of the Facility which may be damaged or destroyed by the acts or omissions of the Permittee, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees or other persons who are doing business with the Permittee who are on or at the Space or the Facility with the consent of the Permittee.

(c) The Permittee shall take good care of the Space, including therein, without limitation thereto, walls, partitions, floors, ceilings, doors and columns, and all parts thereof, and all equipment and fixtures, and shall do all preventive maintenance and make all necessary non-structural repairs, replacements, rebuilding and painting necessary to keep the Space in the condition existing on the effective date and to keep any improvements, additions and fixtures made or installed during the effective period of this Agreement in the condition they were in when made or installed except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the building or adversely affect the efficient or proper utilization or the appearance of any part of the Space.

(d) In the event the Permittee fails to commence so to make or do any repair, replacement, rebuilding or painting required by this Agreement within a period of ten (10) days after notice from the Port Authority so to do, or fails diligently to continue to completion the repair, replacement, rebuilding or Painting of all the premises required to be repaired, replaced, rebuilt or painted by the Permittee under the terms of this Agreement, the Port Authority may, at its option, and in addition to any other remedies which may be available to it, repair, replace, rebuild or paint all or any part of the Space included in the said notice, the Port Authority's cost thereof to be paid by the Permittee on demand. This option or the exercise thereof shall not be deemed to create or imply any obligation or duty to the Permittee or others.

(e) The obligation of the Permittee as set forth in paragraphs (b) and (c) above, in the event of damage or destruction covered by any contract of insurance under which the Port Authority is the insured, is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that if at any time because of this release the insurance carrier of any policy covering the premises or any part thereof shall increase the premiums otherwise payable for fire, extended coverage or rental coverage applicable to the premises; the Permittee shall pay to the Port Authority an amount equivalent to such increase or increases on demand; and provided, further, that if at any time this release shall invalidate any such policy of insurance or reduce, limit or void the rights of the Port Authority thereunder, or if because of this release, any such insurance carrier shall cancel any such policy or shall refuse to issue or renew the same or shall refuse to issue a policy with an endorsement thereon under which this release is permitted without prejudice to the interest of the insured or shall cancel such endorsement or refuse to renew the same or shall take any other action to alter, decrease or diminish the benefits of the Port Authority under the policy, then the release shall be void and of no effect. Nothing herein shall be construed to imply an obligation on the Port Authority to carry any such insurance policy or to obtain or keep in force any such endorsement.

(f) The Port Authority shall have no duty of repair or maintenance as to the Space or any fixtures, equipment or personal property which is located in or on the Space.

(g) The Permittee shall immediately clear all drainage and supply stoppages and partial blocks, in and in connection with any plumbing fixtures, equipment and system which are a part of or are located in or on the Space. All glass in windows and doors which are a part of or are located in or on the Space and which may be broken shall be replaced by the Permittee not later than five days after breakage or at any earlier date if so directed by the Port Authority and immediately if such replacement is necessary to protect the Space, any part thereof or any other property of the Port Authority against damage, loss or theft. The Permittee shall have no obligation under this paragraph where the condition is caused by the negligence of the Port Authority.

(h) The Permittee shall immediately notify the Port Authority if any portion or all of the Space or any of the said Port Authority fixtures, equipment or personal property is destroyed, damaged or in need of repair, regardless of the Permittee's responsibility therefor.

(i) Nothing herein contained shall relieve the Permittee of its obligations to secure the Port Authority's written approval before installing any fixtures in or upon or making any alterations, decorations, additions or improvements in the Space.

(j) In the event of a partial or total destruction of the Space, the Permittee shall immediately remove any and all of its property and debris from the Space or portion thereof destroyed.

STANDARD ENDORSEMENT NO. 6.4 (Page 2)

**CARE OF SPACE**

All Installations

7/22/69

STANDARD ENDORSEMENT NO. 6.4 (Page 3)

**CARE OF SPACE**

All Installations

7/22/69

The Port Authority, by its officers, employees, representatives, contractors, licensees, and their employees, shall have the right for the benefit of the Port Authority, or the Permittee and/or for the benefit of others than the Permittee to maintain existing and future heating, water, gas, electricity, sewerage, drainage, fire protection sprinkler, ventilating, refrigerating, fuel and communication systems and other such service systems, including all tubes, pipes, lines, mains, wires, conduits and equipment on or about the Space and to enter upon the Space at all reasonable times and to make such repairs, replacements and 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, on, in or under the Space new tubes, pipes, lines, mains, wires, conduits and equipment, provided however, that the same shall be done so as to interfere as little as reasonably possible with the Permittee's operations.

Nothing contained in this Endorsement shall or shall be construed to impose upon the Port Authority any obligations so to maintain or to make repairs, replacements, alterations or additions or any liability for failure to do so.

STANDARD ENDORSEMENT NO. 11.1  
**MAINTENANCE OF SERVICE FACILITIES**  
All Facilities  
7/21/49

Except as specifically provided herein to the contrary, the Permittee shall not, by virtue of the issue and acceptance of this Permit, be released or discharged from any liabilities or obligations whatsoever under any other Port Authority permits or agreements including but not limited to any permits to make alterations.

In the event that any space or location covered by this Permit is the same as is or has been covered by another Port Authority permit or other agreement with the Permittee, then any liabilities or obligations which by the terms of such permit or agreement, or permits thereunder to make alterations, mature at the expiration or revocation or termination of said permit or agreement, shall be deemed to survive and to mature at the expiration or sooner termination or revocation of this Permit, insofar as such liabilities or obligations require the removal of property from and/or the restoration of the space or location.

Whenever in this Permit, including all endorsements and exhibits thereto, the pronoun "it" or the adjective "its" may occur, referring to the Permittee, the said pronoun or adjective shall be deemed and taken to mean "it", "he", "him", "she", "her", "they", "them", or "its", "his", "her", "hers", "their", or "theirs", as the circumstances of the reference and the gender and number of the Permittee may require.

The Permittee shall procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Permittee's operations at the Facility which may be necessary for the Permittee's operations thereat.

The Permittee shall pay all taxes, license, certification, permit and examination fees and excises which may be assessed, levied, exacted or imposed on its property or operation hereunder or on the gross receipts or income therefrom, and shall make all applications, reports and returns required in connection therewith.

The Permittee shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, rules, regulations, requirements, orders and directions which may pertain or apply to the Permittee's operations at the Facility.

The Permittee's obligations to comply with governmental requirements are provided herein for the purpose of assuring proper safeguards for the protection of persons and property at the Facility and are not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

“Port Authority Bus Terminal” or “Terminal” shall mean the building bounded by 40<sup>th</sup> and 41<sup>st</sup> Streets, 8<sup>th</sup> and 9<sup>th</sup> Avenues, in the City, County and State of New York and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof; all of which now constitutes the Port Authority Bus Terminal.

## SPECIAL ENDORSEMENTS

1. Subject to and in accordance with all the terms and conditions of this Permit and the Endorsements annexed thereto, the Port Authority hereby grants the Permittee permission to use and occupy the space on the main level of the South Wing of the Facility shown in diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A", together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon (hereinafter sometimes referred to as the "Ticket Selling Space") and the space on the main level of the South Wing of the Facility shown in diagonal cross hatching on said Exhibit A, together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon (hereinafter sometimes referred to as the "Office Space"), the Ticket Selling Space and Office Space are herein collectively referred to as the "Space". The Port Authority and the Permittee hereby acknowledge that the Space constitutes non-residential real property.

2. The Permittee shall use the Space for the following purposes and for no other purposes whatsoever:

(a) The Permittee shall use the Ticket Selling Space as a passenger ticketing area and a customer service center; and

(b) The Permittee shall use the Office Space as a clerical and administrative office for related accounting purposes.

3. (a) The Permittee shall not install any equipment, improvement or fixtures in the Space or perform any construction work therein without the prior written approval of the Port Authority as to the design and type of unit to be installed as well as the method and manner of installation. To such end the Permittee, prior to the installation of any unit in the Space, shall submit to the Port Authority for its approval an Alteration Application in the form supplied by the Port Authority including such terms and conditions and such plans and specifications as the Port Authority may require setting forth in detail the design and type of unit proposed by the Permittee to be installed and the method and manner of the installation work to be performed by the Permittee to prepare and equip the Space for its operations therein. The Permittee shall be responsible at its sole cost and expense for the performance of the installation work. Any installation, placement or attachment made without the approval of the Port Authority and any such that does not continue to meet with the continuing approval of the Port Authority shall immediately be removed by the Permittee and in the event of the Permittee's failure to remove the same the Port Authority may do so at the Permittee's cost and expense. The Port Authority reserves the right to require the Permittee to obtain the approval of the Port Authority as to the time and manner of any maintenance, servicing and repair operations upon any of the Permittee's equipment, facilities, fixtures or property installed in, placed upon, or attached to the Space.

(b) Without limiting or affecting any other term or provisions of this Permit, the Permittee shall be solely responsible for the design, adequacy and operation of all utility, mechanical, electrical, communications and other systems installed in the Space and shall do all preventive maintenance and make all repairs, replacements, rebuilding (ordinary or extraordinary, structural or non-structural) and painting necessary to keep such systems and all other improvements, additions, fixtures, finishes and decorations made or installed by the Permittee (whether the same involves structural or non-structural work) in the condition they

were in when made or installed except for reasonable wear which does not affect adversely the watertight condition or structural integrity of the building or adversely affect the efficient or proper utilization or appearance of any part of the Space.

4. (a) The Permittee shall pay a monthly fee for the Ticket Selling Space as follows:

(i) During the period commencing on January 1, 2013 and continuing through December 31, 2013, both dates inclusive, in the amount of Five Thousand Seven Hundred Seventy-Two Dollars and Sixty-Five Cents (\$5,772.65), payable on July 1, 2003 and on the first day of each and every calendar month occurring during such period; and

(ii) During the period commencing on January 1, 2014 and continuing through December 31, 2014, both dates inclusive, in the amount of Five Thousand Nine Hundred Seventy-Four Dollars and Sixty-Nine Cents (\$5,974.69), payable on January 1, 2014 and on the first day of each and every calendar month occurring during such period; and

(iii) During the period commencing on January 1, 2015 and continuing through December 31, 2015, both dates inclusive, in the amount of Six Thousand One-Hundred Eighty-Three Dollars and Eighty Cents (\$6,183.80), payable on January 1, 2015 and on the first day of each and every calendar month occurring during such period; and

(iv) During the period commencing on January 1, 2016 and continuing through December 31, 2016, both dates inclusive, in the amount of Six Thousand Four Hundred Dollars and Twenty-Three Cents (\$6,400.23), payable on January 1, 2016 and on the first day of each and every calendar month occurring during such period; and

(v) During the period commencing on January 1, 2017 and continuing throughout the balance of the period of the permission granted hereunder, in the sum of Six Thousand Six Hundred Twenty-Four Dollars and Twenty-Four Cents (\$6,624.24), payable on July 1, 2010 and on the first day of each and every calendar month occurring thereafter.

(b) The Permittee shall pay a monthly fee for the Office Space as follows:

(i) During the period commencing on January 1, 2013, and continuing through December 31, 2013, both dates inclusive, in the amount of One Thousand Six-Hundred Ninety-One Dollars and Fifty-Eight Cents (\$1,691.58), payable on January 1, 2013, and on the first day of each and every calendar month occurring during such period; and

(ii) During the period commencing on January 1, 2014, and continuing through December 31, 2014, both dates inclusive, in the amount of One Thousand Seven Hundred Fifty-One Dollars and Twenty Cents (\$1,751.20), payable on January 1, 2014, and on the first day of each and every calendar month occurring during such period; and

(iii) During the period commencing on January 1, 2015, and continuing through December 31, 2015, both dates inclusive, in the amount of One Thousand Eight Hundred Twelve Dollars and Forty-Nine Cents (\$1,812.49), payable on January 1, 2015, and on the first day of each and every calendar month occurring during such period; and

(iv) During the period commencing on January 1, 2016 and continuing through December 31, 2016, both dates inclusive, in the amount of One Thousand Eight Hundred Seventy-Five Dollars and Twenty-Three Cents (\$1,875.23), payable on January 1, 2016, and on the first day of each and every calendar month occurring during such period; and

(v) During the period commencing on January 1, 2017 and continuing throughout the balance of the period of the permission granted hereunder, in the sum of One Thousand Nine-Hundred Forty-One Dollars and Fifty-Nine Cents (\$1,941.59), payable on January 1, 2012, and on the first day of each and every calendar month occurring thereafter.

(c) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

5. (a) (i) The Port Authority will supply electricity to the Permittee at the Space on such days and during such hours as the Permittee conducts its operations at the Space, to the extent that the Permittee's consumption does not exceed the capacity of feeders, risers or wiring in the Space or the Facility, the Permittee's consumption and demand for such electricity to be measured by a meter or meters installed by the Port Authority. From and after the Effective Date hereof, the Permittee shall take the same and pay at the greater of: (i) the rates (including the fuel or other adjustment factor) which the Permittee at the time of such purchase and under the service classification then applicable to it would have to pay for the same quantity of electricity to be used for the same purposes under the same conditions if it received the electricity directly from the public utility supplying the same to commercial buildings in the vicinity; or (ii) the Port Authority's cost of obtaining and supplying the same quantity of electricity. In the event any meter is out of service or fails to record the consumption and demand for electricity by the Permittee, the Permittee's consumption and demand for electricity will be considered to be the same as its consumption and demand for a like period as measured by such meter, either immediately before or immediately after such interruption or failure of a meter, which period shall be selected by the Port Authority. The Permittee shall pay the amount as so determined for each such billing period to the Port Authority upon demand therefor and the same shall be deemed an additional fee collectible in the same manner and with like remedies as if it were a part of the Basic Fee reserved hereunder.

(ii) Notwithstanding that the Port Authority has agreed to supply electricity to the Permittee, the Port Authority shall be under no obligation to provide or continue such service if the Port Authority is prevented by law, agreement or otherwise from metering or measuring consumption and demand as hereinabove set forth or elects not to so meter or measure the same, and in any such event the Permittee shall make all arrangements and conversions necessary to obtain electricity directly from the public utility. Also in such event, the Permittee shall perform the construction necessary for conversion and if any lines or equipment of the Port Authority are with the consent of the Port Authority used therefor the Port Authority may make an appropriate charge therefor to the Permittee based on its costs and expenses for the said lines and equipment.

(b) Without limiting the generality of rights of entry upon the Space elsewhere in this Permit reserved to the Port Authority, the Port Authority shall have, for itself, its officers, employees, representatives, contractors and subcontractors, the right to enter upon the

Space at all times to construct, install, maintain, replace, repair or improve the air-cooling system or any part thereof providing service for the part of the Facility in which any portion of the Space is located. Air-cooling shall be furnished subject to all the provisions of this Permit and in accordance with the following:

(1) If the air-cooling in or on the Space can be controlled by mechanisms within the Space, the Permittee shall shut off the air-cooling before closing and leaving the Space at any time for any period. The Port Authority shall have the rights of entry specified in Section 9 of the Terms and Conditions hereof for the purpose of observing the Permittee's compliance with the provisions hereof and the Port Authority may lock, seal or install any timing device on or in connection with any air-cooling control mechanism so as to provide that the Space shall only be air-cooled during the hours and days stipulated hereunder.

(2) If the Permittee, in accordance with Standard Endorsement 6.4 hereof or otherwise, erects any partitions or makes any improvements, which partitions or improvements stop, hinder, obstruct or interfere with the cooling of the air or the heating of the Space, then no such action by the Permittee shall impose any obligation on the Port Authority to install facilities, fixtures or equipment for air-cooling or for heating additional to those presently existing or presently contemplated or to increase the capacity or output of existing or presently contemplated facilities, equipment or fixtures, and the Permittee shall not in any such event be relieved of any of its obligations hereunder because a comfortable temperature is not maintained. No consent or approval given by the Port Authority in connection with the erection of partitions or the making of any improvements shall be or be deemed to be a representation that the work consented to or approved will not stop, hinder, obstruct or interfere with either the cooling of the air or heating of the Space or any portion thereof. It is hereby understood further that the installation by the Permittee of any equipment which itself requires air-cooling or which requires additional quantities of air-cooling shall not impose any obligation on the Port Authority to increase the capacity or output of initially existing facilities, equipment or fixtures for the cooling of the air or the heating of the Space and the Permittee shall not in any such event be relieved of any of its obligations hereunder.

(c) The Port Authority shall, without additional charge to the Permittee, furnish to the Permittee in the enclosed portion of the Space heat, to an even and comfortable temperature during the months of November to April, inclusive, occurring the period of permission granted hereunder.

(d) The Port Authority shall have no obligations or responsibility with respect to the performance of any services or providing, supplying or furnishing to the Permittee of any utilities or services whatsoever except as expressly provided in this Special Endorsement. Without limiting the generality of any other provisions of this Permit, or the Rules and Regulations of the Port Authority referred to herein, the Permittee shall not retain any contractor for the performance of any cleaning, janitorial or maintenance work in the Space without the prior written consent of the Port Authority.

(e) If any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, makes or increases any charge, fee or rent on the Port Authority for any service, system or utility now or in the future applied to or available to the Space or to any occupants or users thereof or to the structure or building of which the premises form a part (including but not limited to any sewer rent or charge for the use of sewer systems), the Permittee shall, at the option of the Port Authority exercised at any time and from time to time by notice to the Permittee, pay, in accordance with said notice, such

charge, fee or rent or increase thereof (or the portion thereof allocated by the Port Authority to the Space or the Permittee's operations hereunder) either directly to the governmental body, authority or agency or to the public utility or directly to the Port Authority.

(f) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee where such service is to be metered, the Port Authority shall be under no obligation to provide or continue any such service if the Port Authority is prevented by law from submetering such service or has agreed with the supplier of such service not to submeter such service.

(g) The Port Authority shall have the right to temporarily discontinue the supply of any of the above services when necessary or desirable in the opinion of the Port Authority in order to make any repairs, alterations, changes or improvements in the Space or elsewhere in the building of which the Space forms a part including all systems for the supply of services.

(h) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee, the Port Authority shall be under no obligation to supply any such service 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. If by operation of this subdivision or the previous subdivision any service for which the Permittee has agreed to pay a flat sum is discontinued for any period during the effective period of the permission granted hereunder, the Permittee shall be relieved of its obligation to pay for such service for any such period or if any such service is supplied during fewer hours or in lesser amounts than agreed during any period during the effective period of the permission granted hereunder, the Permittee shall be relieved proportionately of its obligation to pay for any such service for any such period.

(i) No failure, delay or interruption in any of the above services shall be or shall be construed to be an eviction of the Permittee, shall be grounds for any diminution or abatement of the fees payable hereunder, or shall constitute grounds for any claim by the Permittee for damages, consequential or otherwise, unless due to the negligence of the Port Authority, its employees or agents. The Permittee shall not be entitled to receive any of the above services during any period during which the Permittee wastes any of the services or is in default under any of the provisions of this Permit.

6. The provisions of Section 19 of the Terms and Conditions of this Permit shall survive the expiration or the earlier revocation of the permission hereunder granted. Neither the receipt of any sum as damages pursuant to the provisions of said Section, nor any other act taken by the Port Authority pursuant to the provisions thereof in apparent affirmation of the Permittee's use and occupancy of the Space for any period beyond the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted shall or shall be deemed to grant the Permittee a right to remain in occupancy of the Space after the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted, or shall or shall be deemed to be a waiver by the Port Authority of or a limitation of the Port Authority's right to exercise any remedy available to it under this Permit or otherwise at law or in equity, to obtain possession of the Space should the Permittee fail to terminate its occupancy thereof and to deliver actual, physical possession thereof to the Port Authority on or before the Expiration Date or the earlier revocation of the permission hereunder granted, including without limitation the

right to terminate this Permit pursuant to the terms hereof, and the right to institute summary proceedings.

7. (a) The Permittee shall not, on the grounds of race, creed, color, sex or national origin, discriminate or permit discrimination against any person or person in its selling of merchandise or rendering of services hereunder or in its employment practices and procedures or in any of its operations or activities under or in connection with this Permit.

(b) Without limiting the generality of any other provision of this Permit, the Permittee shall not keep, maintain, place or install in the Space any fixtures or equipment the use of which is not consistent with and required for the purposes of this Permit and the Permittee shall not use or connect any equipment or engage in any activity or operation in the Space which will cause or tend to cause an overloading of the capacity of any existing or future utility, mechanical, electrical, communications or other systems or portions thereof on the Space or elsewhere at the Facility nor shall the Permittee do or permit to be done anything which may interfere with the effectiveness or accessibility thereof.

(c) The Permittee shall not overload any floor, roadway, passageway, pavement or other surface or any wall, partition, column or other supporting member or any elevator or other conveyance in the Space or at the Facility and, without limiting any other provision of this Permit, the Permittee shall repair, replace or rebuild any such as may be damaged by overloading.

(d) Subject to and in accordance with the provisions of Section 8 of the Terms and Conditions hereof, the Permittee shall make any and all improvements, alterations or repairs of the Space that may be required at any time hereafter by any present or future governmental law, rule, regulation, requirement, order or direction or by any present or future rule, regulation, requirement, order or direction of the National Fire Protection Association and the New York Fire Insurance Rating Organization, and of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Permittee on the Space.

8. The Port Authority shall not be liable to the Permittee or others for any personal injury, death or property damage from falling material, water, rain, hail, snow, gas, steam, dampness, explosion, smoke, radiation and/or electricity whether the same may leak into or fall, issue or flow from any part of the Space or of the Facility including, without limitation thereto, any utility, mechanical, electrical, communications or other systems therein or from any other place or quarter unless said damage, injury or death shall be due to the negligent acts of the Port Authority, its employees or agents.

9. Such provisions of this Permit as apply to the rights and obligations of the parties hereto upon the expiration of the permission granted by this Permit shall apply to the rights and obligations of the parties hereto upon the revocation of the said permission.

10. (a) During the effective period of the permission granted under this Permit, the Permittee shall not give or agree to give anything of value either to a Port Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority of duties involving transactions with the Permittee on behalf of

the Port Authority whether or not such duties are related to this Permit or any other Port Authority lease, contract or matter. Any such conduct shall be deemed a material breach of this Permit.

(b) As used herein, "anything of value" shall include, but not be limited to, any (i) favors, such as meals, entertainment, transportation (other than that contemplated by this Permit or any other Port Authority lease or contract), etc., which might tend to obligate the Port Authority employee to the Permittee, or (ii) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Permit or any other Port Authority lease or contract.

(c) In addition, during the effective period of the permission granted under this Permit, the Permittee shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated as of April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Port Authority).

(d) The Permittee shall include the provisions of this paragraph in each contract or subcontract entered into under and pursuant to the provisions of this Permit.

(e) The Permittee certifies that it has not made any offers or agreements or given or agreed to give anything of value (as defined in this paragraph) or taken any other action with respect to any Port Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated as of April 11, 1996 referred to in this paragraph nor does the Permittee have any knowledge of any act on the part of a Port Authority employee or former Port Authority employee relating either directly or indirectly to the Permittee which constitutes a breach of the ethical standards set forth in said Code.

11. Without limiting any other right of revocation or termination set forth in this Permit, the Port Authority may at any time and from time to time, in connection with a program of seismic and security related improvements, revoke the permission granted hereunder as to the Space on thirty (30) days' prior notice to the Permittee and may at any time and from time to time require the Permittee to relocate, temporarily or permanently, partially or entirely, to a different location within the Facility of comparable size to the Space and the Permittee agrees that it shall comply promptly at its own expense with any such direction or requirement from the Port Authority and to execute, upon receipt from the Port Authority, whatever amendments or other instruments as may be required to correctly reflect the foregoing. The Permittee shall leave the vacated area in the condition required under this Permit in the case of expiration and all obligations with respect to the vacated area which would have matured on the effective date of expiration of the Permit shall mature as to the vacated area on the required date of relocation hereunder. In the event of relocation, the Permittee shall promptly remove all property from the affected area. In the event the Permittee fails to immediately relocate to such new location, the Port Authority shall have the right to do so at the risk of the Permittee, and the Permittee shall pay the Port Authority the expense thereof on demand. Without in any way limiting any other right of entry set forth in this Permit, the Port Authority at any time and from time to time, shall also have the right to enter upon the Space to perform construction work related to such seismic and security program.

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

Initialed:

  
\_\_\_\_\_  
For the Permittee

## INSURANCE SCHEDULE

(a) The Permittee named in the permit to which this Insurance Schedule is attached and of which it constitutes an integral part (the "Permit"), in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of the Permit on a policy or policies of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, 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:

	<u>Minimum Limits</u>
Commercial General Liability Insurance	
Combined single limit per occurrence for death, bodily injury and property damage liability:	\$2,000,000.00
Workers' Compensation and Employers Liability Insurance	
Permittee's obligations under the applicable State Workers' Compensation Law for those employees of the Permittee employed in operations conducted pursuant to the Permit at or from the Facility:	Statutory

In the event the Permittee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers' Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of the Permit, including without limitation this Insurance Schedule.

(b) Each policy of insurance, except for the Workers' Compensation and Employers Liability Insurance policies, shall also contain an ISO standard "separation of insureds" clause or a cross liability endorsement providing that the protections afforded the Permittee thereunder with respect to any claim or action against the Permittee by a third person shall pertain and apply with like effect with respect to any claim or action against the Permittee by the Port Authority and any claim or action against the Port Authority by the Permittee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Permittee under Section 8 of the Terms and Conditions of the Permit.

(c) All insurance coverages and policies required under this Insurance Schedule 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 of permission under the Permit. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the above-scheduled insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Permittee shall promptly comply therewith.

(d) Each policy shall contain a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer "shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority." The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

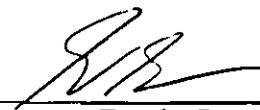
(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of the Permit by the Permittee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance delivered to the Port Authority at least seven (7) days prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the Permit. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Permittee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Permittee under the Permit. The foregoing insurance requirements shall not constitute a representation or warranty as to the adequacy of the required coverage to protect the Permittee with respect to the obligations imposed on the Permittee by the Permit or any other agreement or by law.

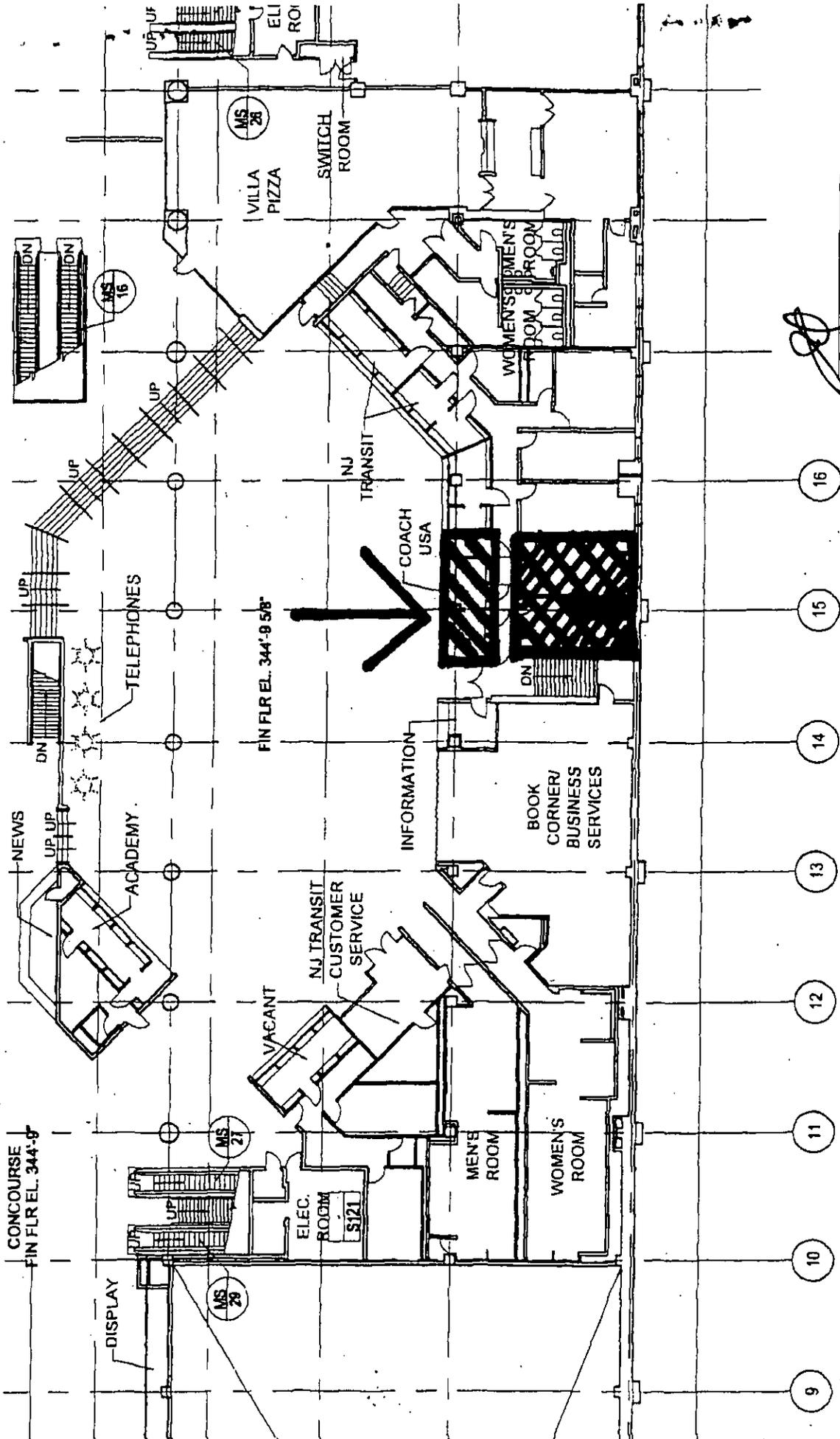


\_\_\_\_\_  
For the Port Authority

Initialed:



\_\_\_\_\_  
For the Permittee



For the Port Authority

40th STREET

EXHIBIT A

BT-MBT-BTW-028

For the Permittee

:This Space for Port Authority Use Only :  
:  
:Permit Number: BT-NJT-BOF-017 :

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
**225 Park Avenue South**  
**New York, New York 10003**

**PORT AUTHORITY BUS TERMINAL**  
**SPACE PERMIT**

The Port Authority of New York and New Jersey (herein called the "Port Authority") hereby grants to the Permittee hereinafter named permission to use and occupy the following described space (hereinafter referred to as the "Space") at the Port Authority Bus Terminal (hereafter sometimes called the "Facility") for the purposes hereinafter specified and all purposes incidental thereto in accordance with the Terms and Conditions hereof; and said Permittee agrees to pay the fee or fees hereinafter specified and to perform all other obligations imposed upon it in said Terms and Conditions.

1. PERMITTEE: NEW JERSEY TRANSIT CORPORATION, a public instrumentality of the State of New Jersey, acting by and through its wholly-owned subsidiary, New Jersey Transit Bus Operations, Inc.,
2. PERMITTEE'S ADDRESS: 1 Penn Plaza East  
Newark, New Jersey 07105-2246
3. PERMITTEE'S REPRESENTATIVE: Vice President/General Manager of Bus Operations
4. SPACE: Per Special Endorsement No. 1.
5. PURPOSES: Per Special Endorsement No. 2.
6. FEES: Per Special Endorsement No. 4.
7. EFFECTIVE DATE: January 1, 2013
8. EXPIRATION DATE: December 31, 2017, unless sooner revoked or terminated as provided in this Permit.
9. ENDORSEMENTS: 6.4, 11.1, 14.1, 15.1, 17.1, 19.6, Special Endorsements, Insurance Schedule and Exhibits A and B.

Dated: 2/1/13

Port Authority Use Only:	
Approval as to Terms:	Approval as to Form:
<i>RAA</i>	<i>JG</i>

*Rum*

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

By *[Signature]*

Name CEDRICK T. FULTON

(Please Print Clearly)  
(Title) DIRECTOR, TUNNELS BRIDGES & TERMINALS DEPT.

**NEW JERSEY TRANSIT CORPORATION**

**Acting through its subsidiary**  
**New Jersey Transit Bus Operations, Inc.**  
Permittee

By *[Signature]*

Name Joyce C. Gallagher

(Please Print Clearly)  
Vice President/General Manager Bus Operations

This Agreement has been approved as to form for NJ Transit.

Jeffrey S. Chiesa  
Attorney General of New Jersey  
By: *[Signature]*  
Deputy Attorney General

TERMS AND CONDITIONS

1. Certain Definitions:

(a) **“Effective Date”** shall mean the date designated as the “Effective Date” in Item 7 on the cover page of this Permit.

(b) **“Executive Director”** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(c) **“Expiration Date”** shall mean the date designated as the “Expiration Date” in Item 8 on the cover page of this Permit.

(d) **“Facility”** shall have the meaning set forth in the granting clause on the cover page of this Permit.

(e) **“Hazardous Substance”** shall mean 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, endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(f) **“Manager of the Facility”** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said Manager by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Manager (or temporary or Acting Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

(g) **“Permittee’s Representative”** shall mean the individual named in Item 3 on the cover page of this Permit or such other individual as the Permittee may designate by notice in accordance with the provisions of Section 18 below entitled “Notices”.

2. Effectiveness:

(a) The permission granted by this Permit shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days’ prior written notice, or terminated by the Permittee without cause upon thirty (30) days’ prior written notice; provided, however, that it may be revoked by the Port Authority on twenty-four (24) hours’ notice if the Permittee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Permit, including without limitation the obligation to pay fees. Further, in the

event the Port Authority exercises its right to revoke or terminate this Permit for any reason other than “without cause”, the Permittee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of the Space, as defined in Section 1 of the Special Endorsements to this Agreement (on failure of the Permittee to have it restored), preparing the Space for use by a succeeding permittee, the care and maintenance of the Space during any period of non-use of the Space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the Space and putting the Space in order (such as but not limited to cleaning and decorating the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this Permit or a waiver of any other rights or remedies which may be available to the Port Authority under this Permit or otherwise.

3. Use of Space by Permittee:

(a) The Space shall be used, pursuant to the permission hereby granted,

(i) if the Permittee is a corporation, by the Permittee acting only through the medium of its officers and employees,

(ii) if the Permittee is an unincorporated association, or a “Massachusetts” or business trust, by the Permittee acting only through the medium of its members, trustees, officers and employees,

(iii) if the Permittee is a partnership, by the Permittee acting only through the medium of its general partners and employees, or

(iv) if the Permittee is an individual, by the Permittee acting only personally or through the medium of his employees; or

(v) if the Permittee is a limited liability company, by the Permittee acting only through the medium of its members, managers and employees;

and the Permittee shall not, without the written approval of the Port Authority, use the Space through the medium of any other person, corporation or legal entity. The Permittee shall not assign or transfer this Permit or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this Permit to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Permittee shall be the joint and several obligation of each such individual or other legal entity.

(b) The Permittee’s Representative specified in Item 3 of the cover page of this Permit (or such substitute as the Permittee may hereafter designate in writing) shall have full

authority to act for the Permittee in connection with this Permit and any act or things done or to be done hereunder, and to execute on the Permittee's behalf any amendments or supplements to this Permit or any extension hereof and to give and receive notices hereunder.

(c) This Permit shall not constitute the Permittee the agent or representative of the Port Authority for any purpose whatsoever.

(d) The Permittee hereby agrees that it will not carry on any business or operation in the Space or at the Facility other than as specifically provided herein without receiving the prior written consent of the Port Authority, which consent, if given, will be in the form of a Supplement hereto or a separate agreement with the Port Authority, which consent will specify whether the provisions regarding fees contained herein or any other provisions regarding fees shall apply thereto.

4. Condition of Space:

(a) The Permittee hereby acknowledges that prior to the execution of this Permit it has thoroughly examined and inspected the Space and has found the Space in good order and repair and has determined the Space to be suitable for the Permittee's operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Permittee for the purposes contemplated herein. The Permittee agrees to and shall take the Space in its "as is" condition and the Port Authority shall have no obligation hereunder for preparation of the Space for the Permittee's use. The Permittee agrees that no portion of the Space will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property and the Permittee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) Except to the extent required for the performance of any of the obligations of the Permittee under this Permit, nothing contained in this Permit shall grant to the Permittee any rights whatsoever in the air space above the height of the structures located on the Space as of the Effective Date hereof.

(c) The parties to this Permit hereby acknowledge that the Space is non-residential real estate.

5. Payment of Fees:

(a) Unless otherwise expressly provided in this Permit, the Permittee shall pay to the Port Authority a fee for its use and occupancy of the Space. The fee specified is a monthly fee, payable in advance on the Effective Date and on the first day of each and every calendar month thereafter.

(b) Payments made hereunder shall be sent to the following address:

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY  
P.O. BOX 95000-1556  
PHILADELPHIA, PENNSYLVANIA 19195-0001

or made via the following wire transfer instructions:

Bank: TD Bank  
Bank ABA Number: 031201360  
Account Number:

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by notice to the Permittee.

(c) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

(d) Upon execution of this Permit by the Permittee, the Permittee shall pay to the Port Authority all unpaid fees and other monies due and payable under this Permit as of the date of execution.

6. Late Charges:

(a) If the Permittee should fail to pay any amount required under this Permit when due to the Port Authority or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this Permit. 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. 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 Permit, including without limitation the Port Authority's rights set forth in Section 2 hereof or (ii) any obligations of the Permittee under this Permit. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Permit shall be payable instead at such legal maximum.

(b) The Permittee shall permit and/or cause to be permitted in ordinary business hours during the effective period of this Permit and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and

books of account of the Permittee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be relevant in connection with the Permittee's use and occupancy of the Space as permitted hereunder within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

7. Security Deposit: If the Permittee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Permittee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Permittee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any security deposit pursuant thereto also shall be deemed obligations of the Permittee under this Permit and as security hereunder as well as under any such other agreement, and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby 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 deposit shall apply or any permitted assignment of such other agreement shall not affect such obligations as to such security deposit, which shall continue in full force and effect hereunder.

8. Indemnification of Port Authority:

(a) The Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel 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 (x) any default of the Permittee in performing or observing any term or provision of this Permit, or (y) out of the use and occupancy of the Space by the Permittee, or by others with its consent (except to the extent resulting from the Port Authority's negligence or willfull misconduct), or (z) out of any of the acts or omissions of the Permittee, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Permittee or are on the Space with the Permittee's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Permittee, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

(b) The Permittee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any way connected with this Permit. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Permittee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Permittee under or in any way connected with this Permit.

(c) If so directed, the Permittee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining

the prior written consent of 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.

(d) In the event of any injury or death to any person (other than employees of the Permittee) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, or damage to any property (other than the Permittee's property) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, the Permittee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Permittee's insurance carrier.

9. Right of Entry Reserved: The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Space and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

10. Rules and Regulations: The Permittee shall observe and comply with, shall compel its officers, and employees to observe and comply with, and shall use commercially reasonable efforts to cause its, guests, invitees, and those doing business with it, to observe and comply with, the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of this Permit, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Permittee of every rule and regulation hereafter adopted by it at least five (5) days before the Permittee shall be required to comply therewith.

11. Conduct of Operations:

(a) The Permittee shall immediately comply with all orders, directives and procedures as may be issued by the Manager of the Facility covering the operations of the Permittee under this Permit at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder.

(b) The Permittee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(c) Unless otherwise expressly provided, the Permittee shall not install any vending machines or similar devices in the Space or use the Space (or permit it to be used) for the sale to its employees or to the public of any of the following goods and services: beverages, food, candy, gum, ice cream or ice cream products, tobacco or tobacco products, periodicals, books, drugs, toys, games, souvenirs, jewelry, novelties, clothing, flowers, sporting or photographic goods, toilet articles, theatre tickets, shoe shines, pressing and cleaning, developing and printing of photographs and films or baggage-checking. The specificity of the foregoing enumeration of disallowed activities shall not be deemed to infer that any particular activities not so enumerated are permitted under this Permit.

(d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Space without the written approval of the Manager of the Facility; and any not approved by him may be removed by the Port Authority at the expense of the Permittee. The Permittee shall not display, or permit the display of, advertising of third parties in the Space.

(e) The Permittee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

(f) The operations of the Permittee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Permittee shall provide and its employees shall wear or carry badges or other suitable means of identification which shall be subject to the approval of the Manager. The Port Authority shall have the right to object to the Permittee as to the demeanor, conduct and appearance of the Permittee's employees, invitees and those doing business with it, whereupon the Permittee will take all reasonable steps necessary to remove the cause of the objection.

(g) The Permittee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Permittee. The receptacles shall be kept covered except when filling or emptying the same. The Permittee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

(h) The Permittee shall at all times maintain the Space in a clean and orderly condition and appearance.

12. Permittee Property:

(a) The personal property placed or installed by the Permittee in the Space shall remain the property of the Permittee and must be removed on or before the Expiration Date or on or before the revocation or termination of the permission hereby granted, whichever shall be earlier.

(b) If the Permittee shall fail to remove its property upon the expiration, termination or revocation hereof, the Port Authority may, at its option, as the Permittee's representative and at the Permittee's risk and expense, remove such property to a public warehouse for deposit or retain the same in its own possession and after the expiration of thirty (30) days sell the same at public auction, the proceeds of which shall be applied first to the expenses of sale, second to any sums owed by the Permittee to the Port Authority, and any balance remaining shall be paid to the Permittee, or may take such other action as may be

necessary or desirable. Any excess of the total cost of removal, storage and sale over the proceeds of sale shall be paid by the Permittee to the Port Authority upon demand.

13. Prohibited Acts:

(a) The Permittee 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 New York Board of Fire Underwriters and the New York Fire Insurance Exchange, and any other body or organization exercising similar functions which may pertain or apply to the Permittee's operations hereunder. If by reason of the Permittee's failure to comply with the provisions of this Section, any fire insurance, extended coverage or rental insurance rate on the Facility or any part thereof or upon the contents of any building thereon shall at any time be higher than it otherwise would be, then the Permittee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been charged because of such violation by the Permittee.

(b) The Permittee shall not do or permit to be done any act which

(i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or

(ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or

(iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this Permit, or

(iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or

(v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or

(vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.

(c) For purposes of this Section, "Facility" includes all structures located thereon.

14. Specifically Prohibited Activities:

(a) The Permittee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.

(b) The Permittee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Permittee (or permitted by the Permittee to

be disposed of, released or discharged) on the Facility shall upon notice by the Port Authority to the Permittee be completely removed and/or remediated by the Permittee at its sole cost and expense.

(c) The Permittee shall not operate any engine or any item of automotive equipment in the Space without adequate ventilation.

(d) The Permittee shall not use any cleaning materials having a harmful or corrosive effect in the Space.

(e) The Permittee shall not fuel or defuel any equipment in the Space or elsewhere at the Facility without the prior approval of the Manager of the Facility except in accordance with Port Authority rules and regulations.

(f) The Permittee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

15. Labor Disturbances:

(a) (i) The Permittee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Permittee under this Permit.

(ii) The Permittee shall immediately give notice to the Port Authority (to be followed by written notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Permittee's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility and shall continually report to the Port Authority, the progress of such and the resolution thereof. The Permittee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

(b) If any type of strike or other labor activity is directed against the Permittee at the Facility or against any operations pursuant to this Permit resulting in picketing or boycott for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority, adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Permittee, and whether caused by the employees of the Permittee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' prior notice to the Permittee, suspend the Permittee's operations hereunder, effective at the time specified in the notice and during such suspension the Permittee shall cease its activities in the Space and shall take such steps to secure and protect the Space as shall be necessary or desirable. The period of suspension shall end not later than twenty-four (24) hours after the cause thereof has ceased or been cured.

16. Notices: A bill or statement may be rendered or any notice or communication which the Port Authority may desire to give the Permittee shall be deemed sufficiently rendered or given if the same be in writing and sent by registered or certified mail addressed to the Permittee at the address specified on the cover page hereof or at the latest address that the

Permittee may substitute therefor by notice to the Port Authority, or left at such address, or delivered to the Permittee's Representative, and the time of rendition of such bill or statement and of the giving of such notice or communication shall be deemed to be the time when the same is mailed, left or delivered as herein provided. Any notice from the Permittee to the Port Authority shall be validly given if sent by registered or certified mail addressed to the Executive Director of the Port Authority at 225 Park Avenue South, New York, New York 10003 or at such other address as the Port Authority shall hereafter designate by notice to the Permittee.

17. No Broker: The Permittee and the Port Authority each represent and warrant no broker has been concerned in the negotiation or execution of this Permit and that there is no broker who is or may be entitled to be paid a commission in connection therewith. Each party shall indemnify the other party and save it harmless from any and all such claims except such claims, if any, as may arise solely from the acts of the other party and of its employees.

18. Counterclaims: The Permittee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Permittee.

19. Effect of Use and Occupancy after Expiration, Revocation or Termination: Without in any way limiting any other provision of this Permit, in the event the Permittee continues its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit, as such effective period of permission may be extended from time to time, such continued use and occupancy shall not be deemed to operate as a renewal or extension of the term of this Permit, but shall constitute instead a month-to-month extension of the permission granted hereunder, which shall be revocable by the Port Authority on thirty (30) days notice to the Permittee. Subject to the foregoing, nothing herein contained shall be deemed to give the Permittee any right to continue its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit. The Permittee acknowledges that the failure of the Permittee to surrender, vacate and yield up the Space to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Permittee 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 Permittee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

20. No Personal Liability: No Commissioner, director, officer, agent or employee of either party to this Permit shall be charged personally by the other party with any liability, or held liable, under any term or provision of this Permit, or because of its execution or attempted execution, or because of any breach hereof.

21. No Waiver: No failure by either party to insist upon the strict performance of any agreement, term, covenant or condition of this Permit or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this Permit during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or during the continuance of any such breach or default, shall constitute a waiver of any such breach or default

of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this Permit to be performed or complied with by either party to this Permit, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the other party. No waiver by either party of any default or breach on the part of the other party in performance of any agreement, term, covenant or condition of this Permit shall affect or alter this Permit but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

22. Construction and Application of Terms:

(a) The use of headings in this Permit is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

(b) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Permit or any amendments, addendums or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

(c) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

(d) To the extent that any provisions of this Permit are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply. Notwithstanding the foregoing and anything to the contrary stated herein, however, the Port Authority acknowledges that New Jersey Transit Corporation ("NJ Transit") is a public instrumentality of the State of New Jersey in accordance with the applicable provisions of the New Jersey State Constitution and that NJ Transit derives its authority and powers from the New Jersey Public Transportation Act of 1979, which governs NJ Transit's amenability to suit and authority to enter into contractual undertakings, which contractual undertakings and any claims made with respect thereto are subject to the provisions of the New Jersey Contractual Liability Act, N.J.S.A. 59:1-1 et seq. and the New Jersey Tort Claims Act, 59:13-1 et seq. It is hereby acknowledged and agreed that NJ Transit's legal authority to undertake the obligations set forth in this Agreement is limited by and subject to, and shall be construed in accordance with, the laws of the State of New Jersey. Any obligation of NJ Transit arising under this Agreement, or any claim or judgment entered upon a claim (or any settlement thereof) based on an obligation of NJ Transit arising under this Permit, shall be payable out of (a) funds available to NJ Transit for such purpose or (b) such other funds as may be appropriated by the State of New Jersey for such purpose.

23. Entire Agreement: This Permit, including the cover page, the Terms and Conditions and the attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on behalf of the parties and attached hereto. The Permittee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

(a) The Permittee shall at all times keep the Space in a clean and orderly condition and appearance, together with all fixtures, equipment and personal property of the Permittee and of the Port Authority located in or on the Space, including without limitation thereto the interior surface of windows and both sides of all entrance doors.

(b) The Permittee shall repair, replace, rebuild and paint all or any part of the Space or of the Facility which may be damaged or destroyed by the acts or omissions of the Permittee, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees or other persons who are doing business with the Permittee who are on or at the Space or the Facility with the consent of the Permittee.

(c) The Permittee shall take good care of the Space, including therein, without limitation thereto, walls, partitions, floors, ceilings, doors and columns, and all parts thereof, and all equipment and fixtures, and shall do all preventive maintenance and make all necessary non-structural repairs, replacements, rebuilding and painting necessary to keep the Space in the condition existing on the effective date and to keep any improvements, additions and fixtures made or installed during the effective period of this Agreement in the condition they were in when made or installed except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the building or adversely affect the efficient or proper utilization or the appearance of any part of the Space.

(d) In the event the Permittee fails to commence so to make or do any repair, replacement, rebuilding or painting required by this Agreement within a period of ten (10) days after notice from the Port Authority so to do, or fails diligently to continue to completion the repair, replacement, rebuilding or Painting of all the premises required to be repaired, replaced, rebuilt or painted by the Permittee under the terms of this Agreement, the Port Authority may, at its option, and in addition to any other remedies which may be available to it, repair, replace, rebuild or paint all or any part of the Space included in the said notice, the Port Authority's cost thereof to be paid by the Permittee on demand. This option or the exercise thereof shall not be deemed to create or imply any obligation or duty to the Permittee or others.

(e) The obligation of the Permittee as set forth in paragraphs (b) and (c) above, in the event of damage or destruction covered by any contract of insurance under which the Port Authority is the insured, is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that if at any time because of this release the insurance carrier of any policy covering the premises or any part thereof shall increase the premiums otherwise payable for fire, extended coverage or rental coverage applicable to the premises; the Permittee shall pay to the Port Authority an amount equivalent to such increase or increases on demand; and provided, further, that if at any time this release shall invalidate any such policy of insurance or reduce, limit or void the rights of the Port Authority thereunder, or if because of this release, any such insurance carrier shall cancel any such policy or shall refuse to issue or renew the same or shall refuse to issue a policy with an endorsement thereon under which this release is permitted without prejudice to the interest of the insured or shall cancel such endorsement or refuse to renew the same or shall take any other action to alter, decrease or diminish the benefits of the Port Authority under the policy, then the release shall be void and of no effect. Nothing herein shall be construed to imply an obligation on the Port Authority to carry any such insurance policy or to obtain or keep in force any such endorsement.

(f) The Port Authority shall have no duty of repair or maintenance as to the Space or any fixtures, equipment or personal property which is located in or on the Space.

(g) The Permittee shall immediately clear all drainage and supply stoppages and partial blocks, in and in connection with any plumbing fixtures, equipment and system which are a part of or are located in or on the Space. All glass in windows and doors which are a part of or are located in or on the Space and which may be broken shall be replaced by the Permittee not later than five days after breakage or at any earlier date if so directed by the Port Authority and immediately if such replacement is necessary to protect the Space, any part thereof or any other property of the Port Authority against damage, loss or theft. The Permittee shall have no obligation under this paragraph where the condition is caused by the negligence of the Port Authority.

(h) The Permittee shall immediately notify the Port Authority if any portion or all of the Space or any of the said Port Authority fixtures, equipment or personal property is destroyed, damaged or in need of repair, regardless of the Permittee's responsibility therefor.

(i) Nothing herein contained shall relieve the Permittee of its obligations to secure the Port Authority's written approval before installing any fixtures in or upon or making any alterations, decorations, additions or improvements in the Space.

(j) In the event of a partial or total destruction of the Space, the Permittee shall immediately remove any and all of its property and debris from the Space or portion thereof destroyed.

STANDARD ENDORSEMENT NO. 6.4 (Page 2)

**CARE OF SPACE**

All Installations

7/22/69

The Port Authority, by its officers, employees, representatives, contractors, licensees, and their employees, shall have the right for the benefit of the Port Authority, or the Permittee and/or for the benefit of others than the Permittee to maintain existing and future heating, water, gas, electricity, sewerage, drainage, fire protection sprinkler, ventilating, refrigerating, fuel and communication systems and other such service systems, including all tubes, pipes, lines, mains, wires, conduits and equipment on or about the Space and to enter upon the Space at all reasonable times and to make such repairs, replacements and 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, on, in or under the Space new tubes, pipes, lines, mains, wires, conduits and equipment, provided however, that the same shall be done so as to interfere as little as reasonably possible with the Permittee's operations.

Nothing contained in this Endorsement shall or shall be construed to impose upon the Port Authority any obligations so to maintain or to make repairs, replacements, alterations or additions or any liability for failure to do so.

Except as specifically provided herein to the contrary, the Permittee shall not, by virtue of the issue and acceptance of this Permit, be released or discharged from any liabilities or obligations whatsoever under any other Port Authority permits or agreements including but not limited to any permits to make alterations.

In the event that any space or location covered by this Permit is the same as is or has been covered by another Port Authority permit or other agreement with the Permittee, then any liabilities or obligations which by the terms of such permit or agreement, or permits thereunder to make alterations, mature at the expiration or revocation or termination of said permit or agreement, shall be deemed to survive and to mature at the expiration or sooner termination or revocation of this Permit, insofar as such liabilities or obligations require the removal of property from and/or the restoration of the space or location.

Whenever in this Permit, including all endorsements and exhibits thereto, the pronoun “it” or the adjective “its” may occur, referring to the Permittee, the said pronoun or adjective shall be deemed and taken to mean “it”, “he”, “him”, “she”, “her”, “they”, “them”, or “its”, “his”, “her”, “hers”, “their”, or “theirs”, as the circumstances of the reference and the gender and number of the Permittee may require.

The Permittee shall procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Permittee's operations at the Facility which may be necessary for the Permittee's operations thereat.

The Permittee shall pay all applicable taxes, license, certification, permit and examination fees and excises which may be assessed, levied, exacted or imposed on its property or operation hereunder or on the gross receipts or income therefrom by governmental authorities, if any, having jurisdiction thereover, and shall make all applications, reports and returns required in connection therewith.

The Permittee shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, rules, regulations, requirements, orders and directions which may pertain or apply to the Permittee's operations at the Facility.

The Permittee's obligations to comply with governmental requirements are provided herein for the purpose of assuring proper safeguards for the protection of persons and property at the Facility and are not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

If the Permittee shall contest against any governmental authority by appropriate legal proceedings diligently prosecuted in good faith (i) its obligation to secure licenses, certificates, permits or other authorization, or (ii) the validity or applicability of any taxes, import duties, license, certification, permit and examination fees, excises or other charges, or (iii) any present or future governmental laws, rules, and regulations, requirements, orders or directions, all of which are referred to in this Standard Endorsement, the Permittee shall not be deemed to be in default under this Standard Endorsement until a final determination of the validity or applicability in such proceedings of any such, *provided*, that the Permittee shall not make any such contest if it is based in whole or in part on the status of the Port Authority and *provided, further*, that the Permittee will not delay compliance with any of the foregoing if any such delay will or may result in the creation or continuance of a condition endangering persons or property at the Facility or otherwise. In the event that the Permittee undertakes such contest or review, it shall indemnify the Port Authority against any claims, damages or losses that may arise or result therefrom.

STANDARD ENDORSEMENT NO. 17.1 (Modified)

**LAW COMPLIANCE**

All Facilities

“Port Authority Bus Terminal” or “Terminal” shall mean the building bounded by 40<sup>th</sup> and 41<sup>st</sup> Streets, 8<sup>th</sup> and 9<sup>th</sup> Avenues, in the City, County and State of New York and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof; all of which now constitutes the Port Authority Bus Terminal.

STANDARD ENDORSEMENT NO. 19.6

**Port Authority Bus Terminal**

2/9/89

## SPECIAL ENDORSEMENTS

1. Subject to and in accordance with all the terms and conditions of this Permit and the Endorsements annexed thereto, the Port Authority hereby grants the Permittee permission to use and occupy the space on the second floor of the South Wing of the Facility shown in diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked “**Exhibit A**”, together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon (hereinafter sometimes referred to as the “Office Space”) and the space on the basement level of the South Wing of the Facility shown in diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked “**Exhibit B**”, together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon (hereinafter sometimes referred to as the “Storage Space”) (the Office Space and the Storage Space are herein collectively referred to as the “Space”). The Port Authority and the Permittee hereby acknowledge that the Space constitutes non-residential real property.

2. The Permittee shall use the Office Space for administrative and clerical offices in connection with its operations conducted elsewhere at the Facility and for no other purposes whatsoever, and the Permittee shall use the Storage Space for storage purposes in connection with its operations conducted elsewhere at the Facility and for no other purposes whatsoever.

3. (a) The Permittee shall not install any equipment, improvement or fixtures in the Space or perform any construction work therein without the prior written approval of the Port Authority as to the design and type of unit to be installed as well as the method and manner of installation. To such end the Permittee, prior to the installation of any unit in the Space, shall submit to the Port Authority for its approval an Alteration Application in the form supplied by the Port Authority including such terms and conditions and such plans and specifications as the Port Authority may require setting forth in detail the design and type of unit proposed by the Permittee to be installed and the method and manner of the installation work to be performed by the Permittee to prepare and equip the Space for its operations therein. The Permittee shall be responsible at its sole cost and expense for the performance of the installation work. Any installation, placement or attachment made without the approval of the Port Authority and any such that does not continue to meet with the continuing approval of the Port Authority shall immediately be removed by the Permittee and in the event of the Permittee’s failure to remove the same the Port Authority may do so at the Permittee’s cost and expense. The Port Authority reserves the right to require the Permittee to obtain the approval of the Port Authority as to the time and manner of any maintenance, servicing and repair operations upon any of the Permittee’s equipment, facilities, fixtures or property installed in, placed upon, or attached to the Space.

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

4. (a) The Permittee shall pay a monthly fee for the Office Space as follows:

(i) During the period commencing on January 1, 2013 and continuing through December 31, 2013, both dates inclusive, in the amount of Twelve-Thousand Nine-Hundred Sixty-Nine Dollars and Forty-Eight Cents (\$12,969.48), payable on January 1, 2013 and on the first day of each and every calendar month occurring during such period; and

(ii) During the period commencing on January 1, 2014 and continuing through December 31, 2014, both dates inclusive, in the amount of Thirteen-Thousand Four-Hundred Twenty-Three Dollars and Forty-One Cents (\$13,423.41), payable on January 1, 2014 and on the first day of each and every calendar month occurring during such period; and

(iii) During the period commencing on January 1, 2015 and continuing through December 31, 2015, both dates inclusive, in the amount of Thirteen-Thousand Eight-Hundred Ninety-Three Dollars and Twenty-Two Cents (\$13,893.22), payable on January 1, 2015 and on the first day of each and every calendar month occurring during such period; and

(iv) During the period commencing on January 1, 2016 and continuing through December 31, 2016, both dates inclusive, in the amount of Fourteen-Thousand Three-Hundred Seventy-Nine Dollars and Forty-Eight Cents (\$14,379.48), payable on January 1, 2016 and on the first day of each and every calendar month occurring during such period; and

(v) From and after January 1, 2017, in the amount of Fourteen-Thousand Eight-Hundred Eighty-Two Dollars and Seventy-Six Cents (\$14,882.76), payable on January 1, 2017 and on the first day of each and every calendar month occurring thereafter.

(b) In addition to the monthly fee for the Office Space as set forth above in this Special Endorsement, the Permittee shall pay a monthly fee for the Storage Space as follows:

(i) During the period commencing on January 1, 2013 and continuing through December 31, 2013, both dates inclusive, in the amount of Two-Thousand Twelve Dollars and Twenty-nine Cents (\$2,012.29), payable on January 1, 2013 and on the first day of each and every calendar month occurring during such period; and

(ii) During the period commencing on January 1, 2014 and continuing through December 31, 2014, both dates inclusive, in the amount of Two-Thousand Eighty-Two Dollars and Seventy-Two Cents (\$2,082.72), payable on January 1, 2014 and on the first day of each and every calendar month occurring during such period; and

(iii) During the period commencing on January 1, 2015 and continuing through December 31, 2015, both dates inclusive, in the amount of Two-Thousand One-Hundred Fifty-Five Dollars and Sixty-Two Cents (\$2,155.62), payable on January 1, 2015 and on the first day of each and every calendar month occurring during such period; and

(iv) During the period commencing on January 1, 2016 and continuing through December 31, 2016, both dates inclusive, in the amount of Two-Thousand

Two-Hundred Thirty-One Dollars and Six Cents (\$2,231.06), payable on January 1, 2016 and on the first of each and every calendar month occurring during such period; and

(v) From and after January 1, 2017, in the amount of Two-Thousand Three-Hundred Nine Dollars and Fifteen Cents (\$2,309.15), payable on January 1, 2017 and on the first day of each and every calendar month occurring thereafter.

(c) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

5. (a) (i) The Port Authority will supply electricity to the Permittee at the Office Space on such days and during such hours as the Permittee conducts its operations at the Office Space, to the extent that the Permittee's consumption does not exceed the capacity of feeders, risers or wiring in the Office Space or the Facility, the Permittee's consumption and demand for such electricity to be measured by a meter or meters installed by the Port Authority. From and after the Effective Date hereof, the Permittee shall take the same and pay at the greater of: (i) the rates (including the fuel or other adjustment factor) which the Permittee at the time of such purchase and under the service classification then applicable to it would have to pay for the same quantity of electricity to be used for the same purposes under the same conditions if it received the electricity directly from the public utility supplying the same to commercial buildings in the vicinity; or (ii) the Port Authority's cost of obtaining and supplying the same quantity of electricity. In the event any meter is out of service or fails to record the consumption and demand for electricity by the Permittee, the Permittee's consumption and demand for electricity will be considered to be the same as its consumption and demand for a like period as measured by such meter, either immediately before or immediately after such interruption or failure of a meter, which period shall be selected by the Port Authority. The Permittee shall pay the amount as so determined for each such billing period to the Port Authority upon demand therefor and the same shall be deemed an additional fee collectible in the same manner and with like remedies as if it were a part of the Basic Fee reserved hereunder.

(ii) Notwithstanding that the Port Authority has agreed to supply electricity to the Permittee, the Port Authority shall be under no obligation to provide or continue such service if the Port Authority is prevented by law, agreement or otherwise from metering or measuring consumption and demand as hereinabove set forth or elects not to so meter or measure the same, and in any such event the Permittee shall make all arrangements and conversions necessary to obtain electricity directly from the public utility. Also in such event, the Permittee shall perform the construction necessary for conversion and if any lines or equipment of the Port Authority are with the consent of the Port Authority used therefor the Port Authority may make an appropriate charge therefor to the Permittee based on its costs and expenses for the said lines and equipment.

(b) Without limiting the generality of rights of entry upon the Space elsewhere in this Permit reserved to the Port Authority, the Port Authority shall have, for itself, its officers, employees, representatives, contractors and subcontractors, the right to enter upon the Office Space at all times to construct, install, maintain, replace, repair or improve the air-cooling system or any part thereof providing service for the part of the Facility in which any portion of the Office Space is located. Air-cooling shall be furnished subject to all the provisions of this Permit and in accordance with the following:

(1) If the air-cooling in or on the Office Space can be controlled by mechanisms within the Office Space, the Permittee shall shut off the air-cooling before closing and leaving the Office Space at any time for any period. The Port Authority shall have the rights of entry specified in Section 9 of the Terms and Conditions hereof for the purpose of observing the Permittee's compliance with the provisions hereof and the Port Authority may lock, seal or install any timing device on or in connection with any air-cooling control mechanism so as to provide that the Office Space shall only be air-cooled during the hours and days stipulated hereunder.

(2) If the Permittee, in accordance with Standard Endorsement 6.4 hereof or otherwise, erects any partitions or makes any improvements, which partitions or improvements stop, hinder, obstruct or interfere with the cooling of the air or the heating of the Office Space, then no such action by the Permittee shall impose any obligation on the Port Authority to install facilities, fixtures or equipment for air-cooling or for heating additional to those presently existing or presently contemplated or to increase the capacity or output of existing or presently contemplated facilities, equipment or fixtures, and the Permittee shall not in any such event be relieved of any of its obligations hereunder because a comfortable temperature is not maintained. No consent or approval given by the Port Authority in connection with the erection of partitions or the making of any improvements shall be or be deemed to be a representation that the work consented to or approved will not stop, hinder, obstruct or interfere with either the cooling of the air or heating of the Office Space or any portion thereof. It is hereby understood further that the installation by the Permittee of any equipment which itself requires air-cooling or which requires additional quantities of air-cooling shall not impose any obligation on the Port Authority to increase the capacity or output of initially existing facilities, equipment or fixtures for the cooling of the air or the heating of the Office Space and the Permittee shall not in any such event be relieved of any of its obligations hereunder.

(c) The Port Authority shall, without additional charge to the Permittee, furnish to the Permittee in the enclosed portion of the Office Space heat, to an even and comfortable temperature during the months of November to April, inclusive, occurring the period of permission granted hereunder.

(d) The Port Authority shall have no obligations or responsibility with respect to the performance of any services or providing, supplying or furnishing to the Permittee of any utilities or services whatsoever except as expressly provided in this Special Endorsement. Without limiting the generality of any other provisions of this Permit, or the Rules and Regulations of the Port Authority referred to herein, the Permittee shall not retain any contractor for the performance of any cleaning, janitorial or maintenance work in the Space without the prior written consent of the Port Authority.

(e) If any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, makes or increases any charge, fee or rent on the Port Authority for any service, system or utility now or in the future applied to or available to the Space or to any occupants or users thereof or to the structure or building of which the premises form a part (including but not limited to any sewer rent or charge for the use of sewer systems), the Permittee shall, at the option of the Port Authority exercised at any time and from time to time by notice to the Permittee, pay, in accordance with said notice, such charge, fee or rent or increase thereof (or the portion thereof allocated by the Port Authority to the Space or the Permittee's operations hereunder) either directly to the governmental body, authority or agency or to the public utility or directly to the Port Authority.

(f) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee where such service is to be metered, the Port Authority shall

be under no obligation to provide or continue any such service if the Port Authority is prevented by law from submetering such service or has agreed with the supplier of such service not to submeter such service.

(g) The Port Authority shall have the right to temporarily discontinue the supply of any of the above services when necessary or desirable in the opinion of the Port Authority in order to make any repairs, alterations, changes or improvements in the Space or elsewhere in the building of which the Space forms a part including all systems for the supply of services.

(h) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee, the Port Authority shall be under no obligation to supply any such service 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. If by operation of this subdivision or the previous subdivision any service for which the Permittee has agreed to pay a flat sum is discontinued for any period during the effective period of the permission granted hereunder, the Permittee shall be relieved of its obligation to pay for such service for any such period or if any such service is supplied during fewer hours or in lesser amounts than agreed during any period during the effective period of the permission granted hereunder, the Permittee shall be relieved proportionately of its obligation to pay for any such service for any such period.

(i) No failure, delay or interruption in any of the above services shall be or shall be construed to be an eviction of the Permittee, shall be grounds for any diminution or abatement of the fees payable hereunder, or shall constitute grounds for any claim by the Permittee for damages, consequential or otherwise, unless due to the negligence of the Port Authority, its employees or agents. The Permittee shall not be entitled to receive any of the above services during any period during which the Permittee wastes any of the services or is in default under any of the provisions of this Permit.

6. The provisions of Section 19 of the Terms and Conditions of this Permit shall survive the expiration or the earlier revocation of the permission hereunder granted. Neither the receipt of any sum as damages pursuant to the provisions of said Section, nor any other act taken by the Port Authority pursuant to the provisions thereof in apparent affirmation of the Permittee's use and occupancy of the Space for any period beyond the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted shall or shall be deemed to grant the Permittee a right to remain in occupancy of the Space after the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted, or shall or shall be deemed to be a waiver by the Port Authority of or a limitation of the Port Authority's right to exercise any remedy available to it under this Permit or otherwise at law or in equity, to obtain possession of the Space should the Permittee fail to terminate its occupancy thereof and to deliver actual, physical possession thereof to the Port Authority on or before the Expiration Date or the earlier revocation of the permission hereunder granted, including without limitation the right to terminate this Permit pursuant to the terms hereof, and the right to institute summary proceedings.

7. (a) The Permittee shall not, on the grounds of race, creed, color, sex or national origin, discriminate or permit discrimination against any person or person in its selling of merchandise or rendering of services hereunder or in its employment practices and procedures or in any of its operations or activities under or in connection with this Permit.

(b) Without limiting the generality of any other provision of this Permit, the Permittee shall not keep, maintain, place or install in the Space any fixtures or equipment the use of which is not consistent with and required for the purposes of this Permit and the Permittee shall not use or connect any equipment or engage in any activity or operation in the Space which will cause or tend to cause an overloading of the capacity of any existing or future utility, mechanical, electrical, communications or other systems or portions thereof on the Space or elsewhere at the Facility nor shall the Permittee do or permit to be done anything which may interfere with the effectiveness or accessibility thereof.

(c) The Permittee shall not overload any floor, roadway, passageway, pavement or other surface or any wall, partition, column or other supporting member or any elevator or other conveyance in the Space or at the Facility and, without limiting any other provision of this Permit, the Permittee shall repair, replace or rebuild any such as may be damaged by overloading.

(d) Subject to and in accordance with the provisions of Section 8 of the Terms and Conditions hereof, the Permittee shall make any and all improvements, alterations or repairs of the Space that may be required at any time hereafter by any present or future governmental law, rule, regulation, requirement, order or direction or by any present or future rule, regulation, requirement, order or direction of the National Fire Protection Association and the New York Fire Insurance Rating Organization, and of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Permittee on the Space.

8. The Port Authority shall not be liable to the Permittee or others for any personal injury, death or property damage from falling material, water, rain, hail, snow, gas, steam, dampness, explosion, smoke, radiation and/or electricity whether the same may leak into or fall, issue or flow from any part of the Space or of the Facility including, without limitation thereto, any utility, mechanical, electrical, communications or other systems therein or from any other place or quarter unless said damage, injury or death shall be due to the negligent acts of the Port Authority, its employees or agents.

9. Such provisions of this Permit as apply to the rights and obligations of the parties hereto upon the expiration of the permission granted by this Permit shall apply to the rights and obligations of the parties hereto upon the revocation of the said permission.

10. (a) During the effective period of the permission granted under this Permit, the Permittee shall not give or agree to give anything of value either to a Port Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority of duties involving transactions with the Permittee on behalf of the Port Authority whether or not such duties are related to this Permit or any other Port Authority lease, contract or matter. Any such conduct shall be deemed a material breach of this Permit.

(b) As used herein, "anything of value" shall include, but not be limited to, any (i) favors, such as meals, entertainment, transportation (other than that contemplated by this Permit or any other Port Authority lease or contract), etc., which might tend to obligate the Port Authority employee to the Permittee, or (ii) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity.

Such term shall not include compensation contemplated by this Permit or any other Port Authority lease or contract.

(c) In addition, during the effective period of the permission granted under this Permit, the Permittee shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated as of April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Port Authority).

(d) The Permittee shall include the provisions of this paragraph in each contract or subcontract entered into under and pursuant to the provisions of this Permit.

(e) The Permittee certifies that it has not made any offers or agreements or given or agreed to give anything of value (as defined in this paragraph) or taken any other action with respect to any Port Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated as of April 11, 1996 referred to in this paragraph nor does the Permittee have any knowledge of any act on the part of a Port Authority employee or former Port Authority employee relating either directly or indirectly to the Permittee which constitutes a breach of the ethical standards set forth in said Code.

11. The Permittee shall have the right, as part of its overall risk management program, to provide for the insurance coverages required in the Insurance Schedule attached to this Permit with such amounts of coverage and deductible or retained amounts as the Permittee may determine appropriate from time to time, *except, however*, that the Permittee shall, at its sole expense, pay for all claims and damages which fall within such deductible or retained amounts. The Permittee shall provide evidence of such self-insurance to the Port Authority.

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For the Port Authority

Initialed:

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For the Permittee

INSURANCE SCHEDULE

(a) The Permittee named in the permit to which this Insurance Schedule is attached and of which it constitutes an integral part (the “Permit”), in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of the Permit on a policy or policies of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, 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:

	<u>Minimum Limits</u>
Commercial General Liability Insurance Combined single limit per occurrence for death, bodily injury and property damage liability:	\$2,000,000.00
Workers’ Compensation and Employers Liability Insurance Permittee's obligations under the applicable State Workers' Compensation Law for those employees of the Permittee employed in operations conducted pursuant to the Permit at or from the Facility:	Statutory

In the event the Permittee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers’ Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of the Permit, including without limitation this Insurance Schedule.

(b) Each policy of insurance, except for the Workers’ Compensation and Employers Liability Insurance policies, shall also contain an ISO standard “separation of insureds” clause or a cross liability endorsement providing that the protections afforded the Permittee thereunder with respect to any claim or action against the Permittee by a third person shall pertain and apply with like effect with respect to any claim or action against the Permittee by the Port Authority and any claim or action against the Port Authority by the Permittee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Permittee under Section 8 of the Terms and Conditions of the Permit.

(c) All insurance coverages and policies required under this Insurance Schedule 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 of permission under the Permit. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the above-scheduled insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Permittee shall promptly comply therewith.

(d) Each policy shall contain a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer “shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.” The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of the Permit by the Permittee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance delivered to the Port Authority at least seven (7) days prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the Permit. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Permittee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Permittee under the Permit. The foregoing insurance requirements shall not constitute a representation or warranty as to the adequacy of the required coverage to protect the Permittee with respect to the obligations imposed on the Permittee by the Permit or any other agreement or by law.

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For the Port Authority

Initialed:

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For the Permittee

:This Space for Port Authority Use Only :  
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:Permit Number: BT-NJT-BTW-025

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
**225 Park Avenue South**  
**New York, New York 10003**

**PORT AUTHORITY BUS TERMINAL**  
**SPACE PERMIT**

The Port Authority of New York and New Jersey (herein called the "Port Authority") hereby grants to the Permittee hereinafter named permission to use and occupy the following described space (hereinafter referred to as the "Space") at the Port Authority Bus Terminal (hereafter sometimes called the "Facility") for the purposes hereinafter specified and all purposes incidental thereto in accordance with the Terms and Conditions hereof; and said Permittee agrees to pay the fee or fees hereinafter specified and to perform all other obligations imposed upon it in said Terms and Conditions.

1. PERMITTEE: NEW JERSEY TRANSIT CORPORATION, a public instrumentality of the State of New Jersey, acting by and through its wholly-owned subsidiary, New Jersey Transit Bus Operations, Inc.
2. PERMITTEE'S ADDRESS: One Penn Plaza East  
Newark, New Jersey 0715-2246
3. PERMITTEE'S REPRESENTATIVE: Vice President/General Manager of Bus Operations
4. SPACE: Per Special Endorsement No. 1.
5. PURPOSES: Per Special Endorsement No. 2.
6. FEES: Per Special Endorsement No. 4.
7. EFFECTIVE DATE: January 1, 2013
8. EXPIRATION DATE: December 31, 2017, unless sooner revoked or terminated as provided in this Permit.
9. ENDORSEMENTS: 6.4, 11.1, 14.1, 15.1, 17.1, 19.6, Special Endorsements, Insurance Schedule and Exhibit A.

Port Authority Use Only:	
Approval as to Terms:	Approval as to Form:
<i>RAJ</i>	<i>206</i>

*RAJ*

Dated: 2/1/13

This Agreement has been approved as to form for NJ Transit.

Jeffrey S. Chiesa  
Attorney General of New Jersey

By: *[Signature]*  
Deputy Attorney General

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

By *[Signature]*

Name CEDRICK T. FULTON

(Please Print Clearly)  
(Title) DIRECTOR, TUNNELS BRIDGES & TERMINALS DEPT.

**NEW JERSEY TRANSIT CORPORATION**  
**Acting through its subsidiary**

**New Jersey Transit Bus Operations, Inc.**  
Permittee

By *[Signature]*

Name Joyce C. Gallagher

(Please Print Clearly)  
Vice President/General Manager Bus  
Operations \_\_\_\_\_

## TERMS AND CONDITIONS

### 1. Certain Definitions:

(a) **“Effective Date”** shall mean the date designated as the “Effective Date” in Item 7 on the cover page of this Permit.

(b) **“Executive Director”** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(c) **“Expiration Date”** shall mean the date designated as the “Expiration Date” in Item 8 on the cover page of this Permit.

(d) **“Facility”** shall have the meaning set forth in the granting clause on the cover page of this Permit.

(e) **“Hazardous Substance”** shall mean 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, endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(f) **“Manager of the Facility”** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said Manager by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Manager (or temporary or Acting Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

(g) **“Permittee’s Representative”** shall mean the individual named in Item 3 on the cover page of this Permit or such other individual as the Permittee may designate by notice in accordance with the provisions of Section 18 below entitled “Notices”.

### 2. Effectiveness:

(a) The permission granted by this Permit shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days’ prior written notice, or terminated by the Permittee without cause upon thirty (30) days’ prior written notice; provided, however, that it may be revoked by the Port Authority on twenty-four (24) hours’ notice if the Permittee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Permit, including without limitation the obligation to pay fees. Further, in the event the Port Authority exercises its right to revoke or terminate this Permit for any reason other

than “without cause”, the Permittee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of the Space, as defined in Section 1 of the Special Endorsements to this Agreement (on failure of the Permittee to have it restored), preparing the Space for use by a succeeding permittee, the care and maintenance of the Space during any period of non-use of the Space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the Space and putting the Space in order (such as but not limited to cleaning and decorating the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this Permit or a waiver of any other rights or remedies which may be available to the Port Authority under this Permit or otherwise.

3. Use of Space by Permittee:

(a) The Space shall be used, pursuant to the permission hereby granted,

(i) if the Permittee is a corporation, by the Permittee acting only through the medium of its officers and employees,

(ii) if the Permittee is an unincorporated association, or a “Massachusetts” or business trust, by the Permittee acting only through the medium of its members, trustees, officers and employees,

(iii) if the Permittee is a partnership, by the Permittee acting only through the medium of its general partners and employees, or

(iv) if the Permittee is an individual, by the Permittee acting only personally or through the medium of his employees; or

(v) if the Permittee is a limited liability company, by the Permittee acting only through the medium of its members, managers and employees;

and the Permittee shall not, without the written approval of the Port Authority, use the Space through the medium of any other person, corporation or legal entity. The Permittee shall not assign or transfer this Permit or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this Permit to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Permittee shall be the joint and several obligation of each such individual or other legal entity.

(b) The Permittee’s Representative specified in Item 3 of the cover page of this Permit (or such substitute as the Permittee may hereafter designate in writing) shall have full authority to act for the Permittee in connection with this Permit and any act or things done or to

be done hereunder, and to execute on the Permittee's behalf any amendments or supplements to this Permit or any extension hereof and to give and receive notices hereunder.

(c) This Permit shall not constitute the Permittee the agent or representative of the Port Authority for any purpose whatsoever.

(d) The Permittee hereby agrees that it will not carry on any business or operation in the Space or at the Facility other than as specifically provided herein without receiving the prior written consent of the Port Authority, which consent, if given, will be in the form of a Supplement hereto or a separate agreement with the Port Authority, which consent will specify whether the provisions regarding fees contained herein or any other provisions regarding fees shall apply thereto.

4. Condition of Space:

(a) The Permittee hereby acknowledges that prior to the execution of this Permit it has thoroughly examined and inspected the Space and has found the Space in good order and repair and has determined the Space to be suitable for the Permittee's operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Permittee for the purposes contemplated herein. The Permittee agrees to and shall take the Space in its "as is" condition and the Port Authority shall have no obligation hereunder for preparation of the Space for the Permittee's use. The Permittee agrees that no portion of the Space will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property and the Permittee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) Except to the extent required for the performance of any of the obligations of the Permittee under this Permit, nothing contained in this Permit shall grant to the Permittee any rights whatsoever in the air space above the height of the structures located on the Space as of the Effective Date hereof.

(c) The parties to this Permit hereby acknowledge that the Space is non-residential real estate.

5. Payment of Fees:

(a) Unless otherwise expressly provided in this Permit, the Permittee shall pay to the Port Authority a fee for its use and occupancy of the Space. The fee specified is a monthly fee, payable in advance on the Effective Date and on the first day of each and every calendar month thereafter.

(b) Payments made hereunder shall be sent to the following address:

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY  
P.O. BOX 95000-1556  
PHILADELPHIA, PENNSYLVANIA 19195-0001

or made via the following wire transfer instructions:

Bank: TD Bank  
Bank ABA Number: 031201360  
Account Number: Ex. 1

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by notice to the Permittee.

(c) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

(d) Upon execution of this Permit by the Permittee, the Permittee shall pay to the Port Authority all unpaid fees and other monies due and payable under this Permit as of the date of execution.

6. Late Charges:

(a) If the Permittee should fail to pay any amount required under this Permit when due to the Port Authority or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this Permit. 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. 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 Permit, including without limitation the Port Authority's rights set forth in Section 2 hereof or (ii) any obligations of the Permittee under this Permit. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Permit shall be payable instead at such legal maximum.

(b) The Permittee shall permit and/or cause to be permitted in ordinary business hours during the effective period of this Permit and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Permittee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be relevant in connection with the Permittee's use and occupancy of the Space as permitted hereunder within ten (10) days

following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

7. Security Deposit: If the Permittee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Permittee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Permittee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any security deposit pursuant thereto also shall be deemed obligations of the Permittee under this Permit and as security hereunder as well as under any such other agreement, and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby 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 deposit shall apply or any permitted assignment of such other agreement shall not affect such obligations as to such security deposit, which shall continue in full force and effect hereunder.

8. Indemnification of Port Authority:

(a) The Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel 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 (x) any default of the Permittee in performing or observing any term or provision of this Permit, or (y) out of the use and occupancy of the Space by the Permittee, or by others with its consent (except to the extent resulting from the Port Authority's negligence or willfull misconduct), or (z) out of any of the acts or omissions of the Permittee, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Permittee or are on the Space with the Permittee's consent where such acts or omissions are at the Space, or arising out of any acts or omissions of the Permittee, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

(b) The Permittee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any way connected with this Permit. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Permittee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Permittee under or in any way connected with this Permit.

(c) If so directed, the Permittee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of 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.

(d) In the event of any injury or death to any person (other than employees of the Permittee) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, or damage to any property (other than the Permittee's property) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, the Permittee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Permittee's insurance carrier.

9. Right of Entry Reserved: The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Space and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

10. Rules and Regulations: The Permittee shall observe and comply with, shall compel its officers, and employees to observe and comply with, and shall use commercially reasonable efforts to cause its, guests, invitees, and those doing business with it, to observe and comply with, the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of this Permit, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Permittee of every rule and regulation hereafter adopted by it at least five (5) days before the Permittee shall be required to comply therewith.

11. Conduct of Operations:

(a) The Permittee shall immediately comply with all orders, directives and procedures as may be issued by the Manager of the Facility covering the operations of the Permittee under this Permit at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder.

(b) The Permittee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(c) Unless otherwise expressly provided, the Permittee shall not install any vending machines or similar devices in the Space or use the Space (or permit it to be used) for the sale to its employees or to the public of any of the following goods and services: beverages, food, candy, gum, ice cream or ice cream products, tobacco or tobacco products, periodicals, books, drugs, toys, games, souvenirs, jewelry, novelties, clothing, flowers, sporting or photographic goods, toilet articles, theatre tickets, shoe shines, pressing and cleaning, developing and printing of photographs and films or baggage-checking. The specificity of the foregoing enumeration of disallowed activities shall not be deemed to infer that any particular activities not so enumerated are permitted under this Permit.

(d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Space without the written approval of the Manager of the Facility; and any not approved by him may be removed by the Port Authority at

the expense of the Permittee. The Permittee shall not display, or permit the display of, advertising of third parties in the Space.

(e) The Permittee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

(f) The operations of the Permittee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Permittee shall provide and its employees shall wear or carry badges or other suitable means of identification which shall be subject to the approval of the Manager. The Port Authority shall have the right to object to the Permittee as to the demeanor, conduct and appearance of the Permittee's employees, invitees and those doing business with it, whereupon the Permittee will take all reasonable steps necessary to remove the cause of the objection.

(g) The Permittee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Permittee. The receptacles shall be kept covered except when filling or emptying the same. The Permittee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

(h) The Permittee shall at all times maintain the Space in a clean and orderly condition and appearance.

12. Permittee Property:

(a) The personal property placed or installed by the Permittee in the Space shall remain the property of the Permittee and must be removed on or before the Expiration Date or on or before the revocation or termination of the permission hereby granted, whichever shall be earlier.

(b) If the Permittee shall fail to remove its property upon the expiration, termination or revocation hereof, the Port Authority may, at its option, as the Permittee's representative and at the Permittee's risk and expense, remove such property to a public warehouse for deposit or retain the same in its own possession and after the expiration of thirty (30) days sell the same at public auction, the proceeds of which shall be applied first to the expenses of sale, second to any sums owed by the Permittee to the Port Authority, and any balance remaining shall be paid to the Permittee, or may take such other action as may be necessary or desirable. Any excess of the total cost of removal, storage and sale over the proceeds of sale shall be paid by the Permittee to the Port Authority upon demand.

13. Prohibited Acts:

(a) The Permittee 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 New York Board of Fire Underwriters and the New York Fire Insurance Exchange, and any other body or organization exercising similar functions which may pertain or apply to the Permittee's operations hereunder. If by reason of the Permittee's failure to comply with the provisions of this Section, any fire insurance, extended coverage or rental insurance rate on the Facility or any part thereof or upon the contents of any building thereon shall at any time be higher than it otherwise would be, then the Permittee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been charged because of such violation by the Permittee.

(b) The Permittee shall not do or permit to be done any act which

(i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or

(ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or

(iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this Permit, or

(iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or

(v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or

(vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.

(c) For purposes of this Section, "Facility" includes all structures located thereon.

14. Specifically Prohibited Activities:

(a) The Permittee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.

(b) The Permittee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Permittee (or permitted by the Permittee to be disposed of, released or discharged) on the Facility shall upon notice by the Port Authority to the Permittee be completely removed and/or remediated by the Permittee at its sole cost and expense.

(c) The Permittee shall not operate any engine or any item of automotive equipment in the Space without adequate ventilation.

(d) The Permittee shall not use any cleaning materials having a harmful or corrosive effect in the Space.

(e) The Permittee shall not fuel or defuel any equipment in the Space or elsewhere at the Facility without the prior approval of the Manager of the Facility except in accordance with Port Authority rules and regulations.

(f) The Permittee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

15. Labor Disturbances:

(a) (i) The Permittee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Permittee under this Permit.

(ii) The Permittee shall immediately give notice to the Port Authority (to be followed by written notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Permittee's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility and shall continually report to the Port Authority, the progress of such and the resolution thereof. The Permittee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

(b) If any type of strike or other labor activity is directed against the Permittee at the Facility or against any operations pursuant to this Permit resulting in picketing or boycott for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority, adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Permittee, and whether caused by the employees of the Permittee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' prior notice to the Permittee, suspend the Permittee's operations hereunder, effective at the time specified in the notice and during such suspension the Permittee shall cease its activities in the Space and shall take such steps to secure and protect the Space as shall be necessary or desirable. The period of suspension shall end not later than twenty-four (24) hours after the cause thereof has ceased or been cured.

16. Notices: A bill or statement may be rendered or any notice or communication which the Port Authority may desire to give the Permittee shall be deemed sufficiently rendered or given if the same be in writing and sent by registered or certified mail addressed to the Permittee at the address specified on the cover page hereof or at the latest address that the Permittee may substitute therefor by notice to the Port Authority, or left at such address, or delivered to the Permittee's Representative, and the time of rendition of such bill or statement and of the giving of such notice or communication shall be deemed to be the time when the same is mailed, left or delivered as herein provided. Any notice from the Permittee to the Port Authority shall be validly given if sent by registered or certified mail addressed to the Executive

Director of the Port Authority at 225 Park Avenue South, New York, New York 10003 or at such other address as the Port Authority shall hereafter designate by notice to the Permittee.

17. No Broker: The Permittee and the Port Authority each represent and warrant no broker has been concerned in the negotiation or execution of this Permit and that there is no broker who is or may be entitled to be paid a commission in connection therewith. Each party shall indemnify the other party and save it harmless from any and all such claims except such claims, if any, as may arise solely from the acts of the other party and of its employees.

18. Counterclaims: The Permittee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Permittee.

19. Effect of Use and Occupancy after Expiration, Revocation or Termination: Without in any way limiting any other provision of this Permit, in the event the Permittee continues its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit, as such effective period of permission may be extended from time to time, such continued use and occupancy shall not be deemed to operate as a renewal or extension of the term of this Permit, but shall constitute instead a month-to-month extension of the permission granted hereunder, which shall be revocable by the Port Authority on thirty (30) days notice to the Permittee. Subject to the foregoing, nothing herein contained shall be deemed to give the Permittee any right to continue its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit. The Permittee acknowledges that the failure of the Permittee to surrender, vacate and yield up the Space to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Permittee 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 Permittee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

20. No Personal Liability: No Commissioner, director, officer, agent or employee of either party to this Permit shall be charged personally by the other party with any liability, or held liable, under any term or provision of this Permit, or because of its execution or attempted execution, or because of any breach hereof.

21. No Waiver: No failure by either party to insist upon the strict performance of any agreement, term, covenant or condition of this Permit or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this Permit during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this Permit to be performed or complied with by either party to this Permit, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the other party. No waiver by either party of any default or breach on the part of the other party in performance of any agreement, term, covenant or condition of this Permit shall affect or alter

this Permit but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

22. Construction and Application of Terms:

(a) The use of headings in this Permit is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

(b) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Permit or any amendments, addendums or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

(c) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

(d) To the extent that any provisions of this Permit are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply. Notwithstanding the foregoing and anything to the contrary stated herein, however, the Port Authority acknowledges that New Jersey Transit Corporation ("NJ Transit") is a public instrumentality of the State of New Jersey in accordance with the applicable provisions of the New Jersey State Constitution and that NJ Transit derives its authority and powers from the New Jersey Public Transportation Act of 1979, which governs NJ Transit's amenability to suit and authority to enter into contractual undertakings, which contractual undertakings and any claims made with respect thereto are subject to the provisions of the New Jersey Contractual Liability Act, N.J.S.A. 59:1-1 et seq. and the New Jersey Tort Claims Act, 59:13-1 et seq. It is hereby acknowledged and agreed that NJ Transit's legal authority to undertake the obligations set forth in this Agreement is limited by and subject to, and shall be construed in accordance with, the laws of the State of New Jersey. Any obligation of NJ Transit arising under this Agreement, or any claim or judgment entered upon a claim (or any settlement thereof) based on an obligation of NJ Transit arising under this Permit, shall be payable out of (a) funds available to NJ Transit for such purpose or (b) such other funds as may be appropriated by the State of New Jersey for such purpose.

23. Entire Agreement: This Permit, including the cover page, the Terms and Conditions and the attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on behalf of the parties and attached hereto. The Permittee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

(a) The Permittee shall at all times keep the Space in a clean and orderly condition and appearance, together with all fixtures, equipment and personal property of the Permittee and of the Port Authority located in or on the Space, including without limitation thereto the interior surface of windows and both sides of all entrance doors.

(b) The Permittee shall repair, replace, rebuild and paint all or any part of the Space or of the Facility which may be damaged or destroyed by the acts or omissions of the Permittee, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees or other persons who are doing business with the Permittee who are on or at the Space or the Facility with the consent of the Permittee.

(c) The Permittee shall take good care of the Space, including therein, without limitation thereto, walls, partitions, floors, ceilings, doors and columns, and all parts thereof, and all equipment and fixtures, and shall do all preventive maintenance and make all necessary non-structural repairs, replacements, rebuilding and painting necessary to keep the Space in the condition existing on the effective date and to keep any improvements, additions and fixtures made or installed during the effective period of this Agreement in the condition they were in when made or installed except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the building or adversely affect the efficient or proper utilization or the appearance of any part of the Space.

(d) In the event the Permittee fails to commence so to make or do any repair, replacement, rebuilding or painting required by this Agreement within a period of ten (10) days after notice from the Port Authority so to do, or fails diligently to continue to completion the repair, replacement, rebuilding or Painting of all the premises required to be repaired, replaced, rebuilt or painted by the Permittee under the terms of this Agreement, the Port Authority may, at its option, and in addition to any other remedies which may be available to it, repair, replace, rebuild or paint all or any part of the Space included in the said notice, the Port Authority's cost thereof to be paid by the Permittee on demand. This option or the exercise thereof shall not be deemed to create or imply any obligation or duty to the Permittee or others.

(e) The obligation of the Permittee as set forth in paragraphs (b) and (c) above, in the event of damage or destruction covered by any contract of insurance under which the Port Authority is the insured, is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that if at any time because of this release the insurance carrier of any policy covering the premises or any part thereof shall increase the premiums otherwise payable for fire, extended coverage or rental coverage applicable to the premises; the Permittee shall pay to the Port Authority an amount equivalent to such increase or increases on demand; and provided, further, that if at any time this release shall invalidate any such policy of insurance or reduce, limit or void the rights of the Port Authority thereunder, or if because of this release, any such insurance carrier shall cancel any such policy or shall refuse to issue or renew the same or shall refuse to issue a policy with an endorsement thereon under which this release is permitted without prejudice to the interest of the insured or shall cancel such endorsement or refuse to renew the same or shall take any other action to alter, decrease or diminish the benefits of the Port Authority under the policy, then the release shall be void and of no effect. Nothing herein shall be construed to imply an obligation on the Port Authority to carry any such insurance policy or to obtain or keep in force any such endorsement.

(f) The Port Authority shall have no duty of repair or maintenance as to the Space or any fixtures, equipment or personal property which is located in or on the Space.

(g) The Permittee shall immediately clear all drainage and supply stoppages and partial blocks, in and in connection with any plumbing fixtures, equipment and system which are a part of or are located in or on the Space. All glass in windows and doors which are a part of or are located in or on the Space and which may be broken shall be replaced by the Permittee not later than five days after breakage or at any earlier date if so directed by the Port Authority and immediately if such replacement is necessary to protect the Space, any part thereof or any other property of the Port Authority against damage, loss or theft. The Permittee shall have no obligation under this paragraph where the condition is caused by the negligence of the Port Authority.

(h) The Permittee shall immediately notify the Port Authority if any portion or all of the Space or any of the said Port Authority fixtures, equipment or personal property is destroyed, damaged or in need of repair, regardless of the Permittee's responsibility therefor.

(i) Nothing herein contained shall relieve the Permittee of its obligations to secure the Port Authority's written approval before installing any fixtures in or upon or making any alterations, decorations, additions or improvements in the Space.

(j) In the event of a partial or total destruction of the Space, the Permittee shall immediately remove any and all of its property and debris from the Space or portion thereof destroyed.

STANDARD ENDORSEMENT NO. 6.4 (Page 2)

**CARE OF SPACE**

All Installations

7/22/69

The Port Authority, by its officers, employees, representatives, contractors, licensees, and their employees, shall have the right for the benefit of the Port Authority, or the Permittee and/or for the benefit of others than the Permittee to maintain existing and future heating, water, gas, electricity, sewerage, drainage, fire protection sprinkler, ventilating, refrigerating, fuel and communication systems and other such service systems, including all tubes, pipes, lines, mains, wires, conduits and equipment on or about the Space and to enter upon the Space at all reasonable times and to make such repairs, replacements and 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, on, in or under the Space new tubes, pipes, lines, mains, wires, conduits and equipment, provided however, that the same shall be done so as to interfere as little as reasonably possible with the Permittee's operations.

Nothing contained in this Endorsement shall or shall be construed to impose upon the Port Authority any obligations so to maintain or to make repairs, replacements, alterations or additions or any liability for failure to do so.

Except as specifically provided herein to the contrary, the Permittee shall not, by virtue of the issue and acceptance of this Permit, be released or discharged from any liabilities or obligations whatsoever under any other Port Authority permits or agreements including but not limited to any permits to make alterations.

In the event that any space or location covered by this Permit is the same as is or has been covered by another Port Authority permit or other agreement with the Permittee, then any liabilities or obligations which by the terms of such permit or agreement, or permits thereunder to make alterations, mature at the expiration or revocation or termination of said permit or agreement, shall be deemed to survive and to mature at the expiration or sooner termination or revocation of this Permit, insofar as such liabilities or obligations require the removal of property from and/or the restoration of the space or location.

Whenever in this Permit, including all endorsements and exhibits thereto, the pronoun “it” or the adjective “its” may occur, referring to the Permittee, the said pronoun or adjective shall be deemed and taken to mean “it”, “he”, “him”, “she”, “her”, “they”, “them”, or “its”, “his”, “her”, “hers”, “their”, or “theirs”, as the circumstances of the reference and the gender and number of the Permittee may require.

The Permittee shall procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Permittee's operations at the Facility which may be necessary for the Permittee's operations thereat.

The Permittee shall pay all applicable taxes, license, certification, permit and examination fees and excises which may be assessed, levied, exacted or imposed on its property or operation hereunder or on the gross receipts or income therefrom by governmental authorities, if any, having jurisdiction thereover, and shall make all applications, reports and returns required in connection therewith.

The Permittee shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, rules, regulations, requirements, orders and directions which may pertain or apply to the Permittee's operations at the Facility.

The Permittee's obligations to comply with governmental requirements are provided herein for the purpose of assuring proper safeguards for the protection of persons and property at the Facility and are not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

If the Permittee shall contest against any governmental authority by appropriate legal proceedings diligently prosecuted in good faith (i) its obligation to secure licenses, certificates, permits or other authorization, or (ii) the validity or applicability of any taxes, import duties, license, certification, permit and examination fees, excises or other charges, or (iii) any present or future governmental laws, rules, and regulations, requirements, orders or directions, all of which are referred to in this Standard Endorsement, the Permittee shall not be deemed to be in default under this Standard Endorsement until a final determination of the validity or applicability in such proceedings of any such, *provided*, that the Permittee shall not make any such contest if it is based in whole or in part on the status of the Port Authority and *provided, further*, that the Permittee will not delay compliance with any of the foregoing if any such delay will or may result in the creation or continuance of a condition endangering persons or property at the Facility or otherwise. In the event that the Permittee undertakes such contest or review, it shall indemnify the Port Authority against any claims, damages or losses that may arise or result therefrom.

STANDARD ENDORSEMENT NO. 17.1 (Modified)

**LAW COMPLIANCE**

All Facilities

“Port Authority Bus Terminal” or “Terminal” shall mean the building bounded by 40<sup>th</sup> and 41<sup>st</sup> Streets, 8<sup>th</sup> and 9<sup>th</sup> Avenues, in the City, County and State of New York and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof; all of which now constitutes the Port Authority Bus Terminal.

STANDARD ENDORSEMENT NO. 19.6

**Port Authority Bus Terminal**

2/9/89

## SPECIAL ENDORSEMENTS

1. Subject to and in accordance with all the terms and conditions of this Permit and the Endorsements annexed thereto, the Port Authority hereby grants the Permittee permission to use and occupy the space on the main level of the South Wing of the Facility shown in diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked “Exhibit A”, together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon (hereinafter sometimes referred to as the “Ticket Selling Space”) and the space on the main level of the South Wing of the Facility shown in diagonal cross hatching on said Exhibit A, together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon (hereinafter sometimes referred to as the “Office Space”), the Ticket Selling Space and Office Space are herein collectively referred to as the “Space”. The Port Authority and the Permittee hereby acknowledge that the Space constitutes non-residential real property.

2. The Permittee shall use the Space for the following purposes and for no other purposes whatsoever:

(a) The Permittee shall use the Ticket Selling Space as a passenger ticketing area and a customer service center; and

(b) The Permittee shall use the Office Space as a clerical and administrative office for related accounting purposes.

3. (a) The Permittee shall not install any equipment, improvement or fixtures in the Space or perform any construction work therein without the prior written approval of the Port Authority as to the design and type of unit to be installed as well as the method and manner of installation. To such end the Permittee, prior to the installation of any unit in the Space, shall submit to the Port Authority for its approval an Alteration Application in the form supplied by the Port Authority including such terms and conditions and such plans and specifications as the Port Authority may require setting forth in detail the design and type of unit proposed by the Permittee to be installed and the method and manner of the installation work to be performed by the Permittee to prepare and equip the Space for its operations therein. The Permittee shall be responsible at its sole cost and expense for the performance of the installation work. Any installation, placement or attachment made without the approval of the Port Authority and any such that does not continue to meet with the continuing approval of the Port Authority shall immediately be removed by the Permittee and in the event of the Permittee’s failure to remove the same the Port Authority may do so at the Permittee’s cost and expense. The Port Authority reserves the right to require the Permittee to obtain the approval of the Port Authority as to the time and manner of any maintenance, servicing and repair operations upon any of the Permittee’s equipment, facilities, fixtures or property installed in, placed upon, or attached to the Space.

(b) Without limiting or affecting any other term or provisions of this Permit, the Permittee shall be solely responsible for the design, adequacy and operation of all utility, mechanical, electrical, communications and other systems installed in the Space and shall do all preventive maintenance and make all repairs, replacements, rebuilding (ordinary or extraordinary, structural or non-structural) and painting necessary to keep such systems and all other improvements, additions, fixtures, finishes and decorations made or installed by the Permittee (whether the same involves structural or non-structural work) in the condition they

were in when made or installed except for reasonable wear which does not affect adversely the watertight condition or structural integrity of the building or adversely affect the efficient or proper utilization or appearance of any part of the Space.

4. (a) The Permittee shall pay a monthly fee for the Ticket Selling Space as follows:

(i) During the period commencing on January 1, 2013, and continuing through December 31, 2013, both dates inclusive, in the amount of Sixteen-Thousand One-Hundred Sixty-Three Dollars and Forty-Two Cents (\$16,163.42), payable on January 1, 2013, and on the first day of each and every calendar month occurring during such period; and

(ii) During the period commencing on January 1, 2014, and continuing through December 31, 2014, both dates inclusive, in the amount of Sixteen-Thousand Seven-Hundred Twenty-Nine Dollars and Two Cents (\$16,729.02), payable on January 1, 2014, and on the first day of each and every calendar month occurring during such period; and

(iii) During the period commencing on January 1, 2015, and continuing through December 31, 2015, both dates inclusive, in the amount of Seventeen-Thousand Three-Hundred Fourteen Dollars and Fifty Cents (\$17,314.50), payable on January 1, 2015, and on the first day of each and every calendar month occurring during such period; and

(iv) During the period commencing on January 1, 2016 and continuing through December 31, 2016, both dates inclusive, in the amount of Seventeen-Thousand Nine-Hundred Twenty Dollars and Forty-Two Cents (\$17,920.42 ), payable on January 1, 2016, and on the first day of each and every calendar month occurring during such period; and

(v) During the period commencing on January 1, 2017 and continuing throughout the balance of the period of the permission granted hereunder, in the sum of Eighteen-Thousand Five-Hundred Forty-Seven Dollars and Sixty-Two Cents (\$18,547.62 ), payable on January 1, 2017, and on the first day of each and every calendar month occurring thereafter.

(b) The Permittee shall pay a monthly fee for the Office Space as follows:

(i) During the period commencing on January 1, 2013, and continuing through December 31, 2013, both dates inclusive, in the amount of Two Thousand Eight-Hundred Eighty-Two Dollars and Nine Cents (\$2,882.09), payable on January 1, 2013, and on the first day of each and every calendar month occurring during such period; and

(ii) During the period commencing on January 1, 2014, and continuing through December 31, 2014, both dates inclusive, in the amount of Two Thousand Nine Hundred Eighty-Two Dollars and Ninety-Six Cents (\$2,982.96), payable on January 1, 2014, and on the first day of each and every calendar month occurring during such period; and

(iii) During the period commencing on January 1, 2015, and continuing through December 31, 2015, both dates inclusive, in the amount of Three Thousand Eighty-Seven Dollars and Thirty-Six Cents (\$3,087.36), payable on January 1, 2015, and on the first day of each and every calendar month occurring during such period; and

(iv) During the period commencing on January 1, 2016 and continuing through December 31, 2016, both dates inclusive, in the amount of Three Thousand One Hundred Ninety-Five Dollars and Forty-Two Cents (\$3,195.42), payable on January 1, 2016, and on the first day of each and every calendar month occurring during such period; and

(v) During the period commencing on January 1, 2017 and continuing throughout the balance of the period of the permission granted hereunder, in the sum of Three Thousand Three-Hundred Seven Dollars and Twenty-Six Cents (\$3,307.26), payable on January 1, 2012, and on the first day of each and every calendar month occurring thereafter.

(c) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

5. (a) (i) The Port Authority will supply electricity to the Permittee at the Space on such days and during such hours as the Permittee conducts its operations at the Space, to the extent that the Permittee's consumption does not exceed the capacity of feeders, risers or wiring in the Space or the Facility, the Permittee's consumption and demand for such electricity to be measured by a meter or meters installed by the Port Authority. From and after the Effective Date hereof, the Permittee shall take the same and pay at the greater of: (i) the rates (including the fuel or other adjustment factor) which the Permittee at the time of such purchase and under the service classification then applicable to it would have to pay for the same quantity of electricity to be used for the same purposes under the same conditions if it received the electricity directly from the public utility supplying the same to commercial buildings in the vicinity; or (ii) the Port Authority's cost of obtaining and supplying the same quantity of electricity. In the event any meter is out of service or fails to record the consumption and demand for electricity by the Permittee, the Permittee's consumption and demand for electricity will be considered to be the same as its consumption and demand for a like period as measured by such meter, either immediately before or immediately after such interruption or failure of a meter, which period shall be selected by the Port Authority. The Permittee shall pay the amount as so determined for each such billing period to the Port Authority upon demand therefor and the same shall be deemed an additional fee collectible in the same manner and with like remedies as if it were a part of the Basic Fee reserved hereunder.

(ii) Notwithstanding that the Port Authority has agreed to supply electricity to the Permittee, the Port Authority shall be under no obligation to provide or continue such service if the Port Authority is prevented by law, agreement or otherwise from metering or measuring consumption and demand as hereinabove set forth or elects not to so meter or measure the same, and in any such event the Permittee shall make all arrangements and conversions necessary to obtain electricity directly from the public utility. Also in such event, the Permittee shall perform the construction necessary for conversion and if any lines or equipment of the Port Authority are with the consent of the Port Authority used therefor the Port Authority may make an appropriate charge therefor to the Permittee based on its costs and expenses for the said lines and equipment.

(b) Without limiting the generality of rights of entry upon the Space elsewhere in this Permit reserved to the Port Authority, the Port Authority shall have, for itself, its officers, employees, representatives, contractors and subcontractors, the right to enter upon the Space at all times to construct, install, maintain, replace, repair or improve the air-cooling system

or any part thereof providing service for the part of the Facility in which any portion of the Space is located. Air-cooling shall be furnished subject to all the provisions of this Permit and in accordance with the following:

(1) If the air-cooling in or on the Space can be controlled by mechanisms within the Space, the Permittee shall shut off the air-cooling before closing and leaving the Space at any time for any period. The Port Authority shall have the rights of entry specified in Section 9 of the Terms and Conditions hereof for the purpose of observing the Permittee's compliance with the provisions hereof and the Port Authority may lock, seal or install any timing device on or in connection with any air-cooling control mechanism so as to provide that the Space shall only be air-cooled during the hours and days stipulated hereunder.

(2) If the Permittee, in accordance with Standard Endorsement 6.4 hereof or otherwise, erects any partitions or makes any improvements, which partitions or improvements stop, hinder, obstruct or interfere with the cooling of the air or the heating of the Space, then no such action by the Permittee shall impose any obligation on the Port Authority to install facilities, fixtures or equipment for air-cooling or for heating additional to those presently existing or presently contemplated or to increase the capacity or output of existing or presently contemplated facilities, equipment or fixtures, and the Permittee shall not in any such event be relieved of any of its obligations hereunder because a comfortable temperature is not maintained. No consent or approval given by the Port Authority in connection with the erection of partitions or the making of any improvements shall be or be deemed to be a representation that the work consented to or approved will not stop, hinder, obstruct or interfere with either the cooling of the air or heating of the Space or any portion thereof. It is hereby understood further that the installation by the Permittee of any equipment which itself requires air-cooling or which requires additional quantities of air-cooling shall not impose any obligation on the Port Authority to increase the capacity or output of initially existing facilities, equipment or fixtures for the cooling of the air or the heating of the Space and the Permittee shall not in any such event be relieved of any of its obligations hereunder.

(c) The Port Authority shall, without additional charge to the Permittee, furnish to the Permittee in the enclosed portion of the Space heat, to an even and comfortable temperature during the months of November to April, inclusive, occurring the period of permission granted hereunder.

(d) The Port Authority shall have no obligations or responsibility with respect to the performance of any services or providing, supplying or furnishing to the Permittee of any utilities or services whatsoever except as expressly provided in this Special Endorsement. Without limiting the generality of any other provisions of this Permit, or the Rules and Regulations of the Port Authority referred to herein, the Permittee shall not retain any contractor for the performance of any cleaning, janitorial or maintenance work in the Space without the prior written consent of the Port Authority.

(e) If any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, makes or increases any charge, fee or rent on the Port Authority for any service, system or utility now or in the future applied to or available to the Space or to any occupants or users thereof or to the structure or building of which the premises form a part (including but not limited to any sewer rent or charge for the use of sewer systems), the Permittee shall, at the option of the Port Authority exercised at any time and from time to time by notice to the Permittee, pay, in accordance with said notice, such charge, fee or rent or increase thereof (or the portion thereof allocated by the Port Authority to

the Space or the Permittee's operations hereunder) either directly to the governmental body, authority or agency or to the public utility or directly to the Port Authority.

(f) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee where such service is to be metered, the Port Authority shall be under no obligation to provide or continue any such service if the Port Authority is prevented by law from submetering such service or has agreed with the supplier of such service not to submeter such service.

(g) The Port Authority shall have the right to temporarily discontinue the supply of any of the above services when necessary or desirable in the opinion of the Port Authority in order to make any repairs, alterations, changes or improvements in the Space or elsewhere in the building of which the Space forms a part including all systems for the supply of services.

(h) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee, the Port Authority shall be under no obligation to supply any such service 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. If by operation of this subdivision or the previous subdivision any service for which the Permittee has agreed to pay a flat sum is discontinued for any period during the effective period of the permission granted hereunder, the Permittee shall be relieved of its obligation to pay for such service for any such period or if any such service is supplied during fewer hours or in lesser amounts than agreed during any period during the effective period of the permission granted hereunder, the Permittee shall be relieved proportionately of its obligation to pay for any such service for any such period.

(i) No failure, delay or interruption in any of the above services shall be or shall be construed to be an eviction of the Permittee, shall be grounds for any diminution or abatement of the fees payable hereunder, or shall constitute grounds for any claim by the Permittee for damages, consequential or otherwise, unless due to the negligence of the Port Authority, its employees or agents. The Permittee shall not be entitled to receive any of the above services during any period during which the Permittee wastes any of the services or is in default under any of the provisions of this Permit.

6. The provisions of Section 19 of the Terms and Conditions of this Permit shall survive the expiration or the earlier revocation of the permission hereunder granted. Neither the receipt of any sum as damages pursuant to the provisions of said Section, nor any other act taken by the Port Authority pursuant to the provisions thereof in apparent affirmation of the Permittee's use and occupancy of the Space for any period beyond the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted shall or shall be deemed to grant the Permittee a right to remain in occupancy of the Space after the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted, or shall or shall be deemed to be a waiver by the Port Authority of or a limitation of the Port Authority's right to exercise any remedy available to it under this Permit or otherwise at law or in equity, to obtain possession of the Space should the Permittee fail to terminate its occupancy thereof and to deliver actual, physical possession thereof to the Port Authority on or before the Expiration Date or the earlier revocation of the permission hereunder granted, including without limitation the

right to terminate this Permit pursuant to the terms hereof, and the right to institute summary proceedings.

7. (a) The Permittee shall not, on the grounds of race, creed, color, sex or national origin, discriminate or permit discrimination against any person or person in its selling of merchandise or rendering of services hereunder or in its employment practices and procedures or in any of its operations or activities under or in connection with this Permit.

(b) Without limiting the generality of any other provision of this Permit, the Permittee shall not keep, maintain, place or install in the Space any fixtures or equipment the use of which is not consistent with and required for the purposes of this Permit and the Permittee shall not use or connect any equipment or engage in any activity or operation in the Space which will cause or tend to cause an overloading of the capacity of any existing or future utility, mechanical, electrical, communications or other systems or portions thereof on the Space or elsewhere at the Facility nor shall the Permittee do or permit to be done anything which may interfere with the effectiveness or accessibility thereof.

(c) The Permittee shall not overload any floor, roadway, passageway, pavement or other surface or any wall, partition, column or other supporting member or any elevator or other conveyance in the Space or at the Facility and, without limiting any other provision of this Permit, the Permittee shall repair, replace or rebuild any such as may be damaged by overloading.

(d) Subject to and in accordance with the provisions of Section 8 of the Terms and Conditions hereof, the Permittee shall make any and all improvements, alterations or repairs of the Space that may be required at any time hereafter by any present or future governmental law, rule, regulation, requirement, order or direction or by any present or future rule, regulation, requirement, order or direction of the National Fire Protection Association and the New York Fire Insurance Rating Organization, and of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Permittee on the Space.

8. The Port Authority shall not be liable to the Permittee or others for any personal injury, death or property damage from falling material, water, rain, hail, snow, gas, steam, dampness, explosion, smoke, radiation and/or electricity whether the same may leak into or fall, issue or flow from any part of the Space or of the Facility including, without limitation thereto, any utility, mechanical, electrical, communications or other systems therein or from any other place or quarter unless said damage, injury or death shall be due to the negligent acts of the Port Authority, its employees or agents.

9. Such provisions of this Permit as apply to the rights and obligations of the parties hereto upon the expiration of the permission granted by this Permit shall apply to the rights and obligations of the parties hereto upon the revocation of the said permission.

10. (a) During the effective period of the permission granted under this Permit, the Permittee shall not give or agree to give anything of value either to a Port Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority of duties involving transactions with the Permittee on behalf of

the Port Authority whether or not such duties are related to this Permit or any other Port Authority lease, contract or matter. Any such conduct shall be deemed a material breach of this Permit.

(b) As used herein, “anything of value” shall include, but not be limited to, any (i) favors, such as meals, entertainment, transportation (other than that contemplated by this Permit or any other Port Authority lease or contract), etc., which might tend to obligate the Port Authority employee to the Permittee, or (ii) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Permit or any other Port Authority lease or contract.

(c) In addition, during the effective period of the permission granted under this Permit, the Permittee shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated as of April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Port Authority).

(d) The Permittee shall include the provisions of this paragraph in each contract or subcontract entered into under and pursuant to the provisions of this Permit.

(e) The Permittee certifies that it has not made any offers or agreements or given or agreed to give anything of value (as defined in this paragraph) or taken any other action with respect to any Port Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated as of April 11, 1996 referred to in this paragraph nor does the Permittee have any knowledge of any act on the part of a Port Authority employee or former Port Authority employee relating either directly or indirectly to the Permittee which constitutes a breach of the ethical standards set forth in said Code.

11. Without limiting any other right of revocation or termination set forth in this Permit, the Port Authority may at any time and from time to time, in connection with a program of seismic and security related improvements, revoke the permission granted hereunder as to the Space on thirty (30) days’ prior notice to the Permittee and may at any time and from time to time require the Permittee to relocate, temporarily or permanently, partially or entirely, to a different location within the Facility of comparable size to the Space and the Permittee agrees that it shall comply promptly at its own expense with any such direction or requirement from the Port Authority and to execute, upon receipt from the Port Authority, whatever amendments or other instruments as may be required to correctly reflect the foregoing.. The Permittee shall leave the vacated area in the condition required under this Permit in the case of expiration and all obligations with respect to the vacated area which would have matured on the effective date of expiration of the Permit shall mature as to the vacated area on the required date of relocation hereunder. In the event of relocation, the Permittee shall promptly remove all property from the affected area. In the event the Permittee fails to immediately relocate to such new location, the Port Authority shall have the right to do so at the risk of the Permittee, and the Permittee shall pay the Port Authority the expense thereof on demand. Without in any way limiting any other right of entry set forth in this Permit, the Port Authority at any time and from time to time, shall also have the right to enter upon the Space to perform construction work related to such seismic and security program.

12. The Permittee shall have the right, as part of its overall risk management program, to provide for the insurance coverages required in the Insurance Schedule attached to this Permit with such amounts of coverage and deductible or retained amounts as the Permittee may determine appropriate from time to time, *except, however*, that the Permittee shall, at its sole expense, pay for all claims and damages which fall within such deductible or retained amounts. The Permittee shall provide evidence of such self-insurance to the Port Authority.

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For the Port Authority

Initialed:

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For the Permittee

INSURANCE SCHEDULE

(a) The Permittee named in the permit to which this Insurance Schedule is attached and of which it constitutes an integral part (the “Permit”), in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of the Permit on a policy or policies of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, 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:

	<u>Minimum Limits</u>
Commercial General Liability Insurance Combined single limit per occurrence for death, bodily injury and property damage liability:	\$2,000,000.00
Workers’ Compensation and Employers Liability Insurance Permittee's obligations under the applicable State Workers' Compensation Law for those employees of the Permittee employed in operations conducted pursuant to the Permit at or from the Facility:	Statutory

In the event the Permittee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers’ Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of the Permit, including without limitation this Insurance Schedule.

(b) Each policy of insurance, except for the Workers’ Compensation and Employers Liability Insurance policies, shall also contain an ISO standard “separation of insured’s” clause or a cross liability endorsement providing that the protections afforded the Permittee thereunder with respect to any claim or action against the Permittee by a third person shall pertain and apply with like effect with respect to any claim or action against the Permittee by the Port Authority and any claim or action against the Port Authority by the Permittee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Permittee under Section 8 of the Terms and Conditions of the Permit.

(c) All insurance coverages and policies required under this Insurance Schedule 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 of permission under the Permit. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the above-scheduled insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Permittee shall promptly comply therewith.

(d) Each policy shall contain a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer “shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.” The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of the Permit by the Permittee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance delivered to the Port Authority at least seven (7) days prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the Permit. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Permittee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Permittee under the Permit. The foregoing insurance requirements shall not constitute a representation or warranty as to the adequacy of the required coverage to protect the Permittee with respect to the obligations imposed on the Permittee by the Permit or any other agreement or by law.

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For the Port Authority

Initialed:

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For the Permittee

: This Space for Port Authority Use Only :  
:  
: Permit Number: BT-TBL-BOF-018 :

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
**225 Park Avenue South**  
**New York, New York 10003**

**PORT AUTHORITY BUS TERMINAL**  
**SPACE PERMIT**

The Port Authority of New York and New Jersey (the "Port Authority") hereby grants to the Permittee hereinafter named permission to use and occupy the following described space (the "Space") at the Port Authority Bus Terminal (the "Facility") for the purposes hereinafter specified and all purposes incidental thereto in accordance with the Terms and Conditions hereof; and said Permittee agrees to pay the fee or fees hereinafter specified and to perform all other obligations imposed upon it in said Terms and Conditions.

1. PERMITTEE: TRANS-BRIDGE LINES, INC., a Pennsylvania corporation
2. PERMITTEE'S ADDRESS: 2012 Industrial Drive  
Bethlehem, Pennsylvania 18017
3. PERMITTEE'S REPRESENTATIVE: Kirby Parnell
4. SPACE: Per Special Endorsement No. 1.
5. PURPOSES: Per Special Endorsement No. 2.
6. FEES: Per Special Endorsement No. 4.
7. EFFECTIVE DATE: As of January 1, 2013
8. EXPIRATION DATE: December 31, 2017, unless sooner revoked or terminated as provided in this Permit.
9. ENDORSEMENTS ANNEXED AT TIME OF ISSUANCE: 6.4, 11.1, 14.1, 15.1, 17.1, 19.6, Special, Insurance Schedule and Exhibit A.

Dated: As of July 1, 2012

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

By [Signature]  
Name CEDRICK T. FULTON  
(Please Print Clearly)  
(Title) DIRECTOR, TUNNELS BRIDGES & TERMINALS DEPT.

[Signature]  
Trans-Bridge Lines, Inc.  
Permittee  
By [Signature]  
Name THOMAS G. V. BRAN  
(Please Print Clearly)  
(Title) President

Port Authority Use Only	
Approval as to Terms:	Approval as to Form:
<u>[Signature]</u>	<u>[Signature]</u>

REM

TERMS AND CONDITIONS

1. Certain Definitions:

(a) “**Effective Date**” shall mean the date designated as the “Effective Date” in Item 7 on the cover page of this Permit.

(b) “**Executive Director**” shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(c) “**Expiration Date**” shall mean the date designated as the “Expiration Date” in Item 8 on the cover page of this Permit.

(d) “**Facility**” shall have the meaning set forth in the granting clause on the cover page of this Permit.

(e) “**Hazardous Substance**” shall mean 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, endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(f) “**Manager of the Facility**” shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said Manager by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Manager (or temporary or Acting Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

(g) “**Permittee’s Representative**” shall mean the individual named in Item 3 on the cover page of this Permit or such other individual as the Permittee may designate by notice in accordance with the provisions of Section 18 below, entitled “Notices”.

2. Effectiveness:

(a) The permission granted by this Permit shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days’ prior notice, and terminated by the Permittee without cause upon thirty (30) days’ prior notice; provided, however, that it may be revoked on twenty-four (24) hours’ notice if the Permittee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Permit, including without

limitation the obligation to pay fees. Further, in the event the Port Authority exercises its right to revoke or terminate this Permit for any reason other than "without cause", the Permittee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space which may be used and occupied under this Permit (on failure of the Permittee to have it restored), preparing such space for use by a succeeding permittee, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the space in order (such as but not limited to cleaning and decorating the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this Permit or a waiver of any other rights or remedies which may be available to the Port Authority under this Permit or otherwise.

3. Use of Space by Permittee:

(a) The Space shall be used, pursuant to the permission hereby granted,

(i) if the Permittee is a corporation, by the Permittee acting only through the medium of its officers and employees,

(ii) if the Permittee is an unincorporated association, or a "Massachusetts" or business trust, by the Permittee acting only through the medium of its members, trustees, officers and employees,

(iii) if the Permittee is a partnership, by the Permittee acting only through the medium of its general partners and employees, or

(iv) if the Permittee is an individual, by the Permittee acting only personally or through the medium of his employees; or

(v) if the Permittee is a limited liability company, by the Permittee acting only through the medium of its members, managers and employees;

and the Permittee shall not, without the written approval of the Port Authority, use the Space through the medium of any other person, corporation or legal entity. The Permittee shall not assign or transfer this Permit or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this Permit to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Permittee shall be the joint and several obligation of each such individual or other legal entity.

(b) The Permittee's Representative specified in Item 3 of the cover page of this Permit (or such substitute as the Permittee may hereafter designate in writing) shall have full authority to act for the Permittee in connection with this Permit and any act or things done or to be done hereunder, and to execute on the Permittee's behalf any amendments or supplements to this Permit or any extension hereof and to give and receive notices hereunder.

(c) This Permit shall not constitute the Permittee the agent or representative of the Port Authority for any purpose whatsoever.

(d) The Permittee hereby agrees that it will not carry on any business or operation in the Space or at the Facility other than as specifically provided herein without receiving the prior written consent of the Port Authority, which consent, if given, will be in the form of a Supplement hereto or a separate agreement with the Port Authority, which consent will specify whether the provisions regarding fees contained herein or any other provisions regarding fees shall apply thereto.

4. Condition of Space:

(a) The Permittee hereby acknowledges that prior to the execution of this Permit it has thoroughly examined and inspected the Space and has found the Space in good order and repair and has determined the Space to be suitable for the Permittee's operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Permittee for the purposes contemplated herein. The Permittee agrees to and shall take the Space in its "as is" condition and the Port Authority shall have no obligation hereunder for preparation of the Space for the Permittee's use. The Permittee agrees that no portion of the Space will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property and the Permittee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) Except to the extent required for the performance of any of the obligations of the Permittee under this Permit, nothing contained in this Permit shall grant to the Permittee any rights whatsoever in the air space above the height of the structures located on the Space as of the Effective Date hereof.

(c) The parties to this Permit hereby acknowledge that the Space is non-residential real estate.

5. Payment of Fees:

(a) Unless otherwise expressly provided in this Permit, the Permittee shall pay to the Port Authority a fee for its use and occupancy of the Space. The fee specified is a monthly fee, payable in advance on the Effective Date and on the first day of each and every calendar month thereafter.

(b) Payments made hereunder shall be sent to the following address:

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

or made via the following wire transfer instructions:

Bank: Commerce Bank  
Bank ABA Number: 031201360  
Account Number: Ex. 1

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by notice to the Permittee.

(c) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

(d) Upon execution of this Permit by the Permittee, the Permittee shall pay to the Port Authority all unpaid fees and other monies due and payable under this Permit as of the date of execution.

6. Late and Service Charges:

(a) If the Permittee should fail to pay any amount required under this Permit when due to the Port Authority or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this Permit. 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. 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 Permit, including without limitation the Port Authority's rights set forth in Section 2 hereof or (ii) any obligations of the Permittee under this Permit. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Permit shall be payable instead at such legal maximum.

(b) (i) The Permittee shall permit and/or cause to be permitted in ordinary business hours during the effective period of this Permit and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Permittee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be relevant in connection with the Permittee's use and occupancy of the Space as permitted hereunder within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

(ii) In the event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority by the Permittee (the "**Audit Findings**"), the Permittee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Permittee under this Permit or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Permit with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Permit, including, without limitation, the Port Authority's rights to revoke this Permit or (ii) any obligations of the Permittee under this Permit.

7. Security Deposit: If the Permittee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Permittee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Permittee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any deposit pursuant thereto also shall be deemed obligations of the Permittee under this Permit and as security hereunder as well as under any such other agreement and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby 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.

8. Indemnification of Port Authority:

(a) The Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal costs and 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 of the operations, acts or omissions of the Permittee hereunder.

(b) The Permittee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any way connected with this Permit. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Permittee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Permittee under or in any way connected with this Permit.

(c) If so directed, the Permittee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal, the immunity of the Port Authority, its governmental nature or the provisions of any statutes respecting the Port Authority.

(d) In the event of any injury or death to any person (other than employees of the Permittee) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, or damage to any property (other than the Permittee's property) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, the Permittee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Permittee's insurance carrier.

9. Right of Entry Reserved: The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Space and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

10. Rules and Regulations: The Permittee shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of this Permit, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Permittee of every rule and regulation hereafter adopted by it at least five (5) days before the Permittee shall be required to comply therewith.

11. Conduct of Operations:

(a) The Permittee shall immediately comply with all orders, directives and procedures as may be issued by the Manager of the Facility covering the operations of the Permittee under this Permit at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder.

(b) The Permittee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(c) Unless otherwise expressly provided, the Permittee shall not install any vending machines or similar devices in the Space or use the Space (or permit it to be used) for the sale to its employees or to the public of any of the following goods and services: beverages, food, candy, gum, ice cream or ice cream products, tobacco or tobacco products, periodicals, books, drugs, toys, games, souvenirs, jewelry, novelties, clothing, flowers, sporting or photographic goods, toilet articles, theatre tickets, shoe shines, pressing and cleaning, developing and printing of photographs and films or baggage-checking. The specificity of the foregoing enumeration of disallowed activities shall not be deemed to infer that any particular activities not so enumerated are permitted under this Permit.

(d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Space without the written approval of the Manager of the Facility; and any not approved by him may be removed by the Port Authority at the expense of the Permittee. The Permittee shall not display, or permit the display of, advertising of third parties in the Space.

(e) The Permittee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

(f) The operations of the Permittee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Permittee shall provide and its employees shall wear or carry badges or other suitable means of identification which shall be subject to the approval of the Manager. The Port Authority shall have the right to object to the Permittee as to the demeanor, conduct and appearance of the Permittee's employees, invitees and those doing business with it, whereupon the Permittee will take all steps necessary to remove the cause of the objection.

(g) The Permittee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Permittee. The receptacles shall be kept covered except when filling or emptying the same. The Permittee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

(h) The Permittee shall at all times maintain the Space in a clean and orderly condition and appearance.

12. Permittee Property:

(a) The personal property placed or installed by the Permittee in the Space shall remain the property of the Permittee and must be removed on or before the Expiration Date or on or before the revocation or termination of the permission hereby granted, whichever shall be earlier.

(b) If the Permittee shall fail to remove its property upon the expiration, termination or revocation hereof, the Port Authority may, at its option, as agent for the Permittee and at the Permittee's risk and expense, remove such property to a public warehouse for deposit or retain the same in its own possession and after the expiration of thirty (30) days sell the same at public auction, the proceeds of which shall be applied first to the expenses of sale, second to any sums owed by the Permittee to the Port Authority, and any balance remaining shall be paid to the Permittee, or may take such other action as may be necessary or desirable. Any excess of the total cost of removal, storage and sale over the proceeds of sale shall be paid by the Permittee to the Port Authority upon demand.

13. Prohibited Acts:

(a) The Permittee 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 New York Board of Fire Underwriters and the New York Fire Insurance Exchange, and any other body or organization exercising similar functions which may pertain or apply to the Permittee's operations hereunder. If by reason of the Permittee's failure to comply with the provisions of this Section, any fire insurance, extended coverage or rental insurance rate on the Facility or any part thereof or upon the contents of any building thereon shall at any time be higher than it otherwise would be, then the Permittee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been charged because of such violation by the Permittee.

(b) The Permittee shall not do or permit to be done any act which

(i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or

(ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or

(iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this Permit, or

(iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or

(v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or

(vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.

(c) For purposes of this Section, "Facility" includes all structures located thereon.

14. Specifically Prohibited Activities:

(c) The Permittee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.

(d) The Permittee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Permittee (or permitted by the Permittee to be disposed of, released or discharged) on the Facility shall upon notice by the Port Authority to the Permittee be completely removed and/or remediated by the Permittee at its sole cost and expense.

(e) The Permittee shall not operate any engine or any item of automotive equipment in the Space without adequate ventilation.

(f) The Permittee shall not use any cleaning materials having a harmful or corrosive effect in the Space.

(g) The Permittee shall not fuel or defuel any equipment in the Space or elsewhere at the Facility without the prior approval of the Manager of the Facility except in accordance with Port Authority rules and regulations.

(h) The Permittee shall not start or operate any engine or any item of automotive equipment in the Space unless such space is adequately ventilated and unless such engine is equipped with a proper spark-arresting device.

(i) The Permittee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

15. Labor Disturbances:

(a) (i) The Permittee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Permittee under this Permit.

(ii) The Permittee shall immediately give notice to the Port Authority (to be followed by written notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Permittee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

(b) If any type of strike or other labor activity is directed against the Permittee at the Facility or against any operations pursuant to this Permit resulting in picketing or boycott

for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority, adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Permittee, and whether caused by the employees of the Permittee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' notice, revoke this Permit, effective at the time specified in the notice. Revocation shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation.

16. Notices: A bill or statement may be rendered or any notice or communication which the Port Authority may desire to give the Permittee shall be deemed sufficiently rendered or given if the same be in writing and sent by registered or certified mail addressed to the Permittee at the address specified on the cover page hereof or at the latest address that the Permittee may substitute therefor by notice to the Port Authority, or left at such address, or delivered to the Permittee's Representative, and the time of rendition of such bill or statement and of the giving of such notice or communication shall be deemed to be the time when the same is mailed, left or delivered as herein provided. Any notice from the Permittee to the Port Authority shall be validly given if sent by registered or certified mail addressed to the Executive Director of the Port Authority at 225 Park Avenue South, New York, New York 10003 or at such other address as the Port Authority shall hereafter designate by notice to the Permittee.

17. No Broker: The Permittee represents and warrants that no broker has been concerned in the negotiation or execution of this Permit and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Permittee shall indemnify the Port Authority and save it harmless from any and all claims which have been or which may be made by any and all persons, firms, or corporations whatsoever for services in connection with the negotiation and execution of this Permit or in connection with any permission to use the Space.

18. Waiver of Trial by Jury: The Permittee hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Permittee in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Permit. The Permittee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Permittee.

19. Effect of Use and Occupancy after Expiration, Revocation or Termination: Without in any way limiting any other provision of this Permit, unless otherwise notified by the Port Authority in writing, in the event the Permittee continues its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit, as such effective period of permission may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Permit or other remedies the Port Authority may have by law or otherwise, the Permittee shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such revocation or termination and ending on the date that the Permittee shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the

Permittee any right to continue its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit. The Permittee acknowledges that the failure of the Permittee to surrender, vacate and yield up the Space to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Permittee 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 Permittee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

20. No Personal Liability: No Commissioner, officer, agent or employee of the Port Authority shall be charged personally by the Permittee with any liability, or held liable to it, under any term or provision of this Permit, or because of its execution or attempted execution, or because of any breach hereof.

21. No Waiver: No failure by the Port Authority to insist upon the strict performance of any agreement, term, covenant or condition of this Permit or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this Permit during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this Permit to be performed or complied with by the Permittee, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the Port Authority. No waiver by the Port Authority of any default or breach on the part of the Permittee in performance of any agreement, term, covenant or condition of this Permit shall affect or alter this Permit but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

22. Construction and Application of Terms:

(a) The use of headings in this Permit is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

(b) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Permit or any amendments, addendums or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

(c) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

(d) To the extent that any provisions of this Permit are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

23. Entire Agreement: This Permit, including the cover page, the Terms and Conditions and the attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on

behalf of the parties and attached hereto. The Permittee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

(a) The Permittee shall at all times keep the Space in a clean and orderly condition and appearance, together with all fixtures, equipment and personal property of the Permittee and of the Port Authority located in or on the Space, including without limitation thereto the interior surface of windows and both sides of all entrance doors.

(b) The Permittee shall repair, replace, rebuild and paint all or any part of the Space or of the Facility which may be damaged or destroyed by the acts or omissions of the Permittee, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees or other persons who are doing business with the Permittee who are on or at the Space or the Facility with the consent of the Permittee.

(c) The Permittee shall take good care of the Space, including therein, without limitation thereto, walls, partitions, floors, ceilings, doors and columns, and all parts thereof, and all equipment and fixtures, and shall do all preventive maintenance and make all necessary non-structural repairs, replacements, rebuilding and painting necessary to keep the Space in the condition existing on the effective date and to keep any improvements, additions and fixtures made or installed during the effective period of this Agreement in the condition they were in when made or installed except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the building or adversely affect the efficient or proper utilization or the appearance of any part of the Space.

(d) In the event the Permittee fails to commence so to make or do any repair, replacement, rebuilding or painting required by this Agreement within a period of ten (10) days after notice from the Port Authority so to do, or fails diligently to continue to completion the repair, replacement, rebuilding or Painting of all the premises required to be repaired, replaced, rebuilt or painted by the Permittee under the terms of this Agreement, the Port Authority may, at its option, and in addition to any other remedies which may be available to it, repair, replace, rebuild or paint all or any part of the Space included in the said notice, the Port Authority's cost thereof to be paid by the Permittee on demand. This option or the exercise thereof shall not be deemed to create or imply any obligation or duty to the Permittee or others.

(e) The obligation of the Permittee as set forth in paragraphs (b) and (c) above, in the event of damage or destruction covered by any contract of insurance under which the Port Authority is the insured, is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that if at any time because of this release the insurance carrier of any policy covering the premises or any part thereof shall increase the premiums otherwise payable for fire, extended coverage or rental coverage applicable to the premises; the Permittee shall pay to the Port Authority an amount equivalent to such increase or increases on demand; and provided, further, that if at any time this release shall invalidate any such policy of insurance or reduce, limit or void the rights of the Port Authority thereunder, or if because of this release, any such insurance carrier shall cancel any such policy or shall refuse to issue or renew the same or shall refuse to issue a policy with an endorsement thereon under which this release is permitted without prejudice to the interest of the insured or shall cancel such endorsement or refuse to renew the same or shall take any other action to alter, decrease or diminish the benefits of the Port Authority under the policy, then the release shall be void and of no effect. Nothing herein shall be construed to imply an obligation on the Port Authority to carry any such insurance policy or to obtain or keep in force any such endorsement.

(f) The Port Authority shall have no duty of repair or maintenance as to the Space or any fixtures, equipment or personal property which is located in or on the Space.

(g) The Permittee shall immediately clear all drainage and supply stoppages and partial blocks, in and in connection with any plumbing fixtures, equipment and system which are a part of or are located in or on the Space. All glass in windows and doors which are a part of or are located in or on the Space and which may be broken shall be replaced by the Permittee not later than five days after breakage or at any earlier date if so directed by the Port Authority and immediately if such replacement is necessary to protect the Space, any part thereof or any other property of the Port Authority against damage, loss or theft. The Permittee shall have no obligation under this paragraph where the condition is caused by the negligence of the Port Authority.

(h) The Permittee shall immediately notify the Port Authority if any portion or all of the Space or any of the said Port Authority fixtures, equipment or personal property is destroyed, damaged or in need of repair, regardless of the Permittee's responsibility therefor.

(i) Nothing herein contained shall relieve the Permittee of its obligations to secure the Port Authority's written approval before installing any fixtures in or upon or making any alterations, decorations, additions or improvements in the Space.

(j) In the event of a partial or total destruction of the Space, the Permittee shall immediately remove any and all of its property and debris from the Space or portion thereof destroyed.

STANDARD ENDORSEMENT NO. 6.4 (Page 2)

**CARE OF SPACE**

All Installations

7/22/69

The Port Authority, by its officers, employees, representatives, contractors, licensees, and their employees, shall have the right for the benefit of the Port Authority, or the Permittee and/or for the benefit of others than the Permittee to maintain existing and future heating, water, gas, electricity, sewerage, drainage, fire protection sprinkler, ventilating, refrigerating, fuel and communication systems and other such service systems, including all tubes, pipes, lines, mains, wires, conduits and equipment on or about the Space and to enter upon the Space at all reasonable times and to make such repairs, replacements and 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, on, in or under the Space new tubes, pipes, lines, mains, wires, conduits and equipment, provided however, that the same shall be done so as to interfere as little as reasonably possible with the Permittee's operations.

Nothing contained in this Endorsement shall or shall be construed to impose upon the Port Authority any obligations so to maintain or to make repairs, replacements, alterations or additions or any liability for failure to do so.

Except as specifically provided herein to the contrary, the Permittee shall not, by virtue of the issue and acceptance of this Permit, be released or discharged from any liabilities or obligations whatsoever under any other Port Authority permits or agreements including but not limited to any permits to make alterations.

In the event that any space or location covered by this Permit is the same as is or has been covered by another Port Authority permit or other agreement with the Permittee, then any liabilities or obligations which by the terms of such permit or agreement, or permits thereunder to make alterations, mature at the expiration or revocation or termination of said permit or agreement, shall be deemed to survive and to mature at the expiration or sooner termination or revocation of this Permit, insofar as such liabilities or obligations require the removal of property from and/or the restoration of the space or location.

STANDARD ENDORSEMENT NO. 14.1  
**DUTIES UNDER OTHER AGREEMENTS**  
All Facilities  
7/21/49

Whenever in this Permit, including all endorsements and exhibits thereto, the pronoun "it" or the adjective "its" may occur, referring to the Permittee, the said pronoun or adjective shall be deemed and taken to mean "it", "he", "him", "she", "her", "they", "them", or "its", "his", "her", "hers", "their", or "theirs", as the circumstances of the reference and the gender and number of the Permittee may require.

The Permittee shall procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Permittee's operations at the Facility which may be necessary for the Permittee's operations thereat.

The Permittee shall pay all taxes, license, certification, permit and examination fees and excises which may be assessed, levied, exacted or imposed on its property or operation hereunder or on the gross receipts or income therefrom, and shall make all applications, reports and returns required in connection therewith.

The Permittee shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, rules, regulations, requirements, orders and directions which may pertain or apply to the Permittee's operations at the Facility.

The Permittee's obligations to comply with governmental requirements are provided herein for the purpose of assuring proper safeguards for the protection of persons and property at the Facility and are not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

STANDARD ENDORSEMENT NO. 17.1

**LAW COMPLIANCE**

All Facilities

8/29/49

“Port Authority Bus Terminal” or “Terminal” shall mean the building bounded by 40<sup>th</sup> and 41<sup>st</sup> Streets, 8<sup>th</sup> and 9<sup>th</sup> Avenues, in the City, County and State of New York and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof; all of which now constitutes the Port Authority Bus Terminal.

## SPECIAL ENDORSEMENTS

1. Subject to and in accordance with all the terms and conditions of this Permit and the Endorsements annexed thereto, the Port Authority hereby grants the Permittee permission to use and occupy the space on the lower level of the South Wing of the Facility shown in diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A", together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon (the "Space"). The Port Authority and the Permittee hereby acknowledge that the Space constitutes non-residential real property.

2. The Permittee shall use the Space as a driver's break room and for no other purpose whatsoever.

3. (a) The Permittee shall not install any equipment, improvement or fixtures in the Space or perform any construction work therein without the prior written approval of the Port Authority as to the design and type of unit to be installed as well as the method and manner of installation. To such end the Permittee, prior to the installation of any unit in the Space, shall submit to the Port Authority for its approval an Alteration Application in the form supplied by the Port Authority including such terms and conditions and such plans and specifications as the Port Authority may require setting forth in detail the design and type of unit proposed by the Permittee to be installed and the method and manner of the installation work to be performed by the Permittee to prepare and equip the Space for its operations therein. The Permittee shall be responsible at its sole cost and expense for the performance of the installation work. Any installation, placement or attachment made without the approval of the Port Authority and any such that does not continue to meet with the continuing approval of the Port Authority shall immediately be removed by the Permittee and in the event of the Permittee's failure to remove the same the Port Authority may do so at the Permittee's cost and expense. The Port Authority reserves the right to require the Permittee to obtain the approval of the Port Authority as to the time and manner of any maintenance, servicing and repair operations upon any of the Permittee's equipment, facilities, fixtures or property installed in, placed upon, or attached to the Space.

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

4. (a) The Permittee shall pay a monthly fee for the Space as follows:

(i) During the period commencing on January 1, 2013, and continuing through December 31, 2013, both dates inclusive, in the amount of Three Hundred Ninety-eight Dollars and Seventy-eight Cents (\$398.78), payable on January 1, 2013, and on the first day of each and every calendar month occurring during such period; and

(ii) During the period commencing on January 1, 2014, and continuing through December 31, 2014, both dates inclusive, in the amount of Four Hundred Twelve Dollars and Seventy-four Cents (\$412.74), payable on January 1, 2014, and on the first day of each and every calendar month occurring during such period; and

(iii) During the period commencing on January 1, 2015, and continuing through December 31, 2015, both dates inclusive, in the amount of Four Hundred Twenty-seven Dollars and Eighteen Cents (\$427.18), payable on January 1, 2015, and on the first day of each and every calendar month occurring during such period; and

(iv) During the period commencing on January 1, 2016, and continuing through December 31, 2016, both dates inclusive, in the amount of Four Hundred Forty-two Dollars and Thirteen Cents (\$442.13), payable on January 1, 2016, and on the first day of each and every calendar month occurring during such period; and

(v) During the period commencing on January 1, 2017, and continuing through December 31, 2017, both dates inclusive, in the amount of Four Hundred Fifty-seven Dollars and Sixty Cents (\$457.60), payable on January 1, 2017, and on the first of each and every calendar month occurring during such period.

(b) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

5. (a) (i) The Port Authority will supply electricity to the Permittee at the Space on such days and during such hours as the Permittee conducts its operations at the Space, to the extent that the Permittee's consumption does not exceed the capacity of feeders, risers or wiring in the Space or the Facility, the Permittee's consumption and demand for such electricity to be measured by a meter or meters installed by the Port Authority. From and after the Effective Date hereof, the Permittee shall take the same and pay at the greater of: (i) the rates (including the fuel or other adjustment factor) which the Permittee at the time of such purchase and under the service classification then applicable to it would have to pay for the same quantity of electricity to be used for the same purposes under the same conditions if it received the electricity directly from the public utility supplying the same to commercial buildings in the vicinity; or (ii) the Port Authority's cost of obtaining and supplying the same quantity of electricity. In the event any meter is out of service or fails to record the consumption and demand for electricity by the Permittee, the Permittee's consumption and demand for electricity will be considered to be the same as its consumption and demand for a like period as measured by such meter, either immediately before or immediately after such interruption or failure of a meter, which period shall be selected by the Port Authority. The Permittee shall pay the amount as so determined for each such billing period to the Port Authority upon demand therefor and the same shall be deemed an additional fee collectible in the same manner and with like remedies as if it were a part of the Basic Fee reserved hereunder.

(ii) Notwithstanding that the Port Authority has agreed to supply electricity to the Permittee, the Port Authority shall be under no obligation to provide or continue such service if the Port Authority is prevented by law, agreement or otherwise from metering or measuring consumption and demand as hereinabove set forth or elects not to so meter or measure the same, and in any such event the Permittee shall make all arrangements and conversions necessary to obtain electricity directly from the public utility. Also in such event,

the Permittee shall perform the construction necessary for conversion and if any lines or equipment of the Port Authority are with the consent of the Port Authority used therefor the Port Authority may make an appropriate charge therefor to the Permittee based on its costs and expenses for the said lines and equipment.

(b) Without limiting the generality of rights of entry upon the Space elsewhere in this Permit reserved to the Port Authority, the Port Authority shall have, for itself, its officers, employees, representatives, contractors and subcontractors, the right to enter upon the Space at all times to construct, install, maintain, replace, repair or improve the air-cooling system or any part thereof providing service for the part of the Facility in which any portion of the Space is located. Air-cooling shall be furnished subject to all the provisions of this Permit and in accordance with the following:

(i) If the air-cooling in or on the Space can be controlled by mechanisms within the Space, the Permittee shall shut off the air-cooling before closing and leaving the Space at any time for any period. The Port Authority shall have the rights of entry specified in Section 9 of the Terms and Conditions hereof for the purpose of observing the Permittee's compliance with the provisions hereof and the Port Authority may lock, seal or install any timing device on or in connection with any air-cooling control mechanism so as to provide that the Space shall only be air-cooled during the hours and days stipulated hereunder.

(ii) If the Permittee, in accordance with Standard Endorsement 6.4 hereof or otherwise, erects any partitions or makes any improvements, which partitions or improvements stop, hinder, obstruct or interfere with the cooling of the air or the heating of the Space, then no such action by the Permittee shall impose any obligation on the Port Authority to install facilities, fixtures or equipment for air-cooling or for heating additional to those presently existing or presently contemplated or to increase the capacity or output of existing or presently contemplated facilities, equipment or fixtures, and the Permittee shall not in any such event be relieved of any of its obligations hereunder because a comfortable temperature is not maintained. No consent or approval given by the Port Authority in connection with the erection of partitions or the making of any improvements shall be or be deemed to be a representation that the work consented to or approved will not stop, hinder, obstruct or interfere with either the cooling of the air or heating of the Space or any portion thereof. It is hereby understood further that the installation by the Permittee of any equipment which itself requires air-cooling or which requires additional quantities of air-cooling shall not impose any obligation on the Port Authority to increase the capacity or output of initially existing facilities, equipment or fixtures for the cooling of the air or the heating of the Space and the Permittee shall not in any such event be relieved of any of its obligations hereunder.

(c) The Port Authority shall, without additional charge to the Permittee, furnish to the Permittee in the enclosed portion of the Space heat, to an even and comfortable temperature during the months of November to April, inclusive, occurring the period of permission granted hereunder.

(d) The Port Authority shall have no obligations or responsibility with respect to the performance of any services or providing, supplying or furnishing to the Permittee of any utilities or services whatsoever except as expressly provided in this Special Endorsement. Without limiting the generality of any other provisions of this Permit, or the Rules and Regulations of the Port Authority referred to herein, the Permittee shall not retain any contractor for the performance of any cleaning, janitorial or maintenance work in the Space without the prior written consent of the Port Authority.

(e) If any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, makes or increases any charge, fee or rent on the Port Authority for any service, system or utility now or in the future applied to or available to the Space or to any occupants or users thereof or to the structure or building of which the premises form a part (including but not limited to any sewer rent or charge for the use of sewer systems), the Permittee shall, at the option of the Port Authority exercised at any time and from time to time by notice to the Permittee, pay, in accordance with said notice, such charge, fee or rent or increase thereof (or the portion thereof allocated by the Port Authority to the Space or the Permittee's operations hereunder) either directly to the governmental body, authority or agency or to the public utility or directly to the Port Authority.

(f) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee where such service is to be metered, the Port Authority shall be under no obligation to provide or continue any such service if the Port Authority is prevented by law from submetering such service or has agreed with the supplier of such service not to submeter such service.

(g) The Port Authority shall have the right to temporarily discontinue the supply of any of the above services when necessary or desirable in the opinion of the Port Authority in order to make any repairs, alterations, changes or improvements in the Space or elsewhere in the building of which the Space forms a part including all systems for the supply of services.

(h) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Permittee, the Port Authority shall be under no obligation to supply any such service 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. If by operation of this subdivision or the previous subdivision any service for which the Permittee has agreed to pay a flat sum is discontinued for any period during the effective period of the permission granted hereunder, the Permittee shall be relieved of its obligation to pay for such service for any such period or if any such service is supplied during fewer hours or in lesser amounts than agreed during any period during the effective period of the permission granted hereunder, the Permittee shall be relieved proportionately of its obligation to pay for any such service for any such period.

(i) No failure, delay or interruption in any of the above services shall be or shall be construed to be an eviction of the Permittee, shall be grounds for any diminution or abatement of the fees payable hereunder, or shall constitute grounds for any claim by the Permittee for damages, consequential or otherwise, unless due to the negligence of the Port Authority, its employees or agents. The Permittee shall not be entitled to receive any of the above services during any period during which the Permittee wastes any of the services or is in default under any of the provisions of this Permit.

6. The provisions of Section 19 of the Terms and Conditions of this Permit shall survive the expiration or the earlier revocation of the permission hereunder granted. Neither the receipt of any sum as damages pursuant to the provisions of said Section, nor any other act taken by the Port Authority pursuant to the provisions thereof in apparent affirmation of the Permittee's use and occupancy of the Space for any period beyond the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted shall or shall be

deemed to grant the Permittee a right to remain in occupancy of the Space after the Expiration Date or the effective date of the earlier revocation of the permission hereunder granted, or shall or shall be deemed to be a waiver by the Port Authority of or a limitation of the Port Authority's right to exercise any remedy available to it under this Permit or otherwise at law or in equity, to obtain possession of the Space should the Permittee fail to terminate its occupancy thereof and to deliver actual, physical possession thereof to the Port Authority on or before the Expiration Date or the earlier revocation of the permission hereunder granted, including without limitation the right to terminate this Permit pursuant to the terms hereof, and the right to institute summary proceedings.

7. (a) The Permittee shall not, on the grounds of race, creed, color, sex or national origin, discriminate or permit discrimination against any person or person in its selling of merchandise or rendering of services hereunder or in its employment practices and procedures or in any of its operations or activities under or in connection with this Permit.

(b) Without limiting the generality of any other provision of this Permit, the Permittee shall not keep, maintain, place or install in the Space any fixtures or equipment the use of which is not consistent with and required for the purposes of this Permit and the Permittee shall not use or connect any equipment or engage in any activity or operation in the Space which will cause or tend to cause an overloading of the capacity of any existing or future utility, mechanical, electrical, communications or other systems or portions thereof on the Space or elsewhere at the Facility nor shall the Permittee do or permit to be done anything which may interfere with the effectiveness or accessibility thereof.

(c) The Permittee shall not overload any floor, roadway, passageway, pavement or other surface or any wall, partition, column or other supporting member or any elevator or other conveyance in the Space or at the Facility and, without limiting any other provision of this Permit, the Permittee shall repair, replace or rebuild any such as may be damaged by overloading.

(d) Subject to and in accordance with the provisions of Section 8 of the Terms and Conditions hereof, the Permittee shall make any and all improvements, alterations or repairs of the Space that may be required at any time hereafter by any present or future governmental law, rule, regulation, requirement, order or direction or by any present or future rule, regulation, requirement, order or direction of the National Fire Protection Association and the New York Fire Insurance Rating Organization, and of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Permittee on the Space.

8. The Port Authority shall not be liable to the Permittee or others for any personal injury, death or property damage from falling material, water, rain, hail, snow, gas, steam, dampness, explosion, smoke, radiation and/or electricity whether the same may leak into or fall, issue or flow from any part of the Space or of the Facility including, without limitation thereto, any utility, mechanical, electrical, communications or other systems therein or from any other place or quarter unless said damage, injury or death shall be due to the negligent acts of the Port Authority, its employees or agents.

9. Such provisions of this Permit as apply to the rights and obligations of the parties hereto upon the expiration of the permission granted by this Permit shall apply to the rights and obligations of the parties hereto upon the revocation of the said permission.

10. (a) During the effective period of the permission granted under this Permit, the Permittee shall not give or agree to give anything of value either to a Port Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority of duties involving transactions with the Permittee on behalf of the Port Authority whether or not such duties are related to this Permit or any other Port Authority lease, contract or matter. Any such conduct shall be deemed a material breach of this Permit.

(b) As used herein, "anything of value" shall include, but not be limited to, any (i) favors, such as meals, entertainment, transportation (other than that contemplated by this Permit or any other Port Authority lease or contract), etc., which might tend to obligate the Port Authority employee to the Permittee, or (ii) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Permit or any other Port Authority lease or contract.

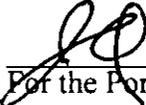
(c) In addition, during the effective period of the permission granted under this Permit, the Permittee shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated as of April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Port Authority).

(d) The Permittee shall include the provisions of this paragraph in each contract or subcontract entered into under and pursuant to the provisions of this Permit.

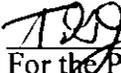
(e) The Permittee certifies that it has not made any offers or agreements or given or agreed to give anything of value (as defined in this paragraph) or taken any other action with respect to any Port Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated as of April 11, 1996 referred to in this paragraph nor does the Permittee have any knowledge of any act on the part of a Port Authority employee or former Port Authority employee relating either directly or indirectly to the Permittee which constitutes a breach of the ethical standards set forth in said Code.

11. Without limiting any other right of revocation or termination set forth in this Permit, the Port Authority may at any time and from time to time, in connection with a program of seismic and security related improvements, revoke the permission granted hereunder as to the Space on thirty (30) days' prior notice to the Permittee and may at any time and from time to time require the Permittee to relocate, temporarily or permanently, partially or entirely, to a different location within the Facility of comparable size to the Space and the Permittee agrees that it shall comply promptly at its own expense with any such direction or requirement from the Port Authority and to execute, upon receipt from the Port Authority, whatever amendments or other instruments as may be required to correctly reflect the foregoing. The Permittee shall leave the vacated area in the condition required under this Permit in the case of expiration and all obligations with respect to the vacated area which would have matured on the effective date of expiration of the Permit shall mature as to the vacated area on the required date of relocation hereunder. In the event of relocation, the Permittee shall promptly remove all property from the affected area. In the event the Permittee fails to immediately relocate to such new location, the

Port Authority shall have the right to do so at the risk of the Permittee, and the Permittee shall pay the Port Authority the expense thereof on demand. Without in any way limiting any other right of entry set forth in this Permit, the Port Authority at any time and from time to time, shall also have the right to enter upon the Space to perform construction work related to such seismic and security program.

  
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For the Port Authority

Initialed:

  
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For the Permittee

## INSURANCE SCHEDULE

(a) The Permittee named in the permit to which this Insurance Schedule is attached and of which it constitutes an integral part (the "Permit"), in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of the Permit on a policy or policies of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, 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, and Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles and including automatic coverage for newly acquired vehicles and providing for coverage in the limit set forth below:

	<u>Minimum Limits</u>
Commercial General Liability Insurance	
Combined single limit per occurrence for death, bodily injury and property damage liability:	\$2,000,000.00
Workers' Compensation and Employers Liability Insurance	
Permittee's obligations under the applicable State Workers' Compensation Law for those employees of the Permittee employed in operations conducted pursuant to the Permit at or from the Facility:	Statutory

In the event the Permittee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers' Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of the Permit, including without limitation this Insurance Schedule.

(b) Each policy of insurance, except for the Workers' Compensation and Employers Liability Insurance policies, shall also contain an ISO standard "separation of insureds" clause or a cross liability endorsement providing that the protections afforded the Permittee thereunder with respect to any claim or action against the Permittee by a third person shall pertain and apply with like effect with respect to any claim or action against the Permittee by the Port Authority and any claim or action against the Port Authority by the Permittee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Permittee under Section 8 of the Terms and Conditions of the Permit.

(c) All insurance coverages and policies required under this Insurance Schedule 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 of permission under the Permit. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the above-scheduled insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Permittee shall promptly comply therewith.

(d) Each policy shall contain a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer "shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority." The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of the Permit by the Permittee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance delivered to the Port Authority at least seven (7) days prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the Permit. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Permittee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Permittee under the Permit. The foregoing insurance requirements shall not constitute a representation or warranty as to the adequacy of the required coverage to protect the Permittee with respect to the obligations imposed on the Permittee by the Permit or any other agreement or by law.

  
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For the Port Authority

Initialed:

  
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For the Permittee

: For Port Authority Use Only :  
: License Agmt. No.: BPU-409 :

**PORT AUTHORITY BUS TERMINAL  
BUS PARKING LICENSE**

The Port Authority of New York and New Jersey (the "Port Authority") hereby grants to the Licensee named below permission to use, on a non-exclusive basis, at the Port Authority Bus Terminal, in the Borough of Manhattan, City, County and State of New York (the "Facility"), such interior bus parking space(s) as the General Manager of the Facility may designate from time to time (each, a "Bus Parking Space", and collectively, the "Bus Parking Spaces"), in accordance with the Terms and Conditions and Special Endorsements hereto; and the Licensee agrees to pay the fee specified below and to perform all other obligations imposed upon it in the said Terms and Conditions and said Special Endorsements:

1. **LICENSEE:** DECAMP BUS LINES, INC., a New Jersey corporation
2. **LICENSEE'S ADDRESS:** P.O. Box 581  
Montclair, NJ 07042
3. **LICENSEE'S REPRESENTATIVE:** Gary P. Pard, VP-Operations / COO
4. **PERMITTED USE:** For the parking of buses operated by the Licensee, but only when the same are empty and only in connection with the Licensee's operations at the Facility, and for no other use whatsoever.
5. **FEES:** As set forth in Special Endorsement No. 1 hereof.
6. **EFFECTIVE DATE:** March 15, 2012
7. **EXPIRATION DATE:** December 31, 2013, unless sooner revoked or terminated as herein provided.
8. **REQUIRED SECURITY DEPOSIT AMOUNT:** \$3,400.00
9. **INSURANCE REQUIREMENTS:** \$2,000,000.00 minimum limit Commercial General Liability  
\$5,000,000.00 minimum limit Automobile Liability
10. **ENDORSEMENTS:** Special Endorsements.

Dated: As of March 15, 2012

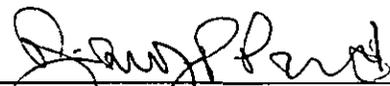
**THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY**

By 

Name CEDRICK T. FULTON

(Title) DIRECTOR, TUNNELS, BRIDGES & TERMINALS DEPT.  
(Please Print Clearly)

**DECAMP BUS LINES, INC., Licensee**

By 

Name GARY P PARD

(Title) V.P.  
(Please Print Clearly)

Port Authority Use Only	
Approval as to Terms:	Approval as to Form:
<u></u>	<u>RR</u>

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**SPECIAL ENDORSEMENTS**

1. **Fees.** During the effective period of the permission granted under this License, the Licensee shall pay to the Port Authority a fee for its Bus Parking Spaces as follows;

(a) *Unrestricted Spaces:*

(i) During the period commencing on the Effective Date and continuing through December 31, 2012, in the amount of Eight Hundred Sixteen Dollars and Thirty-three Cents (\$816.33) per space, per month, payable in advance on the Effective Date and pro-rated for the partial first month of the License, and on the first day of each month thereafter occurring during such period; and

(ii) During the period commencing on January 1, 2013 and continuing through December 31, 2013, in the amount of Eight Hundred Seventy-five Dollars and No Cents (\$875.00) per space, per month, payable in advance on January 1, 2013 and on the first day of each month thereafter occurring during such period.

(b) *Restricted Spaces:*

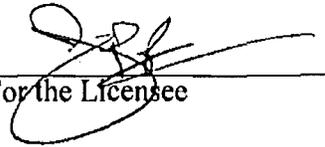
(i) During the period commencing on the Effective Date and continuing through December 31, 2012, in the amount of Five Hundred Ten Dollars and Sixty-seven (\$510.67) per space, per month, payable in advance on the Effective Date and pro-rated for the partial first month of the License, and on the first day of each month thereafter occurring during such period; and

(ii) During the period commencing on January 1, 2013 and continuing through December 31, 2013, in the amount of Five Hundred Forty-seven dollars and Fifty-eight (\$547.58) per space, per month, payable in advance on January 1, 2013 and on the first day of each month thereafter occurring during such period.

2. The Licensee's taxpayer identification number is Ex. 1 .

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

Initialed:

  
\_\_\_\_\_  
For the Licensee

## TERMS AND CONDITIONS

### 1. Certain Definitions.

(a) **"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Facility (and then only in strict compliance with the requirements of such laws, rules and regulations).

(b) **"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this License and forming an integral part hereof.

(c) **"Effective Date"** shall mean the date designated as the "Effective Date" in Item 6 on the Cover Page.

(d) **"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this License; but until further notice from the Port Authority to the Licensee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(e) **"Expiration Date"** shall mean the date designated as the "Expiration Date" in Item 7 on the Cover Page.

(f) **"Facility"** shall mean the Port Authority Bus Terminal, comprising the building bounded by 40<sup>th</sup> and 41<sup>st</sup> Streets, 8<sup>th</sup> and 9<sup>th</sup> Avenues, in the City, County and State of New York, and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof.

(g) **"General Manager of the Facility"** 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 License; but until further notice from the Port Authority to the Licensee it shall mean the General Manager (or temporary or Acting General Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

(h) **"Hazardous Substance"** shall mean 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, endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(i) **“Licensee’s Representative”** shall mean the individual named in Item 3 on the Cover Page, or such other individual as the Licensee may designate by Notice in accordance with the provisions of the Section hereof entitled **“Notices”**.

(j) **“Restricted Space”** shall mean a Bus Parking Space so designated by the General Manager of the Facility. Restricted Spaces may be used only during the hours of 10:00 o’clock a.m. to 4:00 o’clock p.m. and 8:00 o’clock p.m. and 12:59 o’clock a.m., seven days a week.

(k) **“Unrestricted Space”** shall mean any Bus Parking Space that is not a Restricted Space.

2. Effectiveness.

(a) The permission granted by this License shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days’ prior notice, and terminated by the Licensee without cause upon thirty (30) days’ prior notice; provided, however, that it may be revoked on twenty-four (24) hours’ notice if the Licensee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this License, including without limitation the obligation to pay fees. Further, in the event the Port Authority exercises its right to revoke or terminate this License for any reason other than **“without cause”**, the Licensee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space which may be used and occupied under this License (on failure of the Licensee to have it restored), preparing such space for use by a succeeding licensee, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the space in order (such as but not limited to cleaning the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Licensee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) Without limiting any other rights it may have hereunder, the Port Authority shall have the right to revoke this License by giving to the Licensee at least five (5) days’ prior notice if, by reason of the revocation, termination or expiration of any existing or future other agreements, the Licensee shall cease to be entitled to use, on a continuing contract basis, an enclosed vehicular level at the Facility. Revocation by the Port Authority pursuant to this paragraph shall have the same effect as if the effective date of revocation were the Expiration Date, and the Licensee agrees that such revocation shall not relieve the Licensee of any liabilities or obligations of the Licensee which shall have accrued on or prior to the effective date of revocation.

(c) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this License or a waiver of any other rights or remedies which may be available to the Port Authority under this License or otherwise.

3. Licensee's Rights and Obligations.

(a) The Bus Parking Spaces shall be used, pursuant to the permission hereby granted,

(i) if the Licensee is a corporation, by the Licensee acting only through the medium of its officers and employees,

(ii) if the Licensee is an unincorporated association, or a "Massachusetts" or business trust, by the Licensee acting only through the medium of its members, trustees, officers and employees,

(iii) if the Licensee is a partnership, by the Licensee acting only through the medium of its general partners and employees, or

(iv) if the Licensee is an individual, by the Licensee acting only personally or through the medium of his employees; or

(v) if the Licensee is a limited liability company, by the Licensee acting only through the medium of its members, managers and employees;

and the Licensee shall not, without the written approval of the Port Authority, use the Bus Parking Spaces through the medium of any other person, corporation or legal entity. The Licensee shall not assign or transfer this License or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this License to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Licensee shall be the joint and several obligation of each such individual or other legal entity.

(b) The Licensee's Representative shall have full authority to act for the Licensee in connection with this License and any act or things done or to be done hereunder, and to execute on the Licensee's behalf any amendments or supplements to this License or any extension hereof and to give and receive Notices hereunder.

(c) This License shall not constitute the Licensee the agent or representative of the Port Authority for any purpose whatsoever.

(d) Neither the execution and delivery of this License nor any act done pursuant thereto shall create between the Licensee and the Port Authority the relationship of bailor and bailee, storer and garagekeeper or any other relationship except that of licensee and licensor; nor shall there be created thereby any legal status which would impose upon the Port Authority with respect to any vehicles or other property in the Bus Parking Spaces any duty or obligation whatsoever. The Licensee expressly agrees that the Port Authority shall have no liability with respect to the Licensee's vehicles or other property, to property or vehicles for which the Licensee is responsible, to vehicles or other property in the Bus Parking Spaces with the consent of the Licensee or to property of employees, drivers or passengers of the Licensee left in or on such vehicles. Without limiting the generality the Section hereof entitled

"*Indemnification of the Port Authority*", the Licensee hereby agrees to indemnify the Port Authority and hold it harmless against all claims and demands of third persons for loss of or damage to vehicles using or parked in the Bus Parking Spaces, whether owned or operated by the Licensee or owned or operated by third persons or to property of owners, shippers, consignees or other persons interested, or of drivers, employees, passengers or other persons doing business or connected with the Licensee, contained in or on such vehicles.

4. Requirements as to Buses.

(a) Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Licensee shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

(i) Buses shall not exceed one hundred two inches (102") in width.

(ii) Buses shall not exceed forty-five feet (45') in length.

(iii) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(iii) Buses operating on the Lower Bus Level of the Facility shall not exceed twelve feet (12') in height.

(iv) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the Facility shall not exceed eleven feet six inches (11'6") in height.

Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) Buses shall be kept clean and maintained in good working order, and shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel.

5. Condition of Bus Parking Spaces.

(a) The Licensee hereby acknowledges that prior to the execution of this License it has thoroughly examined and inspected the Bus Parking Spaces and has found the Bus Parking Spaces in good order and repair and has determined the Bus Parking Spaces to be suitable for the Licensee's operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Licensee for the purposes contemplated herein. The Licensee agrees to and shall take the Bus Parking Spaces in their "as is" condition and the Port Authority shall have no obligation hereunder for preparation of the Bus Parking Spaces for the Licensee's use. The Licensee agrees that no portion of the Bus

Parking Spaces will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property, and the Licensee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) The parties to this License hereby acknowledge that the Bus Parking Spaces are non-residential real estate.

6. Payments.

(a) Payments to be made pursuant to this License shall be sent to the following address:

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

or made via the following wire transfer instructions:

Bank: TD Bank  
Bank ABA Number: 031201360  
Account Number: Ex. 1

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by Notice to the Licensee.

(b) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

(c) Upon execution of this License by the Licensee, the Licensee shall pay to the Port Authority all unpaid fees and other monies due and payable under this License as of the date of execution.

7. Late and Service Charges.

(a) If the Licensee fails to pay any amount required under this License when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each "late charge period" (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of

amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this License. Each late charge shall be payable immediately upon demand therefor made at any time 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. 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 License, including without limitation the Port Authority's rights set forth in the Section of this License entitled "*Effectiveness*" or (ii) any obligations of the Licensee under this License. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this License shall be payable instead at such legal maximum.

(b) (i) The Licensee shall permit and/or cause to be permitted in ordinary business hours during the effective period of the permission granted under this License and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Licensee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be relevant in connection with the Licensee's use of the Bus Parking Spaces as permitted hereunder within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

(ii) In the event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority from the Licensee (the "**Audit Findings**"), the Licensee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in an amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand therefor (by Notice, bill or otherwise) made at any time by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority from the Licensee under this License or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority to payment of any late charge(s) or other service charge(s) payable under the provisions of this License with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this License, including, without limitation, the Port Authority's rights to revoke this License or (ii) any obligations of the Licensee under this License.

## 8. Security Deposit

### (a) *Security Deposit Requirement.*

(i) As security for the Licensee's full, faithful and prompt performance of and compliance with all of its obligations under this License, the Licensee shall, upon its execution and delivery of this License, deposit with the Port Authority (and shall keep

deposited throughout the effective period of the permission granted under this License) the sum set forth in Item 8 on the Cover Page (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Licensee shall be required, instead, to deliver to the Port Authority a letter of credit as provided in the following paragraph (b).

(ii) Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Licensee may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Licensee) in a manner satisfactory to the Port Authority. The Licensee may request the Port Authority to accept a registered bond in the Licensee's name and, if acceptable to the Port Authority the Licensee shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the security deposit is returned to the Licensee, any expenses incurred by the Port Authority in re-registering a bond to the name of the Licensee shall be borne by the Licensee.

(iii) In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the security deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Licensee. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the security deposit itself shall cure any default or breach of this License on the part of the Licensee. With respect to any bonds deposited by the Licensee, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Licensee, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Licensee. The Licensee hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Licensee. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Licensee. Any balance remaining shall be retained in cash toward bringing the security deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the security deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have declined below the Required Deposit Amount, the Licensee shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the security deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this paragraph.

(iv) The Licensee shall not assign or encumber the security deposit.

(v) The Licensee may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part

thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(vi) After the expiration or earlier termination of the effective period of the permission granted under this License, and upon condition that the Licensee shall then be in no way in default under any part of this License, and upon written request therefor by the Licensee, the Port Authority will return the security deposit to the Licensee less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Licensee of this License.

(b) *Letter of Credit.*

(i) In lieu of the security deposit required pursuant to the preceding paragraph (a), the Licensee may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Licensee under this License, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(ii) The form and terms of each letter of credit delivered pursuant to this paragraph (b), 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 effective period of the permission granted under this License 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.

(iii) Upon acceptance of such letter of credit by the Port Authority, and upon request by the Licensee made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of the preceding paragraph (a). The Licensee shall have the same rights to receive such security deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of this License and fulfillment of the obligations of the Licensee under this License.

(iv) Upon notice of cancellation of a letter of credit the Licensee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and thereafter the Port Authority will hold the same as security under the preceding paragraph (a). If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Licensee, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(v) Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to the preceding paragraph (a), any failure at any time to provide such letter of credit that is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this License on the part of the Licensee.

(vi) 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 such letter of credit, shall be deemed to be a waiver of any default by the Licensee under the terms of this License, and all remedies under this License of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

(c) The Licensee acknowledges and agrees that the Port Authority reserves the right, in its sole discretion at any time and from time to time upon fifteen (15) days' notice to the Licensee, to adjust the Required Deposit Amount. Not later than the effective date set forth in said Notice by the Port Authority, the Licensee shall furnish additional cash or bonds, as provided for in paragraph (a) above, or an amendment to, or a replacement of, the letter of credit providing for such adjusted Required Deposit Amount, as the case may be, and such additional cash and/or bonds or adjusted (or replaced) letter of credit shall thereafter constitute the security deposit required under this License.

(d) If the Licensee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Licensee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Licensee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any security deposit pursuant thereto also shall be deemed obligations of the Licensee under this License and as security hereunder as well as under any such other agreement, and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby 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 deposit shall apply or any permitted assignment of such other agreement shall not affect such obligations as to such security deposit, which shall continue in full force and effect hereunder.

9. Indemnification of the Port Authority.

(a) The Licensee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal costs and 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 Licensee in performing or observing any term or provision of this License, or out of the use and occupancy of the Bus Parking Spaces by the Licensee, its officers, members, managers (if any), employees and persons who are doing business with the Licensee, or out of any of the operations, acts or omissions of the Licensee, or out of the acts or omissions of others on the Bus Parking Spaces with the Licensee's consent, or out of the acts or

omissions of the Licensee, its officers, members, managers (if any), and employees at the Facility..

(b) The Licensee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any way connected with this License. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Licensee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Licensee under or in any way connected with this License.

(c) If so directed, the Licensee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of 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.

(d) In the event of any injury or death to any person (other than employees of the Licensee) at the Facility when caused by the Licensee's operations, acts or omissions of the Licensee hereunder, or damage to any property (other than the Licensee's property) at the Facility when caused by the Licensee's operations, acts or omissions of the Licensee hereunder, the Licensee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Licensee's insurance carrier.

#### 10. Insurance.

(a) The Licensee, in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of permission granted under this License on a policy, or policies, of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the minimum limit set forth in Item 9 on the Cover Page, and Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles and including automatic coverage for newly acquired vehicles and providing for coverage in the minimum limit set forth in Item 9 on the Cover Page. Without limiting the foregoing, the Licensee shall maintain Workers' Compensation and Employers Liability Insurance in accordance with the Licensee's statutory obligations under the applicable State Workers' Compensation Law for those employees of the Licensee employed in operations conducted pursuant to this License at or from the Facility. In the event the Licensee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers' Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of this License.

(b) Each policy of insurance, except for the Workers' Compensation and Employers Liability Insurance policies, shall also contain an ISO standard "separation of insureds" clause or a cross liability endorsement providing that the protections afforded the Licensee thereunder with respect to any claim or action against the Licensee by a third person shall pertain and apply with like effect with respect to any claim or action against the Licensee by the Port Authority and any claim or action against the Port Authority by the Licensee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Licensee under the Section of this License entitled "*Indemnification of the Port Authority*".

(c) 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 effective period of the permission granted under this License. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the aforementioned insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Licensee shall promptly comply therewith.

(d) Each policy must be specifically endorsed to provide that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy must be specifically endorsed to provide that the insurer "shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority." The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of this License by the Licensee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance delivered to the Port Authority at least seven (7) days prior to the expiration of each expiring policy, except for any policy expiring after the Expiration Date. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Licensee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Licensee under this License. The foregoing insurance requirements shall not constitute a representation or

warranty as to the adequacy of the required coverage to protect the Licensee with respect to the obligations imposed on the Licensee by this License or any other agreement or by law.

11. Right of Entry Reserved. The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Bus Parking Spaces and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

12. Rules and Regulations. The Licensee shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of the permission granted under this License, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Licensee of every rule and regulation hereafter adopted by it at least five (5) days before the Licensee shall be required to comply therewith.

13. Conduct of Operations.

(a) The Licensee shall immediately comply with all orders, directives and procedures as may be issued by the General Manager of the Facility covering the operations of the Licensee under this License at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder. The Licensee shall comply with the directions of the General Manager of the Facility with respect to the movement and circulation of the Licensee's Buses within the Facility.

(b) The Licensee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(c) The Licensee shall at all times maintain the Bus Parking Spaces in a clean and orderly condition and appearance. The Licensee shall immediately wipe up any oil, gasoline, grease, lubricants and other inflammable liquids and substances from, and shall immediately wipe up all liquids or substances having a corrosive or detrimental effect on the paving or other surface of the Bus Parking Spaces, which may leak, be spilled or be placed upon the Bus Parking Spaces. The Bus Parking Spaces are to be used only for the parking of Buses in accordance with the provisions of this License, and the Licensee agrees that no personal property of the Licensee or others may at any time be placed or installed in the Bus Parking Spaces. Without limiting the generality of the foregoing, the Licensee specifically agrees that it shall not store in the Bus Parking Spaces any automotive fuel, lubricating oil or grease or other chemicals.

(d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Bus Parking Spaces without the written approval of the General Manager of the Facility; and any not approved by him may be removed by the Port Authority at the expense of the Licensee. The Licensee shall not display, or permit the display of, advertising of third parties in the Bus Parking Spaces.

(e) Except as expressly herein permitted, the Licensee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

(f) The operations of the Licensee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Licensee shall provide and its employees shall wear or carry badges or other suitable means of identification, which shall be subject to the approval of the General Manager. The Port Authority shall have the right to object to the Licensee as to the demeanor, conduct and appearance of the Licensee's employees, invitees and those doing business with it, whereupon the Licensee will take all steps necessary to remove the cause of the objection.

(g) In the use of the means of ingress to and egress from the Bus Parking Spaces, the Licensee shall exercise a high degree of care to avoid injuries to persons and damage to property, and, in addition, the indemnity provided in the Section hereof entitled "*Indemnification of the Port Authority*" shall govern and apply to all claims of third persons for death, personal injuries or property damages which arise out of such use, regardless of the degree of care exercised and regardless of whether such use was by the Licensee or by others with its consent.

(h) The Licensee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Licensee. The receptacles shall be kept covered except when filling or emptying the same. The Licensee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

(i) The Licensee understands and acknowledges that there will be no ingress to or egress from the Bus Parking Spaces permitted between the hours of 1:00 o'clock a.m. and 6:00 o'clock a.m. on any day of the week.

(j) The Licensee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York and any other body or organization exercising similar functions which may pertain or apply to the Licensee's use of the Bus Parking Spaces hereunder. If by reason of the Licensee's failure to comply with the provisions of this paragraph, any fire insurance, extended coverage or rental insurance rate with respect to the Facility or any part thereof shall at any time be higher than it otherwise would be, then the Licensee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been increased because of such failure to comply.

14. Prohibited Acts.

(a) The Licensee shall not do or permit to be done any act which

(i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or

(ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or

(iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this License, or

(iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or

(v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or

(vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.

(b) For purposes of this Section, "Facility" includes all structures located thereon.

15. Specifically Prohibited Activities.

(a) The Licensee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.

(b) The Licensee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Licensee (or permitted by the Licensee to be disposed of, released or discharged) on the Facility shall upon Notice by the Port Authority to the Licensee be completely removed and/or remediated by the Licensee at its sole cost and expense.

(c) The Licensee shall not perform mechanical, electrical or structural repairs on Buses at the Bus Parking Spaces. The Licensee shall not fuel, lubricate or paint Buses in the Bus Parking Spaces. The Licensee shall not use any cleaning materials having a harmful or corrosive effect in the Bus Parking Spaces.

(d) The Licensee shall not fuel or defuel any equipment in the Bus Parking Spaces or elsewhere at the Facility without the prior approval of the General Manager of the Facility except in accordance with Port Authority rules and regulations.

(e) The Licensee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

16. Labor Disturbances.

(a) (i) The Licensee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Licensee under this License.

(ii) The Licensee shall immediately give notice to the Port Authority (to be followed by written Notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Licensee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

(b) If any type of strike or other labor activity is directed against the Licensee at the Facility or against any operations pursuant to this License resulting in picketing or boycott for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority, adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Licensee, and whether caused by the employees of the Licensee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' notice, revoke this License, effective at the time specified in the Notice. Revocation shall not relieve the Licensee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation.

17. Notices.

(a) Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail or by nationally-known overnight courier.

(b) Until further notice, the Port Authority hereby designates its Executive Director, and the Licensee designates the Licensee's Representative, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Licensee designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

18. No Broker. The Licensee represents and warrants that no broker has been concerned in the negotiation or execution of this License and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Licensee shall indemnify the Port Authority and save it harmless from any and all claims which have been or which may be made by any and all persons, firms, or corporations whatsoever for services in connection with the negotiation and execution of this License or in connection with any permission to use the Bus Parking Spaces.

19. Waiver of Trial by Jury. The Licensee hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Licensee in respect of the Bus Parking Spaces and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this License. The Licensee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Licensee.

20. Effect of Use after Expiration, Revocation or Termination: Without in any way limiting any other provision of this License, unless otherwise notified by the Port Authority in writing, in the event the Licensee continues its use of the Bus Parking Spaces after the expiration, revocation or termination of the effective period of the permission granted under this License, as such effective period of permission may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this License or other remedies the Port Authority may have by law or otherwise, the Licensee shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such revocation or termination and ending on the date that the Licensee shall surrender and completely vacate the Bus Parking Spaces, at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Licensee any right to continue its use of the Bus Parking Spaces after the expiration, revocation or termination of the effective period of the permission granted under this License. The Licensee acknowledges that the failure of the Licensee to surrender, vacate and yield up the Bus Parking Spaces to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Licensee 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 Licensee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

21. No Personal Liability. No Commissioner, officer, agent or employee of the Port Authority shall be charged personally by the Licensee with any liability, or held liable to it, under any term or provision of this License, or because of its execution or attempted execution, or because of any breach hereof.

22. No Waiver. No failure by the Port Authority to insist upon the strict performance of any agreement, term, covenant or condition of this License or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this License during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or

during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this License to be performed or complied with by the Licensee, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the Port Authority. No waiver by the Port Authority of any default or breach on the part of the Licensee in performance of any agreement, term, covenant or condition of this License shall affect or alter this License but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

23. Construction and Application of Terms.

(a) The use of headings in this License is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

(b) Wherever in this License a third person singular neuter pronoun or adjective is used, referring to the Licensee or the Port Authority, the same shall be deemed to refer to the Licensee or the Port Authority, regardless of the actual gender or number thereof. Wherever in this License a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective; and plural nouns or pronouns shall be deemed to include the singular.

(c) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this License or any amendments, addenda or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

(d) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

(e) To the extent that any provisions of this License are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

24. Entire Agreement. This License, including the Cover Page, the Terms and Conditions, Special Endorsements and other attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on behalf of the parties and attached hereto. The Licensee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

\* \* \* \* \*

: For Port Authority Use Only :  
:License Agmt. No.: BT-LKL-BPU-404 :

**PORT AUTHORITY BUS TERMINAL  
BUS PARKING LICENSE**

The Port Authority of New York and New Jersey (the "Port Authority") hereby grants to the Licensee named below permission to use, on a non-exclusive basis, at the Port Authority Bus Terminal, in the Borough of Manhattan, City, County and State of New York (the "Facility"), such interior bus parking space(s) as the General Manager of the Facility may designate from time to time (each, a "Bus Parking Space", and collectively, the "Bus Parking Spaces"), in accordance with the Terms and Conditions and Special Endorsements hereto; and the Licensee agrees to pay the fee specified below and to perform all other obligations imposed upon it in the said Terms and Conditions and said Special Endorsements:

1. **LICENSEE:** LAKELAND BUS LINES, INC., a New Jersey corporation
2. **LICENSEE'S ADDRESS:** 425 East Blackwell Street  
Dover, New Jersey 07801
3. **LICENSEE'S REPRESENTATIVE:** Greg Mazzarisi, Vice President
4. **PERMITTED USE:** For the parking of up to six (6) Buses operated by the Licensee, but only when the same are empty and only in connection with the Licensee's operations at the Facility, and for no other use whatsoever.
5. **FEES:** As set forth in Special Endorsement No. 1 hereof.
6. **EFFECTIVE DATE:** January 1, 2011
7. **EXPIRATION DATE:** December 31, 2013, unless sooner revoked or terminated as herein provided.
8. **REQUIRED SECURITY DEPOSIT AMOUNT:** As set forth in Special Endorsement No. 2 hereof.
9. **INSURANCE REQUIREMENTS:** \$2,000,000.00 minimum limit Commercial General Liability  
\$5,000,000.00 minimum limit Automobile Liability
10. **ENDORSEMENTS:** Special Endorsements.

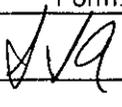
Dated: As of January 1, 2011

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

By   
Name Cedrick T. Fulton  
(Please Print Clearly)  
(Title) Director

X **LAKELAND BUS LINES, INC., Licensee**

By   
Name Maureen Leo  
(Please Print Clearly)  
(Title) President

Port Authority Use Only	
Approval as to Terms:	Approval as to Form:
<u></u>	<u></u>

## TERMS AND CONDITIONS

### 1. Certain Definitions.

(a) **“Bus”** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Facility (and then only in strict compliance with the requirements of such laws, rules and regulations).

(b) **“Cover Page”** shall mean the page, designated “Cover Page”, attached to the front of this License and forming an integral part hereof.

(c) **“Effective Date”** shall mean the date designated as the “Effective Date” in Item 6 on the Cover Page.

(d) **“Executive Director”** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this License; but until further notice from the Port Authority to the Licensee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(e) **“Expiration Date”** shall mean the date designated as the “Expiration Date” in Item 7 on the Cover Page.

(f) **“Facility”** shall mean the Port Authority Bus Terminal, comprising the building bounded by 40<sup>th</sup> and 41<sup>st</sup> Streets, 8<sup>th</sup> and 9<sup>th</sup> Avenues, in the City, County and State of New York, and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof.

(g) **“General Manager of the Facility”** 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 License; but until further notice from the Port Authority to the Licensee it shall mean the General Manager (or temporary or Acting General Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

(h) **“Hazardous Substance”** shall mean 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,

endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(i) **“Licensee’s Representative”** shall mean the individual named in Item 3 on the Cover Page, or such other individual as the Licensee may designate by Notice in accordance with the provisions of the Section hereof entitled *“Notices”*.

(j) **“Restricted Space”** shall mean a Bus Parking Space so designated by the General Manager of the Facility. Restricted Spaces may be used only during the hours of 10:00 o’clock a.m. to 4:00 o’clock p.m. and 8:00 o’clock p.m. and 12:59 o’clock a.m., seven days a week.

(k) **“Unrestricted Space”** shall mean any Bus Parking Space that is not a Restricted Space.

2. Effectiveness.

(a) The permission granted by this License shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days’ prior notice, and terminated by the Licensee without cause upon thirty (30) days’ prior notice; provided, however, that it may be revoked on twenty-four (24) hours’ notice if the Licensee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this License, including without limitation the obligation to pay fees. Further, in the event the Port Authority exercises its right to revoke or terminate this License for any reason other than “without cause”, the Licensee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space which may be used and occupied under this License (on failure of the Licensee to have it restored), preparing such space for use by a succeeding licensee, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the space in order (such as but not limited to cleaning the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Licensee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) Without limiting any other rights it may have hereunder, the Port Authority shall have the right to revoke this License by giving to the Licensee at least five (5) days' prior notice if, by reason of the revocation, termination or expiration of any existing or future other agreements, the Licensee shall cease to be entitled to use, on a continuing contract basis, an enclosed vehicular level at the Facility. Revocation by the Port Authority pursuant to this paragraph shall have the same effect as if the effective date of revocation were the Expiration Date, and the Licensee agrees that such revocation shall not relieve the Licensee of any liabilities or obligations of the Licensee which shall have accrued on or prior to the effective date of revocation.

(c) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this License or a waiver of any other rights or remedies which may be available to the Port Authority under this License or otherwise.

### 3. Licensee's Rights and Obligations.

(a) The Bus Parking Spaces shall be used, pursuant to the permission hereby granted,

i) if the Licensee is a corporation, by the Licensee acting only through the medium of its officers and employees,

ii) if the Licensee is an unincorporated association, or a "Massachusetts" or business trust, by the Licensee acting only through the medium of its members, trustees, officers and employees,

iii) if the Licensee is a partnership, by the Licensee acting only through the medium of its general partners and employees, or

iv) if the Licensee is an individual, by the Licensee acting only personally or through the medium of his employees; or

v) if the Licensee is a limited liability company, by the Licensee acting only through the medium of its members, managers and employees;

and the Licensee shall not, without the written approval of the Port Authority, use the Bus Parking Spaces through the medium of any other person, corporation or legal entity. The Licensee shall not assign or transfer this License or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this License to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or

performed by the Licensee shall be the joint and several obligation of each such individual or other legal entity.

(a) The Licensee's Representative shall have full authority to act for the Licensee in connection with this License and any act or things done or to be done hereunder, and to execute on the Licensee's behalf any amendments or supplements to this License or any extension hereof and to give and receive Notices hereunder.

(b) This License shall not constitute the Licensee the agent or representative of the Port Authority for any purpose whatsoever.

(c) Neither the execution and delivery of this License nor any act done pursuant thereto shall create between the Licensee and the Port Authority the relationship of bailor and bailee, storer and garagekeeper or any other relationship except that of licensee and licensor; nor shall there be created thereby any legal status which would impose upon the Port Authority with respect to any vehicles or other property in the Bus Parking Spaces any duty or obligation whatsoever. The Licensee expressly agrees that the Port Authority shall have no liability with respect to the Licensee's vehicles or other property, to property or vehicles for which the Licensee is responsible, to vehicles or other property in the Bus Parking Spaces with the consent of the Licensee or to property of employees, drivers or passengers of the Licensee left in or on such vehicles. Without limiting the generality the Section hereof entitled "*Indemnification of the Port Authority*", the Licensee hereby agrees to indemnify the Port Authority and hold it harmless against all claims and demands of third persons for loss of or damage to vehicles using or parked in the Bus Parking Spaces, whether owned or operated by the Licensee or owned or operated by third persons or to property of owners, shippers, consignees or other persons interested, or of drivers, employees, passengers or other persons doing business or connected with the Licensee, contained in or on such vehicles.

4. Requirements as to Buses.

(a) Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Licensee shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

i) Buses shall not exceed one hundred two inches (102") in width.

ii) Buses shall not exceed forty-five feet (45') in length.

iii) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

iv) Buses operating on the Lower Bus Level of the Facility shall not exceed twelve feet (12') in height.

v) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the Facility shall not exceed eleven feet six inches (11'6") in height.

Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) Buses shall be kept clean and maintained in good working order, and shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel.

5. Condition of Bus Parking Spaces.

(a) The Licensee hereby acknowledges that prior to the execution of this License it has thoroughly examined and inspected the Bus Parking Spaces and has found the Bus Parking Spaces in good order and repair and has determined the Bus Parking Spaces to be suitable for the Licensee's operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Licensee for the purposes contemplated herein. The Licensee agrees to and shall take the Bus Parking Spaces in their "as is" condition and the Port Authority shall have no obligation hereunder for preparation of the Bus Parking Spaces for the Licensee's use. The Licensee agrees that no portion of the Bus Parking Spaces will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property, and the Licensee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) The parties to this License hereby acknowledge that the Bus Parking Spaces are non-residential real estate.

6. Payments.

(a) Payments to be made pursuant to this License 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:

Bank: TD Bank  
Bank ABA Number: 031201360  
Account Number: Ex. 1

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by Notice to the Licensee.

(b) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

(c) Upon execution of this License by the Licensee, the Licensee shall pay to the Port Authority all unpaid fees and other monies due and payable under this License as of the date of execution.

7. Late and Service Charges.

(a) If the Licensee fails to pay any amount required under this License when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each "late charge period" (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this License. Each late charge shall be payable immediately upon demand therefor made at any time 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. 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 License, including without limitation the Port Authority's rights set forth in the Section of this License entitled "*Effectiveness*" or (ii) any obligations of the Licensee under this License. In the event that any late charge imposed pursuant to this Section shall

exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this License shall be payable instead at such legal maximum.

(b) *Audit*

i) The Licensee shall permit and/or cause to be permitted in ordinary business hours during the effective period of the permission granted under this License and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Licensee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be relevant in connection with the Licensee's use of the Bus Parking Spaces as permitted hereunder within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

ii) In the event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority from the Licensee (the "**Audit Findings**"), the Licensee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in an amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand therefor (by Notice, bill or otherwise) made at any time by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority from the Licensee under this License or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority to payment of any late charge(s) or other service charge(s) payable under the provisions of this License with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this License, including, without limitation, the Port Authority's rights to revoke this License or (ii) any obligations of the Licensee under this License.

8. Security Deposit

(a) *Security Deposit Requirement.*

i) As security for the Licensee's full, faithful and prompt performance of and compliance with all of its obligations under this License, the Licensee shall, upon its execution and delivery of this License, deposit with the Port Authority (and shall keep deposited throughout the effective period of the permission granted under this License) the sum set forth in Item 8 on the Cover Page (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The

Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Licensee shall be required, instead, to deliver to the Port Authority a letter of credit as provided in the following paragraph (b).

ii) Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Licensee may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Licensee) in a manner satisfactory to the Port Authority. The Licensee may request the Port Authority to accept a registered bond in the Licensee's name and, if acceptable to the Port Authority the Licensee shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the security deposit is returned to the Licensee, any expenses incurred by the Port Authority in re-registering a bond to the name of the Licensee shall be borne by the Licensee.

iii) In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the security deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Licensee. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the security deposit itself shall cure any default or breach of this License on the part of the Licensee. With respect to any bonds deposited by the Licensee, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Licensee, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Licensee. The Licensee hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Licensee. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Licensee. Any balance remaining shall be retained in cash toward bringing the security deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the security deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have declined below the Required Deposit Amount, the Licensee shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the security deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this paragraph.

i) The Licensee shall not assign or encumber the security deposit.

ii) The Licensee may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

iii) After the expiration or earlier termination of the effective period of the permission granted under this License, and upon condition that the Licensee shall then be in no way in default under any part of this License, and upon written request therefor by the Licensee, the Port Authority will return the security deposit to the Licensee less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Licensee of this License.

(b) *Letter of Credit.*

i) In lieu of the security deposit required pursuant to the preceding paragraph (a), the Licensee may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Licensee under this License, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

ii) The form and terms of each letter of credit delivered pursuant to this paragraph (b), 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 effective period of the permission granted under this License 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.

iii) Upon acceptance of such letter of credit by the Port Authority, and upon request by the Licensee made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of the preceding paragraph (a). The Licensee shall have the same rights to receive such security deposit during

the existence of a valid letter of credit as it would have to receive such sum upon expiration of this License and fulfillment of the obligations of the Licensee under this License.

iv) Upon notice of cancellation of a letter of credit the Licensee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and thereafter the Port Authority will hold the same as security under the preceding paragraph (a). If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Licensee, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

v) Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to the preceding paragraph (a), any failure at any time to provide such letter of credit that is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this License on the part of the Licensee.

vi) 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 such letter of credit, shall be deemed to be a waiver of any default by the Licensee under the terms of this License, and all remedies under this License of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

(c) The Licensee acknowledges and agrees that the Port Authority reserves the right, in its sole discretion at any time and from time to time upon fifteen (15) days' notice to the Licensee, to adjust the Required Deposit Amount. Not later than the effective date set forth in said Notice by the Port Authority, the Licensee shall furnish additional cash or bonds, as provided for in paragraph (a) above, or an amendment to, or a replacement of, the letter of credit providing for such adjusted Required Deposit Amount, as the case may be, and such additional cash and/or bonds or adjusted (or replaced) letter of credit shall thereafter constitute the security deposit required under this License.

(d) If the Licensee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Licensee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Licensee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any security deposit pursuant thereto also shall be deemed obligations of the Licensee under this License and as security hereunder as well as under any such other agreement, and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby 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 deposit shall apply or any permitted assignment of such other agreement shall not affect such obligations as to such security deposit, which shall continue in full force and effect hereunder.

9. Indemnification of the Port Authority.

(a) The Licensee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal costs and 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 Licensee in performing or observing any term or provision of this License, or out of the use and occupancy of the Bus Parking Spaces by the Licensee, its officers, members, managers (if any), employees and persons who are doing business with the Licensee, or out of any of the operations, acts or omissions of the Licensee, or out of the acts or omissions of others on the Bus Parking Spaces with the Licensee's consent, or out of the acts or omissions of the Licensee, its officers, members, managers (if any), and employees at the Facility.

(b) The Licensee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any way connected with this License. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Licensee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Licensee under or in any way connected with this License.

(c) If so directed, the Licensee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of 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.

(d) In the event of any injury or death to any person (other than employees of the Licensee) at the Facility when caused by the Licensee's operations, acts or omissions of the Licensee hereunder, or damage to any property (other than the Licensee's property) at the Facility when caused by the Licensee's operations, acts or omissions of the

Licensee hereunder, the Licensee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Licensee's insurance carrier.

10. Insurance.

(a) The Licensee, in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of permission granted under this License on a policy, or policies, of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the minimum limit set forth in Item 9 on the Cover Page, and Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles and including automatic coverage for newly acquired vehicles and providing for coverage in the minimum limit set forth in Item 9 on the Cover Page. Without limiting the foregoing, the Licensee shall maintain Workers' Compensation and Employers Liability Insurance in accordance with the Licensee's statutory obligations under the applicable State Workers' Compensation Law for those employees of the Licensee employed in operations conducted pursuant to this License at or from the Facility. In the event the Licensee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers' Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of this License.

(b) Each policy of insurance, except for the Workers' Compensation and Employers Liability Insurance policies, shall also contain an ISO standard "separation of insureds" clause or a cross liability endorsement providing that the protections afforded the Licensee thereunder with respect to any claim or action against the Licensee by a third person shall pertain and apply with like effect with respect to any claim or action against the Licensee by the Port Authority and any claim or action against the Port Authority by the Licensee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Licensee under the Section of this License entitled "*Indemnification of the Port Authority*".

(c) 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 effective period of the permission granted under this License. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the aforementioned insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Licensee shall promptly comply therewith.

(d) Each policy must be specifically endorsed to provide that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer "shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority." The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of this License by the Licensee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance 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 Expiration Date. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Licensee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Licensee under this License. The foregoing insurance requirements shall not constitute a representation or warranty as to the adequacy of the required coverage to protect the Licensee with respect to the obligations imposed on the Licensee by this License or any other agreement or by law.

11. Right of Entry Reserved. The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Bus Parking Spaces and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

12. Rules and Regulations. The Licensee shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of the permission granted under this License, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and

orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Licensee of every rule and regulation hereafter adopted by it at least five (5) days before the Licensee shall be required to comply therewith.

13. Conduct of Operations.

(a) The Licensee shall immediately comply with all orders, directives and procedures as may be issued by the General Manager of the Facility covering the operations of the Licensee under this License at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder. The Licensee shall comply with the directions of the General Manager of the Facility with respect to the movement and circulation of the Licensee's Buses within the Facility.

(b) The Licensee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(c) The Licensee shall at all times maintain the Bus Parking Spaces in a clean and orderly condition and appearance. The Licensee shall immediately wipe up any oil, gasoline, grease, lubricants and other inflammable liquids and substances from, and shall immediately wipe up all liquids or substances having a corrosive or detrimental effect on the paving or other surface of the Bus Parking Spaces, which may leak, be spilled or be placed upon the Bus Parking Spaces. The Bus Parking Spaces are to be used only for the parking of Buses in accordance with the provisions of this License, and the Licensee agrees that no personal property of the Licensee or others may at any time be placed or installed in the Bus Parking Spaces. Without limiting the generality of the foregoing, the Licensee specifically agrees that it shall not store in the Bus Parking Spaces any automotive fuel, lubricating oil or grease or other chemicals.

(d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Bus Parking Spaces without the written approval of the General Manager of the Facility; and any not approved by him may be removed by the Port Authority at the expense of the Licensee. The Licensee shall not display, or permit the display of, advertising of third parties in the Bus Parking Spaces.

(e) Except as expressly herein permitted, the Licensee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

(f) The operations of the Licensee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Licensee shall provide and its

employees shall wear or carry badges or other suitable means of identification, which shall be subject to the approval of the General Manager. The Port Authority shall have the right to object to the Licensee as to the demeanor, conduct and appearance of the Licensee's employees, invitees and those doing business with it, whereupon the Licensee will take all steps necessary to remove the cause of the objection.

(g) In the use of the means of ingress to and egress from the Bus Parking Spaces, the Licensee shall exercise a high degree of care to avoid injuries to persons and damage to property, and, in addition, the indemnity provided in the Section hereof entitled "*Indemnification of the Port Authority*" shall govern and apply to all claims of third persons for death, personal injuries or property damages which arise out of such use, regardless of the degree of care exercised and regardless of whether such use was by the Licensee or by others with its consent.

(h) The Licensee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Licensee. The receptacles shall be kept covered except when filling or emptying the same. The Licensee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

(i) The Licensee understands and acknowledges that there will be no ingress to or egress from the Bus Parking Spaces permitted between the hours of 1:00 o'clock a.m. and 6:00 o'clock a.m. on any day of the week.

(j) The Licensee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York and any other body or organization exercising similar functions which may pertain or apply to the Licensee's use of the Bus Parking Spaces hereunder. If by reason of the Licensee's failure to comply with the provisions of this paragraph, any fire insurance, extended coverage or rental insurance rate with respect to the Facility or any part thereof shall at any time be higher than it otherwise would be, then the Licensee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been increased because of such failure to comply.

14. Prohibited Acts.

- (a) The Licensee shall not do or permit to be done any act which
- i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or
  - ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or
  - iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this License, or
  - iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or
  - v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or
  - vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.

(b) For purposes of this Section, "Facility" includes all structures located thereon.

15. Specifically Prohibited Activities.

(a) The Licensee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.

(b) The Licensee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Licensee (or permitted by the Licensee to be disposed of, released or discharged) on the Facility shall upon Notice by the Port Authority to the Licensee be completely removed and/or remediated by the Licensee at its sole cost and expense.

(c) The Licensee shall not perform mechanical, electrical or structural repairs on Buses at the Bus Parking Spaces. The Licensee shall not fuel, lubricate or paint Buses

in the Bus Parking Spaces. The Licensee shall not use any cleaning materials having a harmful or corrosive effect in the Bus Parking Spaces.

(d) The Licensee shall not fuel or defuel any equipment in the Bus Parking Spaces or elsewhere at the Facility without the prior approval of the General Manager of the Facility except in accordance with Port Authority rules and regulations.

(e) The Licensee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

16. Labor Disturbances.

(a) *Labor Dispute without Boycott/Picketing*

i) The Licensee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Licensee under this License.

ii) The Licensee shall immediately give notice to the Port Authority (to be followed by written Notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Licensee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

(b) *Labor Dispute with Boycott/Picketing.* If any type of strike or other labor activity is directed against the Licensee at the Facility or against any operations pursuant to this License resulting in picketing or boycott for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority, adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Licensee, and whether caused by the employees of the Licensee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' notice, revoke this License, effective at the time specified in the Notice. Revocation shall not relieve the Licensee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation.

17. Notices.

(a) Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail or by nationally-known overnight courier.

(b) Until further notice, the Port Authority hereby designates its Executive Director, and the Licensee designates the Licensee's Representative, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Licensee designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

18. No Broker. The Licensee represents and warrants that no broker has been concerned in the negotiation or execution of this License and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Licensee shall indemnify the Port Authority and save it harmless from any and all claims which have been or which may be made by any and all persons, firms, or corporations whatsoever for services in connection with the negotiation and execution of this License or in connection with any permission to use the Bus Parking Spaces.

19. Waiver of Trial by Jury. The Licensee hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Licensee in respect of the Bus Parking Spaces and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this License. The Licensee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Licensee.

20. Effect of Use after Expiration, Revocation or Termination: Without in any way limiting any other provision of this License, unless otherwise notified by the Port Authority in writing, in the event the Licensee continues its use of the Bus Parking Spaces after the expiration, revocation or termination of the effective period of the permission granted under this License, as such effective period of permission may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this License or other remedies the Port Authority may have by law or otherwise, the Licensee shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such revocation or termination and ending on the date that the Licensee shall surrender and completely vacate the Bus Parking Spaces, at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the

Licensee any right to continue its use of the Bus Parking Spaces after the expiration, revocation or termination of the effective period of the permission granted under this License. The Licensee acknowledges that the failure of the Licensee to surrender, vacate and yield up the Bus Parking Spaces to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Licensee 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 Licensee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

21. No Personal Liability. No Commissioner, officer, agent or employee of the Port Authority shall be charged personally by the Licensee with any liability, or held liable to it, under any term or provision of this License, or because of its execution or attempted execution, or because of any breach hereof.

22. No Waiver. No failure by the Port Authority to insist upon the strict performance of any agreement, term, covenant or condition of this License or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this License during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this License to be performed or complied with by the Licensee, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the Port Authority. No waiver by the Port Authority of any default or breach on the part of the Licensee in performance of any agreement, term, covenant or condition of this License shall affect or alter this License but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

23. Construction and Application of Terms.

(a) The use of headings in this License is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

(b) Wherever in this License a third person singular neuter pronoun or adjective is used, referring to the Licensee or the Port Authority, the same shall be deemed to refer to the Licensee or the Port Authority, regardless of the actual gender or number thereof. Wherever in this License a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective; and plural nouns or pronouns shall be deemed to include the singular.

(c) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this License or any amendments, addenda or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

(d) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

(e) This License and any claim, controversy or dispute arising under or related to this License, the relationship of the parties hereunder, and/or the interpretation and enforcement of the rights and obligations of the parties hereunder will be governed by the laws of the State of New York without regard to any conflicts of law principles.

24. Entire Agreement. This License, including the Cover Page, the Terms and Conditions, Special Endorsements and other attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on behalf of the parties and attached hereto. The Licensee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

\* \* \* \* \*

**SPECIAL ENDORSEMENTS**

1. **Fees.** During the effective period of the permission granted under this License, the Licensee shall pay to the Port Authority a fee for each Bus Parking Space as follows:

*Unrestricted Spaces:*

(a) During the period commencing on January 1, 2011 and continuing through December 31, 2011, in the amount of Seven Hundred Fifty-seven Dollars and Seventy-six Cents (\$757.76) per space per month, payable in advance on January 1, 2011 and on the first day of each month thereafter occurring during such period;

(b) During the period commencing on January 1, 2012 and continuing through December 31, 2012, in the amount of Eight Hundred Sixteen Dollars and Thirty-three Cents (\$816.33) per space per month, payable in advance on January 1, 2012 and on the first day of each month thereafter occurring during such period; and

(c) From and after January 1, 2013, in the amount of Eight Hundred Seventy-five Dollars and Three Cents (\$875.03) per space per month, payable in advance on January 1, 2013 and on the first day of each month thereafter occurring throughout the effective period of the permission granted under this License.

2. **Effect of Security Agreement.** Notwithstanding anything to the contrary contained in this License, the Licensee hereby agrees that this License is one of the "Agreements", as such term is defined in that certain security agreement entered into between the Port Authority and the Licensee, dated as of October 1, 2007, and identified by Port Authority Agreement No. BT-LKL-SEC-005 (the "Security Agreement"), and that a breach or failure to perform or comply with any of the terms and conditions of the Security Agreement, including without limitation failure to provide a letter of credit in accordance with the terms and provisions of the Security Agreement at any time during the term under any of the Agreements valid and available to the Port Authority or any failure of any banking institution issuing a letter of credit to make one or more payments as provided in such letter of credit, shall constitute a material breach of this License and the Security Agreement thereby entitling the Port Authority to immediately exercise any and all rights available to it, including without limitation the right to terminate this License for cause.

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

Initialed:

✕   
\_\_\_\_\_  
For the Licensee

: For Port Authority Use Only :  
: License Agmt. No.: BT-NJT-BPU-405 :

**PORT AUTHORITY BUS TERMINAL  
BUS PARKING LICENSE**

The Port Authority of New York and New Jersey (the "Port Authority") hereby grants to the Licensee named below permission to use, on a non-exclusive basis, at the Port Authority Bus Terminal, in the Borough of Manhattan, City, County and State of New York (the "Facility"), such interior bus parking space(s) as the General Manager of the Facility may designate from time to time (each, a "Bus Parking Space", and collectively, the "Bus Parking Spaces"), in accordance with the Terms and Conditions and Special Endorsements hereto; and the Licensee agrees to pay the fee specified below and to perform all other obligations imposed upon it in the said Terms and Conditions and said Special Endorsement:

1. **LICENSEE:** NEW JERSEY TRANSIT CORPORATION, a public instrumentality of the State of New Jersey, acting by and through its wholly-owned subsidiary, New Jersey Transit Bus Operations, Inc.
2. **LICENSEE'S ADDRESS:** One Penn Plaza East  
Newark, New Jersey 07105-2246
3. **LICENSEE'S REPRESENTATIVE:** Chief Financial Officer;  
Deputy General Manager of Bus Operations
4. **PERMITTED USE:** For the parking of Buses operated by the Licensee, but only when the same are empty and only in connection with the Licensee's operations at the Facility, and for no other use whatsoever.
5. **FEES:** As set forth in Special Endorsement No. 1 hereto.
6. **EFFECTIVE DATE:** January 1, 2011
7. **EXPIRATION DATE:** December 31, 2013, unless sooner revoked or terminated as herein provided.
8. **REQUIRED SECURITY DEPOSIT AMOUNT:** None
9. **INSURANCE REQUIREMENTS:** \$2,000,000.00 minimum limit Commercial General Liability  
\$5,000,000.00 minimum limit Automobile Liability
10. **ENDORSEMENTS:** Special Endorsements.

Dated: As of January 1, 2011

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

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

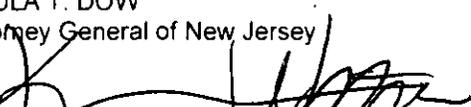
By 

Name CEDRICK T. FULTON

(Title) DIRECTOR, TUNNELS BRIDGES & TERMINALS DEPT.  
(Please Print Clearly)

This Agreement has been approved as to form for NJ Transit.

**NEW JERSEY TRANSIT CORPORATION  
Acting through its subsidiary  
New Jersey Transit Bus Operations, Inc.  
Licensee**

PAULA T. DOW  
Attorney General of New Jersey  
By:   
Deputy Attorney General

By 

Name Kimberly P. Vaccari

(Please Print Clearly)  
Chief Financial Officer and Treasurer

## TERMS AND CONDITIONS

### I. Certain Definitions.

(a) “**Bus**” shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Facility (and then only in strict compliance with the requirements of such laws, rules and regulations).

(b) “**Cover Page**” shall mean the page, designated “Cover Page”, attached to the front of this License and forming an integral part hereof.

(c) “**Effective Date**” shall mean the date designated as the “Effective Date” in Item 6 on the Cover Page.

(d) “**Executive Director**” shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this License; but until further notice from the Port Authority to the Licensee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(e) “**Expiration Date**” shall mean the date designated as the “Expiration Date” in Item 7 on the Cover Page.

(f) “**Facility**” shall mean the Port Authority Bus Terminal, comprising the building bounded by 40<sup>th</sup> and 41<sup>st</sup> Streets, 8<sup>th</sup> and 9<sup>th</sup> Avenues, in the City, County and State of New York, and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof.

(g) “**General Manager of the Facility**” 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 License; but until further notice from the Port Authority to the Licensee it shall mean the General Manager (or temporary or Acting General Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

(h) “**Hazardous Substance**” shall mean 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, endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(i) **“Licensee’s Representative”** shall mean the individual named in Item 3 on the Cover Page, or such other individual as the Licensee may designate by Notice in accordance with the provisions of the Section hereof entitled *“Notices”*.

(j) **“Restricted Space”** shall mean a Bus Parking Space so designated by the General Manager of the Facility. Restricted Spaces may be used only during the hours of 10:00 o’clock a.m. to 4:00 o’clock p.m. and 8:00 o’clock p.m. and 12:59 o’clock a.m., seven days a week.

(k) **“Unrestricted Space”** shall mean any Bus Parking Space that is not a Restricted Space.

2. Effectiveness.

(a) The permission granted by this License shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days’ prior written notice, or terminated by the Licensee without cause upon thirty (30) days’ prior written notice; provided, however, that it may be revoked by the Port Authority on twenty-four (24) hours’ notice if the Licensee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this License, including without limitation the obligation to pay fees. Further, in the event the Port Authority exercises its right to revoke or terminate this License for any reason other than “without cause”, the Licensee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space which may be used and occupied under this License (on failure of the Licensee to have it restored), preparing such space for use by a succeeding licensee, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the space in order (such as but not limited to cleaning the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Licensee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) Without limiting any other rights it may have hereunder, the Port Authority shall have the right to revoke this License by giving to the Licensee at least five (5) days’ prior notice if, by reason of the revocation, termination or expiration of any existing or future other agreements, the Licensee shall cease to be entitled to use, on a continuing contract basis, an enclosed vehicular level at the Facility. Revocation by the Port Authority pursuant to this paragraph shall have the same effect as if the effective date of revocation were the Expiration Date, and the Licensee agrees that such revocation shall not relieve the Licensee of any liabilities or obligations of the Licensee which shall have accrued on or prior to the effective date of revocation.

(c) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this License or a waiver of any other rights or remedies which may be available to the Port Authority under this License or otherwise.

3. Licensee's Rights and Obligations.

(a) The Bus Parking Spaces shall be used, pursuant to the permission hereby granted,

(i) if the Licensee is a corporation, by the Licensee acting only through the medium of its officers and employees,

(ii) if the Licensee is an unincorporated association, or a "Massachusetts" or business trust, by the Licensee acting only through the medium of its members, trustees, officers and employees,

(iii) if the Licensee is a partnership, by the Licensee acting only through the medium of its general partners and employees, or

(iv) if the Licensee is an individual, by the Licensee acting only personally or through the medium of his employees; or

(v) if the Licensee is a limited liability company, by the Licensee acting only through the medium of its members, managers and employees;

and the Licensee shall not, without the written approval of the Port Authority, use the Bus Parking Spaces through the medium of any other person, corporation or legal entity. The Licensee shall not assign or transfer this License or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this License to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Licensee shall be the joint and several obligation of each such individual or other legal entity.

(b) The Licensee's Representative shall have full authority to act for the Licensee in connection with this License and any act or things done or to be done hereunder, and to execute on the Licensee's behalf any amendments or supplements to this License or any extension hereof and to give and receive Notices hereunder.

(c) This License shall not constitute the Licensee the agent or representative of the Port Authority for any purpose whatsoever.

(d) Neither the execution and delivery of this License nor any act done pursuant thereto shall create between the Licensee and the Port Authority the relationship of bailor and bailee, storer and garagekeeper or any other relationship except that of licensee and licensor; nor shall there be created thereby any legal status which would impose upon the Port Authority with respect to any vehicles or other property in the Bus Parking Spaces any duty or obligation whatsoever. The Licensee expressly agrees that the Port Authority shall have no liability with respect to the Licensee's vehicles or other property, to property or vehicles for which the Licensee is responsible, to vehicles or other property in the Bus Parking Spaces with the consent of the Licensee or to property of employees, drivers or passengers of the Licensee left in or on such vehicles. Without limiting the generality the Section hereof entitled "*Indemnification of the Port Authority*", the Licensee hereby agrees to indemnify the Port Authority and hold it harmless against all claims and demands of third persons for loss of or damage to vehicles using or parked in the Bus Parking Spaces, whether owned or operated by the

Licensee or owned or operated by third persons or to property of owners, shippers, consignees or other persons interested, or of drivers, employees, passengers or other persons doing business or connected with the Licensee, contained in or on such vehicles.

4. Requirements as to Buses.

(a) Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Licensee shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

(i) Buses shall not exceed one hundred two inches (102") in width.

(ii) Buses shall not exceed forty-five feet (45') in length.

(iii) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(iii) Buses operating on the Lower Bus Level of the Facility shall not exceed twelve feet (12') in height.

(iv) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the Facility shall not exceed eleven feet six inches (11'6") in height.

Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) Buses shall be kept clean and maintained in good working order, and shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel.

5. Condition of Bus Parking Spaces.

(a) The Licensee hereby acknowledges that prior to the execution of this License it has thoroughly examined and inspected the Bus Parking Spaces and has found the Bus Parking Spaces in good order and repair and has determined the Bus Parking Spaces to be suitable for the Licensee's operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Licensee for the purposes contemplated herein. The Licensee agrees to and shall take the Bus Parking Spaces in their "as is" condition and the Port Authority shall have no obligation hereunder for preparation of the Bus Parking Spaces for the Licensee's use. The Licensee agrees that no portion of the Bus Parking Spaces will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property, and the Licensee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) The parties to this License hereby acknowledge that the Bus Parking Spaces are non-residential real estate.

6. Payments.

(a) Payments to be made pursuant to this License shall be sent to the following address:

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY  
P.O. BOX 95000-1556  
PHILADELPHIA, PENNSYLVANIA 19195-0001

or made via the following wire transfer instructions:

Bank: TD Bank  
Bank ABA Number: 031201360  
Account Number: Ex. 1

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by Notice to the Licensee.

(b) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

(c) Upon execution of this License by the Licensee, the Licensee shall pay to the Port Authority all unpaid fees and other monies due and payable under this License as of the date of execution.

7. Late Charges.

(a) If the Licensee fails to pay any amount required under this License when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each "late charge period" (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this License. Each late charge shall be payable immediately upon demand therefor made at any time 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. 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 License, including without limitation the Port Authority's rights set forth in the Section of this License entitled "*Effectiveness*" or (ii) any obligations of the Licensee under this License. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this License shall be payable instead at such legal maximum.

(b) The Licensee shall permit and/or cause to be permitted in ordinary business hours during the effective period of the permission granted under this License and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Licensee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be relevant in connection with the Licensee's use of the Bus Parking Spaces as permitted hereunder within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

## 8. Security Deposit

### (a) *Security Deposit Requirement.*

(i) As security for the Licensee's full, faithful and prompt performance of and compliance with all of its obligations under this License, the Licensee shall, upon its execution and delivery of this License, deposit with the Port Authority (and shall keep deposited throughout the effective period of the permission granted under this License) the sum set forth in Item 8 on the Cover Page (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Licensee shall be required, instead, to deliver to the Port Authority a letter of credit as provided in the following paragraph (b).

(ii) Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Licensee may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Licensee) in a manner satisfactory to the Port Authority. The Licensee may request the Port Authority to accept a registered bond in the Licensee's name and, if acceptable to the Port Authority the Licensee shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the security deposit is returned to the Licensee, any expenses incurred by the Port Authority in re-registering a bond to the name of the Licensee shall be borne by the Licensee.

(iii) In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the security deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Licensee. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the security deposit itself shall cure any default or breach of this License on the part of the Licensee. With respect to any bonds deposited by the Licensee, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Licensee, to sell the same in whole or in part, at any

time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Licensee. The Licensee hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Licensee. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Licensee. Any balance remaining shall be retained in cash toward bringing the security deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the security deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have declined below the Required Deposit Amount, the Licensee shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the security deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this paragraph.

(iv) The Licensee shall not assign or encumber the security deposit.

(v) The Licensee may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(vi) After the expiration or earlier termination of the effective period of the permission granted under this License, and upon condition that the Licensee shall then be in no way in default under any part of this License, and upon written request therefor by the Licensee, the Port Authority will return the security deposit to the Licensee less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Licensee of this License.

(b) *Letter of Credit.*

(i) In lieu of the security deposit required pursuant to the preceding paragraph (a), the Licensee may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Licensee under this License, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(ii) The form and terms of each letter of credit delivered pursuant to this paragraph (b), 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 effective period of the permission granted under this License 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.

(iii) Upon acceptance of such letter of credit by the Port Authority, and upon request by the Licensee made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of the preceding paragraph (a). The Licensee shall have the same rights to receive such security deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of this License and fulfillment of the obligations of the Licensee under this License.

(iv) Upon notice of cancellation of a letter of credit the Licensee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and thereafter the Port Authority will hold the same as security under the preceding paragraph (a). If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Licensee, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(v) Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to the preceding paragraph (a), any failure at any time to provide such letter of credit that is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this License on the part of the Licensee.

(vi) 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 such letter of credit, shall be deemed to be a waiver of any default by the Licensee under the terms of this License, and all remedies under this License of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

(c) The Licensee acknowledges and agrees that the Port Authority reserves the right, in its sole discretion at any time and from time to time upon fifteen (15) days' notice to the Licensee, to adjust the Required Deposit Amount. Not later than the effective date set forth in said Notice by the Port Authority, the Licensee shall furnish additional cash or bonds, as provided for in paragraph (a) above, or an amendment to, or a replacement of, the letter of credit providing for such adjusted Required Deposit Amount, as the case may be, and such additional cash and/or bonds or adjusted (or replaced) letter of credit shall thereafter constitute the security deposit required under this License.

(d) If the Licensee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Licensee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Licensee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any security deposit pursuant thereto also shall be deemed obligations of the Licensee under this License and as security hereunder as well as under any such other agreement, and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby 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 deposit shall apply or any permitted assignment of such other agreement

shall not affect such obligations as to such security deposit, which shall continue in full force and effect hereunder.

9. Indemnification of the Port Authority.

(a) The Licensee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including reasonable legal expenses and the costs to the Port Authority of its in-house legal counsel 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 (x) any default of the Licensee in performing or observing any term or provision of this License, or (y) out of the use and occupancy of the Bus Parking Spaces by the Licensee, or by others with its consent (except to the extent resulting from the Port Authority's negligence or willful misconduct), or (z) out of any of the acts or omissions of the Licensee, its officers, members, managers (if any), employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Licensee or are on the Bus Parking Spaces with the Licensee's consent where such acts or omissions are at the Bus Parking Spaces, or arising out of any acts or omissions of the Licensee, its officers, members, employees, agents and representatives where such acts or omissions are elsewhere at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct).

(b) The Licensee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any way connected with this License. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Licensee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Licensee under or in any way connected with this License.

(c) If so directed, the Licensee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of 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.

(d) In the event of any injury or death to any person (other than employees of the Licensee) at the Facility when caused by the Licensee's operations, acts or omissions of the Licensee hereunder, or damage to any property (other than the Licensee's property) at the Facility when caused by the Licensee's operations, acts or omissions of the Licensee hereunder, the Licensee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Licensee's insurance carrier.

10. Insurance.

(a) The Licensee, in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of

permission granted under this License on a policy, or policies, of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the minimum limit set forth in Item 9 on the Cover Page, and Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles and including automatic coverage for newly acquired vehicles and providing for coverage in the minimum limit set forth in Item 9 on the Cover Page. Without limiting the foregoing, the Licensee shall maintain Workers' Compensation and Employers Liability Insurance in accordance with the Licensee's statutory obligations under the applicable State Workers' Compensation Law for those employees of the Licensee employed in operations conducted pursuant to this License at or from the Facility. In the event the Licensee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers' Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of this License.

(b) Each policy of insurance, except for the Workers' Compensation and Employers Liability Insurance policies, shall also contain an ISO standard "separation of insureds" clause or a cross liability endorsement providing that the protections afforded the Licensee thereunder with respect to any claim or action against the Licensee by a third person shall pertain and apply with like effect with respect to any claim or action against the Licensee by the Port Authority and any claim or action against the Port Authority by the Licensee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Licensee under the Section of this License entitled "*Indemnification of the Port Authority*".

(c) 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 effective period of the permission granted under this License. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the aforementioned insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Licensee shall promptly comply therewith.

(d) Each policy shall contain a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer "shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority." The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of this License by the Licensee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of

insurance delivered to the Port Authority at least seven (7) days prior to the expiration of each expiring policy, except for any policy expiring after the Expiration Date. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Licensee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Licensee under this License. The foregoing insurance requirements shall not constitute a representation or warranty as to the adequacy of the required coverage to protect the Licensee with respect to the obligations imposed on the Licensee by this License or any other agreement or by law.

(g) The Licensee shall have the right, as part of its overall risk management program, to provide for the insurance coverages required in this License with such amounts of coverage and deductible or retained amounts as the Licensee may determine appropriate from time to time, *except, however*, that the Licensee shall, at its sole expense, pay for all claims and damages which fall within such deductible or retained amounts. The Licensee shall provide evidence of such self-insurance to the Port Authority.

11. Right of Entry Reserved. The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Bus Parking Spaces and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

12. Rules and Regulations. The Licensee shall observe and comply with, shall compel its officers and employees to observe and comply with, and shall use commercially reasonable efforts to cause its guests, invitees, and those doing business with it, to observe and comply with, the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of the permission granted under this License, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Licensee of every rule and regulation hereafter adopted by it at least five (5) days before the Licensee shall be required to comply therewith.

13. Conduct of Operations.

(a) The Licensee shall immediately comply with all orders, directives and procedures as may be issued by the General Manager of the Facility covering the operations of the Licensee under this License at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder. The Licensee shall comply with the directions of the General Manager of the Facility with respect to the movement and circulation of the Licensee's Buses within the Facility.

(b) The Licensee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(c) The Licensee shall at all times maintain the Bus Parking Spaces in a clean and orderly condition and appearance. The Licensee shall immediately wipe up any oil, gasoline, grease, lubricants and other inflammable liquids and substances from, and shall immediately wipe up all liquids or substances having a corrosive or detrimental effect on the paving or other surface of the Bus Parking Spaces, which may leak, be spilled or be placed upon the Bus Parking Spaces. The Bus Parking Spaces are to be used only for the parking of Buses in accordance with the provisions of this License, and the Licensee agrees that no personal property of the Licensee or others may at any time be placed or installed in the Bus Parking Spaces. Without limiting the generality of the foregoing, the Licensee specifically agrees that it shall not store in the Bus Parking Spaces any automotive fuel, lubricating oil or grease or other chemicals.

(d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Bus Parking Spaces without the written approval of the General Manager of the Facility; and any not approved by him may be removed by the Port Authority at the expense of the Licensee. The Licensee shall not display, or permit the display of, advertising of third parties in the Bus Parking Spaces.

(e) Except as expressly herein permitted, the Licensee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

(f) The operations of the Licensee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Licensee shall provide and its employees shall wear or carry badges or other suitable means of identification, which shall be subject to the approval of the General Manager. The Port Authority shall have the right to object to the Licensee as to the demeanor, conduct and appearance of the Licensee's employees, invitees and those doing business with it, whereupon the Licensee will take all reasonable steps necessary to remove the cause of the objection.

(g) In the use of the means of ingress to and egress from the Bus Parking Spaces, the Licensee shall exercise a high degree of care to avoid injuries to persons and damage to property, and, in addition, the indemnity provided in the Section hereof entitled "*Indemnification of the Port Authority*" shall govern and apply to all claims of third persons for death, personal injuries or property damages which arise out of such use, regardless of the degree of care exercised and regardless of whether such use was by the Licensee or by others with its consent.

(h) The Licensee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Licensee. The receptacles shall be kept covered except when filling or emptying the same. The Licensee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

(i) The Licensee understands and acknowledges that there will be no ingress to or egress from the Bus Parking Spaces permitted between the hours of 1:00 o'clock a.m. and 6:00 o'clock a.m. on any day of the week.

(j) The Licensee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York and any other body or organization exercising similar functions which may pertain or apply to the Licensee's use of the Bus Parking Spaces hereunder. If by reason of the Licensee's failure to comply with the provisions of this paragraph, any fire insurance, extended coverage or rental insurance rate with respect to the Facility or any part thereof shall at any time be higher than it otherwise would be, then the Licensee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been increased because of such failure to comply.

14. Prohibited Acts.

(a) The Licensee shall not do or permit to be done any act which

(i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or

(ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or

(iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this License, or

(iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or

(v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or

(vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.

(b) For purposes of this Section, "Facility" includes all structures located thereon.

15. Specifically Prohibited Activities.

(a) The Licensee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.

(b) The Licensee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Licensee (or permitted by the Licensee to

be disposed of, released or discharged) on the Facility shall upon Notice by the Port Authority to the Licensee be completely removed and/or remediated by the Licensee at its sole cost and expense.

(c) The Licensee shall not perform mechanical, electrical or structural repairs on Buses at the Bus Parking Spaces. The Licensee shall not fuel, lubricate or paint Buses in the Bus Parking Spaces. The Licensee shall not use any cleaning materials having a harmful or corrosive effect in the Bus Parking Spaces.

(d) The Licensee shall not fuel or defuel any equipment in the Bus Parking Spaces or elsewhere at the Facility without the prior approval of the General Manager of the Facility except in accordance with Port Authority rules and regulations.

(e) The Licensee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

#### 16. Labor Disturbances.

(a) (i) The Licensee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Licensee under this License.

(ii) The Licensee shall immediately give oral notice to the Port Authority (to be followed by written Notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies involving the Licensee's employees which are likely to affect the operation of the Facility, or the operations of others at the Facility, and shall continually report to the Port Authority the progress of such and the resolution thereof. The Licensee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

(b) If any type of strike or other labor activity is directed against the Licensee at the Facility or against any operations pursuant to this License resulting in picketing or boycott for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority, adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Licensee, and whether caused by the employees of the Licensee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' prior notice to the Licensee, suspend the Licensee's operations hereunder, effective at the time specified in the Notice and during such suspension the Licensee shall cease its activities in the Bus Parking Spaces and shall take such steps to secure and protect the Bus Parking Spaces as shall be necessary or desirable. The period of suspension shall end not later than twenty-four (24) hours after the cause thereof has ceased or been cured.

#### 17. Notices.

(a) Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail or by nationally-known overnight courier.

(b) Until further notice, the Port Authority hereby designates its Executive Director, and the Licensee designates the Licensee's Representative, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Licensee designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

18. No Broker. The Licensee and the Port Authority each represent and warrant that no broker has been concerned in the negotiation or execution of this License and that there is no broker who is or may be entitled to be paid a commission in connection therewith. Each party shall indemnify the other party and save it harmless from any and all such claims except such claims, if any, as may arise solely from the acts of the other party and of its employees.

19. Waiver of Trial by Jury. The Licensee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Licensee.

20. Effect of Use after Expiration, Revocation or Termination: Without in any way limiting any other provision of this License, in the event the Licensee continues its use of the Bus Parking Spaces after the expiration, revocation or termination of the effective period of the permission granted under this License, as such effective period of permission may be extended from time to time, such continued use and occupancy shall not be deemed to operate as a renewal or extension of the term of this License, but shall constitute instead a month-to-month extension of the permission granted hereunder, which shall be revocable by the Port Authority on thirty (30) days' notice to the Licensee. Subject to the foregoing, nothing herein contained shall be deemed to give the Licensee any right to continue its use of the Bus Parking Spaces after the expiration, revocation or termination of the effective period of the permission granted under this License. The Licensee acknowledges that the failure of the Licensee to surrender, vacate and yield up the Bus Parking Spaces to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Licensee 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 Licensee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

21. No Personal Liability. No Commissioner, director, officer, agent or employee of either party to this License shall be charged personally with any liability, or held liable, under any term or provision of this License, or because of its execution or attempted execution, or because of any breach hereof.

22. No Waiver. No failure by either party to insist upon the strict performance of any agreement, term, covenant or condition of this License or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this License during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this License to be performed or complied with either party to this License, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the other party. No waiver by either party of any default or breach on the part of the other party in performance of any agreement, term, covenant or condition of this License shall affect or alter this License but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

23. Construction and Application of Terms.

(a) The use of headings in this License is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

(b) Wherever in this License a third person singular neuter pronoun or adjective is used, referring to the Licensee or the Port Authority, the same shall be deemed to refer to the Licensee or the Port Authority, regardless of the actual gender or number thereof. Wherever in this License a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective; and plural nouns or pronouns shall be deemed to include the singular.

(c) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this License or any amendments, addenda or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

(d) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

(e) To the extent that any provisions of this License are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply. Notwithstanding the foregoing and anything to the contrary stated herein, however, the Port Authority acknowledges that New Jersey Transit Corporation ("NJ Transit") is a public instrumentality of the State of New Jersey in accordance with the applicable provisions of the New Jersey State Constitution and that NJ Transit derives its authority and powers from the New Jersey Public Transportation Act of 1979, which governs NJ Transit's amenability to suit and authority to enter into contractual undertakings, which contractual undertakings and any claims made with respect thereto are subject to the provisions of the New Jersey Contractual Liability Act, N.J.S.A. 59:1-1 et seq. and the New Jersey Tort Claims Act, 59:13-1 et seq. It is hereby acknowledged and agreed that NJ Transit's legal authority to undertake the obligations set forth in this Agreement is limited by and subject to, and shall be construed in accordance with, the laws of the State of New Jersey. Any obligation of NJ Transit arising under this Agreement, or any claim or judgment entered upon a claim (or any settlement thereof) based on an obligation of NJ Transit arising under this License, shall be payable out of (a) funds available to NJ Transit

for such purpose or (b) such other funds as may be appropriated by the State of New Jersey for such purpose.

24. Entire Agreement. This License, including the Cover Page, the Terms and Conditions, Special Endorsements and other attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on behalf of the parties and attached hereto. The Licensee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

\* \* \* \* \*

**SPECIAL ENDORSEMENT**

1. **Fees.** During the effective period of the permission granted under this License, the Licensee shall pay to the Port Authority a fee for each Bus Parking Space as follows:

*(a) Unrestricted Spaces:*

(i) During the period commencing on January 1, 2011 and continuing through December 31, 2011, in the amount of Seven Hundred Fifty-seven Dollars and Seventy-five Cents (\$757.75) per space, per month, payable in advance on January 1, 2011 and on the first day of each month thereafter occurring during such period;

(ii) During the period commencing on January 1, 2012 and continuing through December 31, 2012, in the amount of Eight Hundred Sixteen Dollars and Thirty-three Cents (\$816.33) per space, per month, payable in advance on January 1, 2012 and on the first day of each month thereafter occurring during such period;

(iii) From and after January 1, 2013 and continuing through December 31, 2013, in the amount of Eight Hundred Seventy-five Dollars and No Cents (\$875.00) per space, per month, payable in advance on January 1, 2013 and on the first day of each month thereafter occurring throughout the effective period of the permission granted under this License.

*(b) Restricted Spaces:*

(i) During the period commencing on January 1, 2011 and continuing through December 31, 2011, in the amount of Four Hundred Seventy-three Dollars and Eighty-three Cents (\$473.83) per space, per month, payable in advance on January 1, 2011 and on the first day of each month thereafter occurring during such period;

(ii) During the period commencing on January 1, 2012 and continuing through December 31, 2012, in the amount of Five Hundred Ten Dollars and Sixty-seven Cents (\$510.67) per space, per month, payable in advance on January 1, 2012 and on the first day of each month thereafter occurring during such period;

(iii) From and after January 1, 2013 and continuing through December 31, 2013, in the amount of Five Hundred Forty-seven Dollars and Fifty-eight Cents (\$547.58) per space, per month, payable in advance on January 1, 2013 and on the first day of each month thereafter occurring throughout the effective period of the permission granted under this License.

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

Initialed:

  
\_\_\_\_\_  
For the Licensee

: For Port Authority Use Only :  
:License Agmt. No.: BT-HTL-BPR-403 :

**PORT AUTHORITY BUS TERMINAL  
BUS PARKING LICENSE**

The Port Authority of New York and New Jersey (the "Port Authority") hereby grants to the Licensee named below permission to use, on a non-exclusive basis, at the Port Authority Bus Terminal, in the Borough of Manhattan, City, County and State of New York (the "Facility"), such interior bus parking space(s) as the General Manager of the Facility may designate from time to time (each, a "Bus Parking Space", and collectively, the "Bus Parking Spaces"), in accordance with the Terms and Conditions and Special Endorsements hereto; and the Licensee agrees to pay the fee specified below and to perform all other obligations imposed upon it in the said Terms and Conditions and said Special Endorsements:

1. **LICENSEE:** HUDSON TRANSIT LINES, INC., a Delaware corporation
2. **LICENSEE'S ADDRESS:** 4 Leisure Lane  
Mahwah, New Jersey 07041
3. **LICENSEE'S REPRESENTATIVE:** George Grieve
4. **PERMITTED USE:** For the parking of Buses operated by the Licensee, but only when the same are empty and only in connection with the Licensee's operations at the Facility, and for no other use whatsoever.
5. **FEES:** As set forth in Special Endorsement No. 1 hereof.
6. **EFFECTIVE DATE:** January 1, 2011
7. **EXPIRATION DATE:** December 31, 2013, unless sooner revoked or terminated as herein provided.
8. **REQUIRED SECURITY DEPOSIT AMOUNT:** As set forth in Special Endorsement No. 2 hereof.
9. **INSURANCE REQUIREMENTS:** \$2,000,000.00 minimum limit Commercial General Liability  
\$5,000,000.00 minimum limit Automobile Liability
10. **ENDORSEMENTS:** Special Endorsements.

Dated: As of January 1, 2011

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

By 

Name CEDRICK T. FULTON

(Title) DIRECTOR, TUNNELS BRIDGES + TERMINALS DEPT.  
(Please Print Clearly)

HUDSON TRANSIT LINES, INC., Licensee

By 

Name GEORGE GRIEVE

(Title) President  
(Please Print Clearly)

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

PCW

## TERMS AND CONDITIONS

### 1. Certain Definitions.

(a) **“Bus”** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Facility (and then only in strict compliance with the requirements of such laws, rules and regulations).

(b) **“Cover Page”** shall mean the page, designated “Cover Page”, attached to the front of this License and forming an integral part hereof.

(c) **“Effective Date”** shall mean the date designated as the “Effective Date” in Item 6 on the Cover Page.

(d) **“Executive Director”** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this License; but until further notice from the Port Authority to the Licensee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(e) **“Expiration Date”** shall mean the date designated as the “Expiration Date” in Item 7 on the Cover Page.

(f) **“Facility”** shall mean the Port Authority Bus Terminal, comprising the building bounded by 40<sup>th</sup> and 41<sup>st</sup> Streets, 8<sup>th</sup> and 9<sup>th</sup> Avenues, in the City, County and State of New York, and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof.

(g) **“General Manager of the Facility”** 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 License; but until further notice from the Port Authority to the Licensee it shall mean the General Manager (or temporary or Acting General Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

(h) **“Hazardous Substance”** shall mean 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, endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(i) **“Licensee’s Representative”** shall mean the individual named in Item 3 on the Cover Page, or such other individual as the Licensee may designate by Notice in accordance with the provisions of the Section hereof entitled *“Notices”*.

(j) **“Restricted Space”** shall mean a Bus Parking Space so designated by the General Manager of the Facility. Restricted Spaces may be used only during the hours of 10:00 o’clock a.m. to 4:00 o’clock p.m. and 8:00 o’clock p.m. and 12:59 o’clock a.m., seven days a week.

(k) **“Unrestricted Space”** shall mean any Bus Parking Space that is not a Restricted Space.

2. Effectiveness.

(a) The permission granted by this License shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days’ prior notice, and terminated by the Licensee without cause upon thirty (30) days’ prior notice; provided, however, that it may be revoked on twenty-four (24) hours’ notice if the Licensee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this License, including without limitation the obligation to pay fees. Further, in the event the Port Authority exercises its right to revoke or terminate this License for any reason other than “without cause”, the Licensee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space which may be used and occupied under this License (on failure of the Licensee to have it restored), preparing such space for use by a succeeding licensee, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the space in order (such as but not limited to cleaning the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Licensee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) Without limiting any other rights it may have hereunder, the Port Authority shall have the right to revoke this License by giving to the Licensee at least five (5) days’ prior notice if, by reason of the revocation, termination or expiration of any existing or future other agreements, the Licensee shall cease to be entitled to use, on a continuing contract basis, an enclosed vehicular level at the Facility. Revocation by the Port Authority pursuant to this paragraph shall have the same effect as if the effective date of revocation were the Expiration Date, and the Licensee agrees that such revocation shall not relieve the Licensee of any liabilities or obligations of the Licensee which shall have accrued on or prior to the effective date of revocation.

(c) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this License or a waiver of any other rights or remedies which may be available to the Port Authority under this License or otherwise.

3. Licensee's Rights and Obligations.

(a) The Bus Parking Spaces shall be used, pursuant to the permission hereby granted,

(i) if the Licensee is a corporation, by the Licensee acting only through the medium of its officers and employees,

(ii) if the Licensee is an unincorporated association, or a "Massachusetts" or business trust, by the Licensee acting only through the medium of its members, trustees, officers and employees,

(iii) if the Licensee is a partnership, by the Licensee acting only through the medium of its general partners and employees, or

(iv) if the Licensee is an individual, by the Licensee acting only personally or through the medium of his employees; or

(v) if the Licensee is a limited liability company, by the Licensee acting only through the medium of its members, managers and employees;

and the Licensee shall not, without the written approval of the Port Authority, use the Bus Parking Spaces through the medium of any other person, corporation or legal entity. The Licensee shall not assign or transfer this License or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this License to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Licensee shall be the joint and several obligation of each such individual or other legal entity.

(b) The Licensee's Representative shall have full authority to act for the Licensee in connection with this License and any act or things done or to be done hereunder, and to execute on the Licensee's behalf any amendments or supplements to this License or any extension hereof and to give and receive Notices hereunder.

(c) This License shall not constitute the Licensee the agent or representative of the Port Authority for any purpose whatsoever.

(d) Neither the execution and delivery of this License nor any act done pursuant thereto shall create between the Licensee and the Port Authority the relationship of bailor and bailee, storer and garagekeeper or any other relationship except that of licensee and licensor; nor shall there be created thereby any legal status which would impose upon the Port Authority with respect to any vehicles or other property in the Bus Parking Spaces any duty or obligation whatsoever. The Licensee expressly agrees that the Port Authority shall have no liability with respect to the Licensee's vehicles or other property, to property or vehicles for which the Licensee is responsible, to vehicles or other property in the Bus Parking Spaces with the consent of the Licensee or to property of employees, drivers or passengers of the Licensee left in or on such vehicles. Without limiting the generality the Section hereof entitled

“*Indemnification of the Port Authority*”, the Licensee hereby agrees to indemnify the Port Authority and hold it harmless against all claims and demands of third persons for loss of or damage to vehicles using or parked in the Bus Parking Spaces, whether owned or operated by the Licensee or owned or operated by third persons or to property of owners, shippers, consignees or other persons interested, or of drivers, employees, passengers or other persons doing business or connected with the Licensee, contained in or on such vehicles.

4. Requirements as to Buses.

(a) Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Licensee shall in all events obtain the General Manager’s written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

(i) Buses shall not exceed one hundred two inches (102”) in width.

(ii) Buses shall not exceed forty-five feet (45’) in length.

(iii) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(iii) Buses operating on the Lower Bus Level of the Facility shall not exceed twelve feet (12’) in height.

(iv) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the Facility shall not exceed eleven feet six inches (11’6”) in height.

Buses fueled by Compressed Natural Gas (“CNG”) may operate only in designated locations in the PABT.

(b) Buses shall be kept clean and maintained in good working order, and shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel.

5. Condition of Bus Parking Spaces.

(a) The Licensee hereby acknowledges that prior to the execution of this License it has thoroughly examined and inspected the Bus Parking Spaces and has found the Bus Parking Spaces in good order and repair and has determined the Bus Parking Spaces to be suitable for the Licensee’s operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Licensee for the purposes contemplated herein. The Licensee agrees to and shall take the Bus Parking Spaces in their “as is” condition and the Port Authority shall have no obligation hereunder for preparation of the Bus Parking Spaces for the Licensee’s use. The Licensee agrees that no portion of the Bus

Parking Spaces will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property, and the Licensee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) The parties to this License hereby acknowledge that the Bus Parking Spaces are non-residential real estate.

6. Payments.

(a) Payments to be made pursuant to this License shall be sent to the following address:

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

or made via the following wire transfer instructions:

Bank: Commerce Bank  
Bank ABA Number: 031201360  
Account Number: Ex. 1

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by Notice to the Licensee.

(b) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

(c) Upon execution of this License by the Licensee, the Licensee shall pay to the Port Authority all unpaid fees and other monies due and payable under this License as of the date of execution.

7. Late and Service Charges.

(a) If the Licensee fails to pay any amount required under this License when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each "late charge period" (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of

amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this License. Each late charge shall be payable immediately upon demand therefor made at any time 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. 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 License, including without limitation the Port Authority's rights set forth in the Section of this License entitled "*Effectiveness*" or (ii) any obligations of the Licensee under this License. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this License shall be payable instead at such legal maximum.

(b) (i) The Licensee shall permit and/or cause to be permitted in ordinary business hours during the effective period of the permission granted under this License and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Licensee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be relevant in connection with the Licensee's use of the Bus Parking Spaces as permitted hereunder within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

(ii) In the event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority from the Licensee (the "**Audit Findings**"), the Licensee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in an amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand therefor (by Notice, bill or otherwise) made at any time by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority from the Licensee under this License or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority to payment of any late charge(s) or other service charge(s) payable under the provisions of this License with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this License, including, without limitation, the Port Authority's rights to revoke this License or (ii) any obligations of the Licensee under this License.

## 8. Security Deposit

### (a) *Security Deposit Requirement.*

(i) As security for the Licensee's full, faithful and prompt performance of and compliance with all of its obligations under this License, the Licensee shall, upon its execution and delivery of this License, deposit with the Port Authority (and shall keep

deposited throughout the effective period of the permission granted under this License) the sum set forth in Item 8 on the Cover Page (the “**Required Deposit Amount**”) either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Licensee shall be required, instead, to deliver to the Port Authority a letter of credit as provided in the following paragraph (b).

(ii) Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Licensee may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Licensee) in a manner satisfactory to the Port Authority. The Licensee may request the Port Authority to accept a registered bond in the Licensee’s name and, if acceptable to the Port Authority the Licensee shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the security deposit is returned to the Licensee, any expenses incurred by the Port Authority in re-registering a bond to the name of the Licensee shall be borne by the Licensee.

(iii) In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the security deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Licensee. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the security deposit itself shall cure any default or breach of this License on the part of the Licensee. With respect to any bonds deposited by the Licensee, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Licensee, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Licensee. The Licensee hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Licensee. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Licensee. Any balance remaining shall be retained in cash toward bringing the security deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the security deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have declined below the Required Deposit Amount, the Licensee shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the security deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this paragraph.

(iv) The Licensee shall not assign or encumber the security deposit.

(v) The Licensee may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part

thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(vi) After the expiration or earlier termination of the effective period of the permission granted under this License, and upon condition that the Licensee shall then be in no way in default under any part of this License, and upon written request therefor by the Licensee, the Port Authority will return the security deposit to the Licensee less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Licensee of this License.

(b) *Letter of Credit.*

(i) In lieu of the security deposit required pursuant to the preceding paragraph (a), the Licensee may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Licensee under this License, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(ii) The form and terms of each letter of credit delivered pursuant to this paragraph (b), 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 effective period of the permission granted under this License 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.

(iii) Upon acceptance of such letter of credit by the Port Authority, and upon request by the Licensee made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of the preceding paragraph (a). The Licensee shall have the same rights to receive such security deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of this License and fulfillment of the obligations of the Licensee under this License.

(iv) Upon notice of cancellation of a letter of credit the Licensee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and thereafter the Port Authority will hold the same as security under the preceding paragraph (a). If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Licensee, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(v) Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to the preceding paragraph (a), any failure at any time to provide such letter of credit that is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this License on the part of the Licensee.

(vi) 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 such letter of credit, shall be deemed to be a waiver of any default by the Licensee under the terms of this License, and all remedies under this License of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

(c) The Licensee acknowledges and agrees that the Port Authority reserves the right, in its sole discretion at any time and from time to time upon fifteen (15) days' notice to the Licensee, to adjust the Required Deposit Amount. Not later than the effective date set forth in said Notice by the Port Authority, the Licensee shall furnish additional cash or bonds, as provided for in paragraph (a) above, or an amendment to, or a replacement of, the letter of credit providing for such adjusted Required Deposit Amount, as the case may be, and such additional cash and/or bonds or adjusted (or replaced) letter of credit shall thereafter constitute the security deposit required under this License.

(d) If the Licensee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Licensee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Licensee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any security deposit pursuant thereto also shall be deemed obligations of the Licensee under this License and as security hereunder as well as under any such other agreement, and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby 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 deposit shall apply or any permitted assignment of such other agreement shall not affect such obligations as to such security deposit, which shall continue in full force and effect hereunder.

9. Indemnification of the Port Authority.

(a) The Licensee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal costs and 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 Licensee in performing or observing any term or provision of this License, or out of the use and occupancy of the Bus Parking Spaces by the Licensee, its officers, members, managers (if any), employees and persons who are doing business with the Licensee, or out of any of the operations, acts or omissions of the Licensee, or out of the acts or omissions of others on the Bus Parking Spaces with the Licensee's consent, or out of the acts or

omissions of the Licensee, its officers, members, managers (if any), and employees at the Facility.

(b) The Licensee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any way connected with this License. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Licensee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Licensee under or in any way connected with this License.

(c) If so directed, the Licensee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of 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.

(d) In the event of any injury or death to any person (other than employees of the Licensee) at the Facility when caused by the Licensee's operations, acts or omissions of the Licensee hereunder, or damage to any property (other than the Licensee's property) at the Facility when caused by the Licensee's operations, acts or omissions of the Licensee hereunder, the Licensee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Licensee's insurance carrier.

10. Insurance.

(a) The Licensee, in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of permission granted under this License on a policy, or policies, of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the minimum limit set forth in Item 9 on the Cover Page, and Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles and including automatic coverage for newly acquired vehicles and providing for coverage in the minimum limit set forth in Item 9 on the Cover Page. Without limiting the foregoing, the Licensee shall maintain Workers' Compensation and Employers Liability Insurance in accordance with the Licensee's statutory obligations under the applicable State Workers' Compensation Law for those employees of the Licensee employed in operations conducted pursuant to this License at or from the Facility. In the event the Licensee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers' Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of this License.

(b) Each policy of insurance, except for the Workers' Compensation and Employers Liability Insurance policies, shall also contain an ISO standard "separation of insureds" clause or a cross liability endorsement providing that the protections afforded the Licensee thereunder with respect to any claim or action against the Licensee by a third person shall pertain and apply with like effect with respect to any claim or action against the Licensee by the Port Authority and any claim or action against the Port Authority by the Licensee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Licensee under the Section of this License entitled "*Indemnification of the Port Authority*".

(c) 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 effective period of the permission granted under this License. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the aforementioned insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Licensee shall promptly comply therewith.

(d) Each policy shall contain a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer "shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority." The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of this License by the Licensee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance delivered to the Port Authority at least seven (7) days prior to the expiration of each expiring policy, except for any policy expiring after the Expiration Date. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Licensee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Licensee under this License. The foregoing insurance requirements shall not constitute a representation or

warranty as to the adequacy of the required coverage to protect the Licensee with respect to the obligations imposed on the Licensee by this License or any other agreement or by law.

11. Right of Entry Reserved. The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Bus Parking Spaces and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

12. Rules and Regulations. The Licensee shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of the permission granted under this License, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Licensee of every rule and regulation hereafter adopted by it at least five (5) days before the Licensee shall be required to comply therewith.

13. Conduct of Operations.

(a) The Licensee shall immediately comply with all orders, directives and procedures as may be issued by the General Manager of the Facility covering the operations of the Licensee under this License at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder. The Licensee shall comply with the directions of the General Manager of the Facility with respect to the movement and circulation of the Licensee's Buses within the Facility.

(b) The Licensee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(c) The Licensee shall at all times maintain the Bus Parking Spaces in a clean and orderly condition and appearance. The Licensee shall immediately wipe up any oil, gasoline, grease, lubricants and other inflammable liquids and substances from, and shall immediately wipe up all liquids or substances having a corrosive or detrimental effect on the paving or other surface of the Bus Parking Spaces, which may leak, be spilled or be placed upon the Bus Parking Spaces. The Bus Parking Spaces are to be used only for the parking of Buses in accordance with the provisions of this License, and the Licensee agrees that no personal property of the Licensee or others may at any time be placed or installed in the Bus Parking Spaces. Without limiting the generality of the foregoing, the Licensee specifically agrees that it shall not store in the Bus Parking Spaces any automotive fuel, lubricating oil or grease or other chemicals.

(d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Bus Parking Spaces without the written approval of the General Manager of the Facility; and any not approved by him may be removed by the Port Authority at the expense of the Licensee. The Licensee shall not display, or permit the display of, advertising of third parties in the Bus Parking Spaces.

(e) Except as expressly herein permitted, the Licensee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

(f) The operations of the Licensee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Licensee shall provide and its employees shall wear or carry badges or other suitable means of identification, which shall be subject to the approval of the General Manager. The Port Authority shall have the right to object to the Licensee as to the demeanor, conduct and appearance of the Licensee's employees, invitees and those doing business with it, whereupon the Licensee will take all steps necessary to remove the cause of the objection.

(g) In the use of the means of ingress to and egress from the Bus Parking Spaces, the Licensee shall exercise a high degree of care to avoid injuries to persons and damage to property, and, in addition, the indemnity provided in the Section hereof entitled "*Indemnification of the Port Authority*" shall govern and apply to all claims of third persons for death, personal injuries or property damages which arise out of such use, regardless of the degree of care exercised and regardless of whether such use was by the Licensee or by others with its consent.

(h) The Licensee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Licensee. The receptacles shall be kept covered except when filling or emptying the same. The Licensee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

(i) The Licensee understands and acknowledges that there will be no ingress to or egress from the Bus Parking Spaces permitted between the hours of 1:00 o'clock a.m. and 6:00 o'clock a.m. on any day of the week.

(j) The Licensee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York and any other body or organization exercising similar functions which may pertain or apply to the Licensee's use of the Bus Parking Spaces hereunder. If by reason of the Licensee's failure to comply with the provisions of this paragraph, any fire insurance, extended coverage or rental insurance rate with respect to the Facility or any part thereof shall at any time be higher than it otherwise would be, then the Licensee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been increased because of such failure to comply.

14. Prohibited Acts.

- (a) The Licensee shall not do or permit to be done any act which
- (i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or
  - (ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or
  - (iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this License, or
  - (iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or
  - (v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or
  - (vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.
- (b) For purposes of this Section, "Facility" includes all structures located thereon.

15. Specifically Prohibited Activities.

- (a) The Licensee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.
- (b) The Licensee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Licensee (or permitted by the Licensee to be disposed of, released or discharged) on the Facility shall upon Notice by the Port Authority to the Licensee be completely removed and/or remediated by the Licensee at its sole cost and expense.
- (c) The Licensee shall not perform mechanical, electrical or structural repairs on Buses at the Bus Parking Spaces. The Licensee shall not fuel, lubricate or paint Buses in the Bus Parking Spaces. The Licensee shall not use any cleaning materials having a harmful or corrosive effect in the Bus Parking Spaces.
- (d) The Licensee shall not fuel or defuel any equipment in the Bus Parking Spaces or elsewhere at the Facility without the prior approval of the General Manager of the Facility except in accordance with Port Authority rules and regulations.

(e) The Licensee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

16. Labor Disturbances.

(a) (i) The Licensee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Licensee under this License.

(ii) The Licensee shall immediately give notice to the Port Authority (to be followed by written Notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Licensee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

(b) If any type of strike or other labor activity is directed against the Licensee at the Facility or against any operations pursuant to this License resulting in picketing or boycott for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority, adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Licensee, and whether caused by the employees of the Licensee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' notice, revoke this License, effective at the time specified in the Notice. Revocation shall not relieve the Licensee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation.

17. Notices.

(a) Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail or by nationally-known overnight courier.

(b) Until further notice, the Port Authority hereby designates its Executive Director, and the Licensee designates the Licensee's Representative, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Licensee designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

18. No Broker. The Licensee represents and warrants that no broker has been concerned in the negotiation or execution of this License and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Licensee shall indemnify the Port Authority and save it harmless from any and all claims which have been or which may be made by any and all persons, firms, or corporations whatsoever for services in connection with the negotiation and execution of this License or in connection with any permission to use the Bus Parking Spaces.

19. Waiver of Trial by Jury. The Licensee hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Licensee in respect of the Bus Parking Spaces and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this License. The Licensee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Licensee.

20. Effect of Use after Expiration, Revocation or Termination: Without in any way limiting any other provision of this License, unless otherwise notified by the Port Authority in writing, in the event the Licensee continues its use of the Bus Parking Spaces after the expiration, revocation or termination of the effective period of the permission granted under this License, as such effective period of permission may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this License or other remedies the Port Authority may have by law or otherwise, the Licensee shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such revocation or termination and ending on the date that the Licensee shall surrender and completely vacate the Bus Parking Spaces, at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Licensee any right to continue its use of the Bus Parking Spaces after the expiration, revocation or termination of the effective period of the permission granted under this License. The Licensee acknowledges that the failure of the Licensee to surrender, vacate and yield up the Bus Parking Spaces to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Licensee 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 Licensee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

21. No Personal Liability. No Commissioner, officer, agent or employee of the Port Authority shall be charged personally by the Licensee with any liability, or held liable to it, under any term or provision of this License, or because of its execution or attempted execution, or because of any breach hereof.

22. No Waiver. No failure by the Port Authority to insist upon the strict performance of any agreement, term, covenant or condition of this License or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this License during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or

during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this License to be performed or complied with by the Licensee, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the Port Authority. No waiver by the Port Authority of any default or breach on the part of the Licensee in performance of any agreement, term, covenant or condition of this License shall affect or alter this License but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

23. Construction and Application of Terms.

(a) The use of headings in this License is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

(b) Wherever in this License a third person singular neuter pronoun or adjective is used, referring to the Licensee or the Port Authority, the same shall be deemed to refer to the Licensee or the Port Authority, regardless of the actual gender or number thereof. Wherever in this License a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective; and plural nouns or pronouns shall be deemed to include the singular.

(c) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this License or any amendments, addenda or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

(d) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

(e) To the extent that any provisions of this License are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

24. Entire Agreement. This License, including the Cover Page, the Terms and Conditions, Special Endorsements and other attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on behalf of the parties and attached hereto. The Licensee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

\* \* \* \* \*

## SPECIAL ENDORSEMENTS

1. **Fees.** During the effective period of the permission granted under this License, the Licensee shall pay to the Port Authority a fee for each Bus Parking Space as follows:

(a) *Restricted Spaces:*

(i) During the period commencing on January 1, 2011 and continuing through December 31, 2011, in the amount of Four Hundred Seventy-three Dollars and Eighty-three Cents (\$473.83) per space per month, payable in advance on January 1, 2011 and on the first day of each month thereafter occurring during such period;

(ii) During the period commencing on January 1, 2012 and continuing through December 31, 2012, in the amount of Five Hundred Ten Dollars and Sixty-seven Cents (\$510.67) per space per month, payable in advance on January 1, 2012 and on the first day of each month thereafter occurring during such period;

(iii) From and after January 1, 2013, in the amount of Five Hundred Forty-seven Dollars and Fifty-eight Cents (\$547.58) per space per month, payable in advance on January 1, 2013 and on the first day of each month thereafter occurring.

(b) *Unrestricted Spaces:*

(i) During the period commencing on January 1, 2011 and continuing through December 31, 2011, in the amount of Seven Hundred Seventy-five Dollars and Seventy-five Cents (\$757.75) per space per month, payable in advance on January 1, 2011 and on the first day of each month thereafter occurring during such period;

(ii) During the period commencing on January 1, 2012 and continuing through December 31, 2012, in the amount of Eight Hundred Sixteen Dollars and Thirty-three Cents (\$816.33) per space per month, payable in advance on January 1, 2012 and on the first day of each month thereafter occurring during such period;

(iii) From and after January 1, 2013, in the amount of Eight Hundred Seventy-five Dollars and No Cents (\$875.00) per space per month, payable in advance on January 1, 2013 and on the first day of each month thereafter occurring.

2. (a) The Port Authority and the Licensee have heretofore entered into a bus parking license agreement, dated as of October 1, 2007 and bearing Port Authority number BT-HTL-BPR-303 (the "BP Agreement") under which the Licensee deposited with the Port Authority as security for the BP Agreement, a letter of credit (the "LC") in the amount of Seventy-Five Thousand Dollars and No cents (\$75,000.00). The parties hereto agree that the LC shall serve as security under this License for the full, faithful and prompt performance of, and compliance with, on the part of the Licensee all of the terms, provisions, covenants and conditions of this License. Any breach or failure to perform or comply with any of the terms and

conditions of the LC or the BP Agreement, including without limitation failure to provide a new letter of credit (the "New LC") in accordance with the terms and provisions of the LC or the BP Agreement at any time during the term of the BP Agreement or any failure of any banking institution issuing the LC or the New LC to make one or more payments as provided in the LC or the New LC, as applicable, shall constitute a material breach of this License and the BP Agreement thereby entitling the Port Authority to immediately exercise any and all rights available to it, including without limitation the right to terminate this License for cause.

(b) The provisions of this Special Endorsement shall survive the expiration or termination of the BP Agreement and/or this License, as the case may be. Upon such expiration or termination, without the necessity for executing any further instrument, the provisions of this Special Endorsement shall continue in full force and effect and no part of such security shall then or thereafter be returned to the Licensee until the later to occur of (a) the termination or expiration of this License and (b) the termination or expiration of the BP Agreement, at which ultimate time, upon condition that the Licensee shall then be in no way in default or breach, including anticipatory breach, under any obligation to the Port Authority and upon written request of the Licensee, the Port Authority will return the said security, as and in such an amount as then appropriate hereunder and under the BP Agreement, as the case may be, less the sum of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any such default or breach.

3. Prior to the execution of this Permit by either party hereto the following deletions, additions and substitutions were made in the foregoing Terms and Conditions:

(a) Paragraph 4(a) (iii) of the foregoing Terms and Conditions shall be deleted in its entirety and the following shall be deemed to have been inserted in lieu thereof:

"Buses at the Facility shall have a maximum gross loaded weight not in excess of forty-eight thousand eight hundred forty pounds (48,840) avoirdupois, distributed to provide not more than twenty thousand five hundred (22,500) pounds per axle, provided that the combined weight of the drive and tag axles does not exceed thirty-four thousand five-hundred (34,500) pounds."

(b) Paragraph 9(a) of the foregoing Terms and Conditions shall be deleted in its entirety and the following shall be deemed to have been inserted in lieu thereof:

"The Licensee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal costs and 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 Licensee in performing or observing any term or provision of

this License, or out of the use and occupancy of the Bus Parking Spaces by the Licensee, its officers, members, managers (if any), employees and persons who are doing business with the Licensee, or out of any of the operations, acts or omissions of the Licensee, or out of the acts or omissions of others on the Bus Parking Spaces with the Licensee's consent, (except to the extent resulting from the Port Authority's negligence or willful misconduct), or out of the acts or omissions of the Licensee, its officers, members, managers (if any), and employees at the Facility (except to the extent resulting from the Port Authority's negligence or willful misconduct)."

(c) Paragraph 10(c) of the foregoing Terms and Conditions shall be deleted in its entirety and the following shall be deemed to have been inserted in lieu thereof:

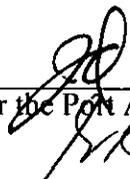
"If at any time any policy fails to reflect the minimum policy requirements outlined in this agreement, the Carrier shall promptly obtain a new and satisfactory policy in replacement. All insurance policies shall be issued by insurance carriers authorized to conduct business in the State of New York with an A.M. Best Company Rating of A – or better, provided however, that if the A.M. Best Company or any successor rating company shall cease to exist, the Port Authority and Carrier shall negotiate in good faith on a substitute."

(d) Paragraph 10(e) of the foregoing Terms and Conditions shall be deleted in its entirety and the following shall be deemed to have been inserted in lieu thereof:

"As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within thirty (30) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy."

It shall be unnecessary to physically indicate the foregoing additions, deletions and substitutions on the foregoing Terms and Conditions and Standard Endorsements.

Initialed:

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

**LINCOLN TUNNEL  
BUS PARKING LICENSE**

The Port Authority of New York and New Jersey (the "Port Authority") hereby grants to the Licensee named below permission to use herein described bus parking lot adjacent to the Port Authority Bus Terminal, in the Borough of Manhattan, City, County and State of New York (the "Facility"), such bus parking space (s) as the General Manager of the Facility may designate from time to time (each, a "Bus Parking Space", and collectively, the "Bus Parking Spaces"), in accordance with the Terms and Conditions and Special Endorsements hereof; and the Licensee agrees to pay the fee specified below and to perform all other obligations imposed upon it in the said Terms and Conditions and said Special Endorsement:

1. **LICENSEE:** ROCKLAND COACHES INC., a New Jersey corporation
2. **LICENSEE'S ADDRESS:** 180 Old Hook Road  
Westwood, New Jersey 07675
3. **LICENSEE'S REPRESENTATIVE:** George Grieve, Northern District Manager
4. **PERMITTED USE:** For the parking of buses operated by the Licensee, but only when the same are empty and only in connection with the Licensee's operations at the facility, and for no other purpose or purposes whatsoever.
5. **FEES:** As set forth in Special Endorsement No. 1 hereof.
6. **EFFECTIVE DATE:** January 1, 2011
7. **EXPIRATION DATE:** December 31, 2013, unless sooner revoked or terminated as herein provided.
8. **REQUIRED SECURITY DEPOSIT AMOUNT:** As set forth in Special Endorsement No. 2 hereof.
9. **INSURANCE REQUIREMENTS:** \$2,000,000.00 minimum limit Commercial General Liability  
\$5,000,000.00 minimum limit Automobile Liability
10. **ENDORSEMENTS:** Special Endorsements

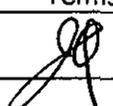
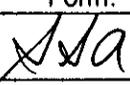
Dated: As of January 1, 2011

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

By   
Name CEDRICK T. FULTON  
(Title) DIRECTOR, TUNNELS BRIDGES + TERMINALS DEPT.  
(Please Print Clearly)

ROCKLAND COACHES, INC., Licensee

By   
Name GEORGE GRIEVE  
(Please Print Clearly)  
(Title) President

Port Authority Use Only	
Approval as to Terms:	Approval as to Form:
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## TERMS AND CONDITIONS

### 1. Certain Definitions.

(a) **"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Facility (and then only in strict compliance with the requirements of such laws, rules and regulations).

(b) **"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this License and forming an integral part hereof.

(c) **"Effective Date"** shall mean the date designated as the "Effective Date" in Item 6 on the Cover Page.

(d) **"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this License; but until further notice from the Port Authority to the Licensee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(e) **"Expiration Date"** shall mean the date designated as the "Expiration Date" in Item 7 on the Cover Page.

(f) **"Facility"** shall mean the Port Authority Bus Terminal, comprising the building bounded by 40<sup>th</sup> and 41<sup>st</sup> Streets, 8<sup>th</sup> and 9<sup>th</sup> Avenues, in the City, County and State of New York, and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof.

(g) **"General Manager of the Facility"** 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 License; but until further notice from the Port Authority to the Licensee it shall mean the General Manager (or temporary or Acting General Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

(h) **"Hazardous Substance"** shall mean 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, endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(i) **"Licensee's Representative"** shall mean the individual named in Item 3 on the Cover Page, or such other individual as the Licensee may designate by Notice in accordance with the provisions of the Section hereof entitled "Notices".

(j) "Restricted Space" shall mean a Bus Parking Space so designated by the General Manager of the Facility. Restricted Spaces may be used only during the hours of 10:00 o'clock a.m. to 4:00 o'clock p.m. and 8:00 o'clock p.m. and 12:59 o'clock a.m., seven days a week.

(k) "Unrestricted Space" shall mean any Bus Parking Space that is not a Restricted Space.

2. Effectiveness.

(a) The permission granted by this License shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days' prior notice, and terminated by the Licensee without cause upon thirty (30) days' prior notice; provided, however, that it may be revoked on twenty-four (24) hours' notice if the Licensee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this License, including without limitation the obligation to pay fees. Further, in the event the Port Authority exercises its right to revoke or terminate this License for any reason other than "without cause", the Licensee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space which may be used and occupied under this License (on failure of the Licensee to have it restored), preparing such space for use by a succeeding licensee, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the space in order (such as but not limited to cleaning the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Licensee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) Without limiting any other rights it may have hereunder, the Port Authority shall have the right to revoke this License by giving to the Licensee at least five (5) days' prior notice if, by reason of the revocation, termination or expiration of any existing or future other agreements, the Licensee shall cease to be entitled to use, on a continuing contract basis, an enclosed vehicular level at the Facility. Revocation by the Port Authority pursuant to this paragraph shall have the same effect as if the effective date of revocation were the Expiration Date, and the Licensee agrees that such revocation shall not relieve the Licensee of any liabilities or obligations of the Licensee which shall have accrued on or prior to the effective date of revocation.

(c) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this License or a waiver of any other rights or remedies which may be available to the Port Authority under this License or otherwise.

3. Licensee's Rights and Obligations.

(a) The Bus Parking Spaces shall be used, pursuant to the permission hereby granted,

(i) if the Licensee is a corporation, by the Licensee acting only through the medium of its officers and employees,

(ii) if the Licensee is an unincorporated association, or a "Massachusetts" or business trust, by the Licensee acting only through the medium of its members, trustees, officers and employees,

(iii) if the Licensee is a partnership, by the Licensee acting only through the medium of its general partners and employees, or

(iv) if the Licensee is an individual, by the Licensee acting only personally or through the medium of his employees; or

(v) if the Licensee is a limited liability company, by the Licensee acting only through the medium of its members, managers and employees;

and the Licensee shall not, without the written approval of the Port Authority, use the Bus Parking Spaces through the medium of any other person, corporation or legal entity. The Licensee shall not assign or transfer this License or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this License to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Licensee shall be the joint and several obligation of each such individual or other legal entity.

(b) The Licensee's Representative shall have full authority to act for the Licensee in connection with this License and any act or things done or to be done hereunder, and to execute on the Licensee's behalf any amendments or supplements to this License or any extension hereof and to give and receive Notices hereunder.

(c) This License shall not constitute the Licensee the agent or representative of the Port Authority for any purpose whatsoever.

(d) Neither the execution and delivery of this License nor any act done pursuant thereto shall create between the Licensee and the Port Authority the relationship of bailor and bailee, storer and garagekeeper or any other relationship except that of licensee and licensor; nor shall there be created thereby any legal status which would impose upon the Port Authority with respect to any vehicles or other property in the Bus Parking Spaces any duty or obligation whatsoever. The Licensee expressly agrees that the Port Authority shall have no liability with respect to the Licensee's vehicles or other property, to property or vehicles for which the Licensee is responsible, to vehicles or other property in the Bus Parking Spaces with the consent of the Licensee or to property of employees, drivers or passengers of the Licensee left in or on such vehicles. Without limiting the generality the Section hereof entitled "*Indemnification of the Port Authority*", the Licensee hereby agrees to indemnify the Port Authority and hold it harmless against all claims and demands of third persons for loss of or damage to vehicles using or parked in the Bus Parking Spaces, whether owned or operated by the Licensee or owned or operated by third persons or to property of owners, shippers, consignees or other persons interested, or of drivers, employees, passengers or other persons doing business or connected with the Licensee, contained in or on such vehicles.

4. Requirements as to Buses.

(a) Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Licensee shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

(i) Buses shall not exceed one hundred two inches (102") in width.

(ii) Buses shall not exceed forty-five feet (45') in length.

(iii) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(iii) Buses operating on the Lower Bus Level of the Facility shall not exceed twelve feet (12') in height.

(iv) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the Facility shall not exceed eleven feet six inches (11'6") in height.

Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) Buses shall be kept clean and maintained in good working order, and shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel.

5. Condition of Bus Parking Spaces.

(a) The Licensee hereby acknowledges that prior to the execution of this License it has thoroughly examined and inspected the Bus Parking Spaces and has found the Bus Parking Spaces in good order and repair and has determined the Bus Parking Spaces to be suitable for the Licensee's operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Licensee for the purposes contemplated herein. The Licensee agrees to and shall take the Bus Parking Spaces in their "as is" condition and the Port Authority shall have no obligation hereunder for preparation of the Bus Parking Spaces for the Licensee's use. The Licensee agrees that no portion of the Bus Parking Spaces will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property, and the Licensee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) The parties to this License hereby acknowledge that the Bus Parking Spaces are non-residential real estate.

6. Payments.

(a) Payments to be made pursuant to this License shall be sent to the following address:

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

or made via the following wire transfer instructions:

Bank: TD Bank  
Bank ABA Number: 031201360  
Account Number: Ex. 1

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by Notice to the Licensee.

(b) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

(c) Upon execution of this License by the Licensee, the Licensee shall pay to the Port Authority all unpaid fees and other monies due and payable under this License as of the date of execution.

7. Late and Service Charges.

(a) If the Licensee fails to pay any amount required under this License when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each "late charge period" (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this License. Each late charge shall be payable immediately upon demand therefor made at any time 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. 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 License, including without limitation the Port Authority's rights set forth in the Section of this License entitled "Effectiveness" or (ii) any obligations of the Licensee under this License. In the event that any late charge imposed pursuant to this Section shall

exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this License shall be payable instead at such legal maximum.

(b) (i) The Licensee shall permit and/or cause to be permitted in ordinary business hours during the effective period of the permission granted under this License and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Licensee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be relevant in connection with the Licensee's use of the Bus Parking Spaces as permitted hereunder within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

(ii) In the event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority from the Licensee (the "**Audit Findings**"), the Licensee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in an amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand therefor (by Notice, bill or otherwise) made at any time by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority from the Licensee under this License or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority to payment of any late charge(s) or other service charge(s) payable under the provisions of this License with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this License, including, without limitation, the Port Authority's rights to revoke this License or (ii) any obligations of the Licensee under this License.

## 8. Security Deposit

### (a) *Security Deposit Requirement.*

(i) As security for the Licensee's full, faithful and prompt performance of and compliance with all of its obligations under this License, the Licensee shall, upon its execution and delivery of this License, deposit with the Port Authority (and shall keep deposited throughout the effective period of the permission granted under this License) the sum set forth in Item 8 on the Cover Page (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Licensee shall be required, instead, to deliver to the Port Authority a letter of credit as provided in the following paragraph (b).

(ii) Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Licensee may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Licensee) in a manner satisfactory to the Port Authority. The Licensee may request the Port

Authority to accept a registered bond in the Licensee's name and, if acceptable to the Port Authority the Licensee shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the security deposit is returned to the Licensee, any expenses incurred by the Port Authority in re-registering a bond to the name of the Licensee shall be borne by the Licensee.

(iii) In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the security deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Licensee. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the security deposit itself shall cure any default or breach of this License on the part of the Licensee. With respect to any bonds deposited by the Licensee, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Licensee, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Licensee. The Licensee hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Licensee. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Licensee. Any balance remaining shall be retained in cash toward bringing the security deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the security deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have declined below the Required Deposit Amount, the Licensee shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the security deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this paragraph.

(iv) The Licensee shall not assign or encumber the security deposit.

(v) The Licensee may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(vi) After the expiration or earlier termination of the effective period of the permission granted under this License, and upon condition that the Licensee shall then be in no way in default under any part of this License, and upon written request therefor by the Licensee, the Port Authority will return the security deposit to the Licensee less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Licensee of this License.

(b) *Letter of Credit.*

(i) In lieu of the security deposit required pursuant to the preceding paragraph (a), the Licensee may deliver (if the Required Deposit Amount is less than Twenty

Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Licensee under this License, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(ii) The form and terms of each letter of credit delivered pursuant to this paragraph (b), 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 effective period of the permission granted under this License 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.

(iii) Upon acceptance of such letter of credit by the Port Authority, and upon request by the Licensee made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of the preceding paragraph (a). The Licensee shall have the same rights to receive such security deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of this License and fulfillment of the obligations of the Licensee under this License.

(iv) Upon notice of cancellation of a letter of credit the Licensee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and thereafter the Port Authority will hold the same as security under the preceding paragraph (a). If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Licensee, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(v) Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to the preceding paragraph (a), any failure at any time to provide such letter of credit that is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this License on the part of the Licensee.

(vi) 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 such letter of credit, shall be deemed to be a waiver of any default by the Licensee under the terms of this License, and all remedies under this License of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

(c) The Licensee acknowledges and agrees that the Port Authority reserves the right, in its sole discretion at any time and from time to time upon fifteen (15) days' notice to the Licensee, to adjust the Required Deposit Amount. Not later than the effective date set forth in said Notice by the Port Authority, the Licensee shall furnish additional cash or bonds, as provided for in paragraph (a) above, or an amendment to, or a replacement of, the letter of credit providing for such adjusted Required Deposit Amount, as the case may be, and such additional

cash and/or bonds or adjusted (or replaced) letter of credit shall thereafter constitute the security deposit required under this License.

(d) If the Licensee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Licensee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Licensee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any security deposit pursuant thereto also shall be deemed obligations of the Licensee under this License and as security hereunder as well as under any such other agreement, and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby 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 deposit shall apply or any permitted assignment of such other agreement shall not affect such obligations as to such security deposit, which shall continue in full force and effect hereunder.

9. Indemnification of the Port Authority.

(a) The Licensee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal costs and 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 Licensee in performing or observing any term or provision of this License, or out of the use and occupancy of the Bus Parking Spaces by the Licensee, its officers, members, managers (if any), employees and persons who are doing business with the Licensee, or out of any of the operations, acts or omissions of the Licensee, or out of the acts or omissions of others on the Bus Parking Spaces with the Licensee's consent, or out of the acts or omissions of the Licensee, its officers, members, managers (if any), and employees at the Facility..

(b) The Licensee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any way connected with this License. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Licensee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Licensee under or in any way connected with this License.

(c) If so directed, the Licensee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of 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.

(d) In the event of any injury or death to any person (other than employees of the Licensee) at the Facility when caused by the Licensee's operations, acts or omissions of the Licensee hereunder, or damage to any property (other than the Licensee's property) at the Facility when caused by the Licensee's operations, acts or omissions of the Licensee hereunder, the Licensee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Licensee's insurance carrier.

10. Insurance.

(a) The Licensee, in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of permission granted under this License on a policy, or policies, of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the minimum limit set forth in Item 9 on the Cover Page, and Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles and including automatic coverage for newly acquired vehicles and providing for coverage in the minimum limit set forth in Item 9 on the Cover Page. Without limiting the foregoing, the Licensee shall maintain Workers' Compensation and Employers Liability Insurance in accordance with the Licensee's statutory obligations under the applicable State Workers' Compensation Law for those employees of the Licensee employed in operations conducted pursuant to this License at or from the Facility. In the event the Licensee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers' Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of this License.

(b) Each policy of insurance, except for the Workers' Compensation and Employers Liability Insurance policies, shall also contain an ISO standard "separation of insureds" clause or a cross liability endorsement providing that the protections afforded the Licensee thereunder with respect to any claim or action against the Licensee by a third person shall pertain and apply with like effect with respect to any claim or action against the Licensee by the Port Authority and any claim or action against the Port Authority by the Licensee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Licensee under the Section of this License entitled "*Indemnification of the Port Authority*".

(c) 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 effective period of the permission granted under this License. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the aforementioned insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Licensee shall promptly comply therewith.

(d) Each policy must be specifically endorsed to provide that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy must be specifically endorsed to provide that the insurer "shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of

the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority." The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of this License by the Licensee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance delivered to the Port Authority at least seven (7) days prior to the expiration of each expiring policy, except for any policy expiring after the Expiration Date. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Licensee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Licensee under this License. The foregoing insurance requirements shall not constitute a representation or warranty as to the adequacy of the required coverage to protect the Licensee with respect to the obligations imposed on the Licensee by this License or any other agreement or by law.

11. Right of Entry Reserved. The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Bus Parking Spaces and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

12. Rules and Regulations. The Licensee shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of the permission granted under this License, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Licensee of every rule and regulation hereafter adopted by it at least five (5) days before the Licensee shall be required to comply therewith.

13. Conduct of Operations.

(a) The Licensee shall immediately comply with all orders, directives and procedures as may be issued by the General Manager of the Facility covering the operations of the Licensee under this License at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder. The Licensee shall comply with the directions of the General Manager of the Facility with respect to the movement and circulation of the Licensee's Buses within the Facility.

(b) The Licensee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(c) The Licensee shall at all times maintain the Bus Parking Spaces in a clean and orderly condition and appearance. The Licensee shall immediately wipe up any oil, gasoline, grease, lubricants and other inflammable liquids and substances from, and shall immediately wipe up all liquids or substances having a corrosive or detrimental effect on the paving or other surface of the Bus Parking Spaces, which may leak, be spilled or be placed upon the Bus Parking Spaces. The Bus Parking Spaces are to be used only for the parking of Buses in accordance with the provisions of this License, and the Licensee agrees that no personal property of the Licensee or others may at any time be placed or installed in the Bus Parking Spaces. Without limiting the generality of the foregoing, the Licensee specifically agrees that it shall not store in the Bus Parking Spaces any automotive fuel, lubricating oil or grease or other chemicals.

(d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Bus Parking Spaces without the written approval of the General Manager of the Facility; and any not approved by him may be removed by the Port Authority at the expense of the Licensee. The Licensee shall not display, or permit the display of, advertising of third parties in the Bus Parking Spaces.

(e) Except as expressly herein permitted, the Licensee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

(f) The operations of the Licensee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Licensee shall provide and its employees shall wear or carry badges or other suitable means of identification, which shall be subject to the approval of the General Manager. The Port Authority shall have the right to object to the Licensee as to the demeanor, conduct and appearance of the Licensee's employees, invitees and those doing business with it, whereupon the Licensee will take all steps necessary to remove the cause of the objection.

(g) In the use of the means of ingress to and egress from the Bus Parking Spaces, the Licensee shall exercise a high degree of care to avoid injuries to persons and damage to property, and, in addition, the indemnity provided in the Section hereof entitled "*Indemnification of the Port Authority*" shall govern and apply to all claims of third persons for death, personal injuries or property damages which arise out of such use, regardless of the degree of care exercised and regardless of whether such use was by the Licensee or by others with its consent.

(h) The Licensee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Licensee. The receptacles shall be kept covered except when filling or emptying the same. The Licensee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No

facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

(i) The Licensee understands and acknowledges that there will be no ingress to or egress from the Bus Parking Spaces permitted between the hours of 1:00 o'clock a.m. and 6:00 o'clock a.m. on any day of the week.

(j) The Licensee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York and any other body or organization exercising similar functions which may pertain or apply to the Licensee's use of the Bus Parking Spaces hereunder. If by reason of the Licensee's failure to comply with the provisions of this paragraph, any fire insurance, extended coverage or rental insurance rate with respect to the Facility or any part thereof shall at any time be higher than it otherwise would be, then the Licensee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been increased because of such failure to comply.

14. Prohibited Acts.

(a) The Licensee shall not do or permit to be done any act which

(i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or

(ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or

(iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this License, or

(iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or

(v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or

(vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.

(b) For purposes of this Section, "Facility" includes all structures located thereon.

15. Specifically Prohibited Activities.

(a) The Licensee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.

(b) The Licensee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Licensee (or permitted by the Licensee to be disposed of, released or discharged) on the Facility shall upon Notice by the Port Authority to the Licensee be completely removed and/or remediated by the Licensee at its sole cost and expense.

(c) The Licensee shall not perform mechanical, electrical or structural repairs on Buses at the Bus Parking Spaces. The Licensee shall not fuel, lubricate or paint Buses in the Bus Parking Spaces. The Licensee shall not use any cleaning materials having a harmful or corrosive effect in the Bus Parking Spaces.

(d) The Licensee shall not fuel or defuel any equipment in the Bus Parking Spaces or elsewhere at the Facility without the prior approval of the General Manager of the Facility except in accordance with Port Authority rules and regulations.

(e) The Licensee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

16. Labor Disturbances.

(a) (i) The Licensee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Licensee under this License.

(ii) The Licensee shall immediately give notice to the Port Authority (to be followed by written Notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Licensee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

(b) If any type of strike or other labor activity is directed against the Licensee at the Facility or against any operations pursuant to this License resulting in picketing or boycott for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority, adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Licensee, and whether caused by the employees of the Licensee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' notice, revoke this License, effective at the time specified in the Notice. Revocation shall not relieve the Licensee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation.

17. Notices.

(a) Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail or by nationally-known overnight courier.

(b) Until further notice, the Port Authority hereby designates its Executive Director, and the Licensee designates the Licensee's Representative, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Licensee designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

18. No Broker. The Licensee represents and warrants that no broker has been concerned in the negotiation or execution of this License and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Licensee shall indemnify the Port Authority and save it harmless from any and all claims which have been or which may be made by any and all persons, firms, or corporations whatsoever for services in connection with the negotiation and execution of this License or in connection with any permission to use the Bus Parking Spaces.

19. Waiver of Trial by Jury. The Licensee hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Licensee in respect of the Bus Parking Spaces and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this License. The Licensee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Licensee.

20. Effect of Use after Expiration, Revocation or Termination: Without in any way limiting any other provision of this License, unless otherwise notified by the Port Authority in writing, in the event the Licensee continues its use of the Bus Parking Spaces after the expiration, revocation or termination of the effective period of the permission granted under this License, as such effective period of permission may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this License or other remedies the Port Authority may have by law or otherwise, the Licensee shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such revocation or termination and ending on the date that the Licensee shall surrender and completely vacate the Bus Parking Spaces, at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Licensee any right to continue its use of the Bus Parking Spaces after the expiration, revocation or termination of the effective period of the permission granted under this License. The Licensee acknowledges that the failure of the Licensee to surrender, vacate and yield up the Bus Parking Spaces to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Licensee 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 Licensee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

21. No Personal Liability. No Commissioner, officer, agent or employee of the Port Authority shall be charged personally by the Licensee with any liability, or held liable to it,

under any term or provision of this License, or because of its execution or attempted execution, or because of any breach hereof.

22. No Waiver. No failure by the Port Authority to insist upon the strict performance of any agreement, term, covenant or condition of this License or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this License during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this License to be performed or complied with by the Licensee, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the Port Authority. No waiver by the Port Authority of any default or breach on the part of the Licensee in performance of any agreement, term, covenant or condition of this License shall affect or alter this License but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

23. Construction and Application of Terms.

(a) The use of headings in this License is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

(b) Wherever in this License a third person singular neuter pronoun or adjective is used, referring to the Licensee or the Port Authority, the same shall be deemed to refer to the Licensee or the Port Authority, regardless of the actual gender or number thereof. Wherever in this License a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective; and plural nouns or pronouns shall be deemed to include the singular.

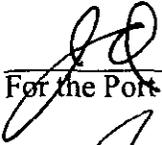
(c) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this License or any amendments, addenda or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

(d) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

(e) To the extent that any provisions of this License are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

24. Entire Agreement. This License, including the Cover Page, the Terms and Conditions, Special Endorsements and other attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on behalf of the parties and attached hereto. The Licensee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

Initialed:

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

  
\_\_\_\_\_  
For the Licensee

## SPECIAL ENDORSEMENTS

1. **Fees.** During the effective period of the permission granted under this License, the Licensee shall pay to the Port Authority a fee for its Bus Parking Spaces as follows:

(a) *Unrestricted*

(i) During the period commencing on January 1, 2011 and continuing through December 31, 2011, in the amount of Seven Hundred Fifty-seven Dollars and Seventy-five Cents (\$757.75) per space, per month, payable in advance on January 1, 2011 and on the first day of each month thereafter occurring during such period;

(ii) During the period commencing on January 1, 2012 and continuing through December 31, 2012, in the amount of Eight Hundred Sixteen Dollars and Thirty-Three Cents (\$816.33) per space, per month, payable in advance on January 1, 2012 and on the first day of each month thereafter occurring during such period;

(iii) From and after January 1, 2013 in the amount of Eight Hundred Seventy-five Dollars and No Cents (\$875.00) per space, per month, payable in advance on January 1, 2013 and on the first day of each month thereafter occurring throughout the effective period of the permission granted under this License.

(b) *Restricted*

(i) During the period commencing on January 1, 2011 and continuing through December 31, 2011, in the amount of Four Hundred Seventy-three Dollars and Eighty-three Cents (\$473.83) per space, per month, payable in advance on January 1, 2011 and on the first day of each month thereafter occurring during such period;

(ii) During the period commencing on January 1, 2012 and continuing through December 31, 2012, in the amount of Five Hundred Ten Dollars and Sixty-Seven Cents (\$510.67) per space, per month, payable in advance on January 1, 2012 and on the first day of each month thereafter occurring during such period;

(iii) From and after January 1, 2013 in the amount of Five Hundred Forty-seven Dollars and Fifty-eight Cents (\$547.58) per space, per month, payable in advance on January 1, 2013 and on the first day of each month thereafter occurring throughout the effective period of the permission granted under this License.

2. **Effect of Security Agreement.** Notwithstanding anything to the contrary contained in this License, the Licensee hereby agrees that this License is one of the "Agreements", as such term is defined in that certain security agreement entered into between the Port Authority and the Licensee, dated as of October 1, 2007, and identified by Port Authority Agreement No. BT-RKL-SEC-003 (the "Security Agreement"), and that a breach or failure to perform or comply with any of the terms and conditions of the Security Agreement, including without limitation failure to provide a letter of credit in accordance with the terms and provisions of the Security Agreement at any time during the term under any of the Agreements valid and available to the Port Authority or any failure of any banking institution issuing a letter of credit to make one or more payments as provided in such letter of credit, shall constitute a material breach of this License and the Security Agreement thereby entitling the Port Authority

to immediately exercise any and all rights available to it, including without limitation the right to terminate this License for cause.

3. Prior to the execution of this Permit by either party hereto the following deletions, additions and substitutions were made in the foregoing Terms and Conditions:

(a) Paragraph 4(a) (iii) of the foregoing Terms and Conditions shall be deleted in its entirety and the following shall be deemed to have been inserted in lieu thereof:

“Buses at the Facility shall have a maximum gross loaded weight not in excess of forty-eight thousand eight hundred forty pounds (48,840) avoirdupois, distributed to provide not more than twenty thousand five hundred (22,500) pounds per axle, provided that the combined weight of the drive and tag axles does not exceed thirty-four thousand five-hundred (34,500) pounds.”

(b) Paragraph 9(a) of the foregoing Terms and Conditions shall be deleted in its entirety and the following shall be deemed to have been inserted in lieu thereof:

“The Licensee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority’s costs and expenses including legal costs and 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 Licensee in performing or observing any term or provision of this License, or out of the use and occupancy of the Bus Parking Spaces by the Licensee, its officers, members, managers (if any), employees and persons who are doing business with the Licensee, or out of any of the operations, acts or omissions of the Licensee, or out of the acts or omissions of others on the Bus Parking Spaces with the Licensee’s consent, (except to the extent resulting from the Port Authority’s negligence or willful misconduct), or out of the acts or omissions of the Licensee, its officers, members, managers (if any), and employees at the Facility (except to the extent resulting from the Port Authority’s negligence or willful misconduct).”

(c) Paragraph 10(c) of the foregoing Terms and Conditions shall be deleted in its entirety and the following shall be deemed to have been inserted in lieu thereof:

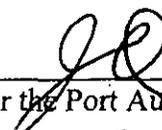
“If at any time any policy fails to reflect the minimum policy requirements outlined in this agreement, the Carrier shall promptly obtain a new and satisfactory policy in replacement. All insurance policies shall be issued by insurance carriers authorized to conduct business in the State of New York with an A.M. Best Company Rating of A – or better, provided however, that if the A.M. Best Company or any successor rating company shall cease to exist, the Port Authority and Carrier shall negotiate in good faith on a substitute.”

(d) Paragraph 10(e) of the foregoing Terms and Conditions shall be deleted in its entirety and the following shall be deemed to have been inserted in lieu thereof:

“As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within thirty (30) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days’ written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.”

It shall be unnecessary to physically indicate the foregoing additions, deletions and substitutions on the foregoing Terms and Conditions and Standard Endorsements.

Initialed:

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

  
\_\_\_\_\_  
For the Licensee

: For Port Authority Use Only :  
: License Agmt. No.: BT-SUB-BPR-409 :

**PORT AUTHORITY BUS TERMINAL  
BUS PARKING LICENSE**

The Port Authority of New York and New Jersey (the "Port Authority") hereby grants to the Licensee named below permission to use, on a non-exclusive basis, at the Port Authority Bus Terminal, in the Borough of Manhattan, City, County and State of New York (the "Facility"), such interior bus parking space(s) as the General Manager of the Facility may designate from time to time (each, a "Bus Parking Space", and collectively, the "Bus Parking Spaces"), in accordance with the Terms and Conditions and Special Endorsements hereto; and the Licensee agrees to pay the fee specified below and to perform all other obligations imposed upon it in the said Terms and Conditions and said Special Endorsements:

1. **LICENSEE:** SUBURBAN TRANSIT CORP., a New Jersey corporation
2. **LICENSEE'S ADDRESS:** 750 Somerset Street  
New Brunswick, NJ 08901
3. **LICENSEE'S REPRESENTATIVE:** Scott Sprengel, Secretary
4. **PERMITTED USE:** For the parking of Buses operated by the Licensee, but only when the same are empty and only in connection with the Licensee's operations at the Facility, and for no other use whatsoever.
5. **FEES:** As set forth in Special Endorsement No. 1 hereof.
6. **EFFECTIVE DATE:** January 1, 2011
7. **EXPIRATION DATE:** December 31, 2013, unless sooner revoked or terminated as herein provided.
8. **REQUIRED SECURITY DEPOSIT AMOUNT:** As set forth in Special Endorsement No. 2 hereof.
9. **INSURANCE REQUIREMENTS:** \$2,000,000.00 minimum limit Commercial General Liability  
\$5,000,000.00 minimum limit Automobile Liability
10. **ENDORSEMENTS:** Special Endorsements.

Dated: As of January 1, 2011

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

By 

Name CEDRICK T. FULTON

(Please Print Clearly)  
(Title) DIRECTOR, TUNNELS BRIDGES + TERMINALS DEPT.

SUBURBAN TRANSIT CORP., ~~INC.~~ Licensee 

By 

Name SCOTT SPRENGEL

(Please Print Clearly)  
(Title) ~~President~~ ~~GM~~

Secretary

Port Authority Use Only:	
Approval as to Terms:	Approval as to Form:
<u></u>	<u>FMT</u>

## TERMS AND CONDITIONS

### 1. Certain Definitions.

(a) **“Bus”** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Facility (and then only in strict compliance with the requirements of such laws, rules and regulations).

(b) **“Cover Page”** shall mean the page, designated “Cover Page”, attached to the front of this License and forming an integral part hereof.

(c) **“Effective Date”** shall mean the date designated as the “Effective Date” in Item 6 on the Cover Page.

(d) **“Executive Director”** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this License; but until further notice from the Port Authority to the Licensee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(e) **“Expiration Date”** shall mean the date designated as the “Expiration Date” in Item 7 on the Cover Page.

(f) **“Facility”** shall mean the Port Authority Bus Terminal, comprising the building bounded by 40<sup>th</sup> and 41<sup>st</sup> Streets, 8<sup>th</sup> and 9<sup>th</sup> Avenues, in the City, County and State of New York, and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof.

(g) **“General Manager of the Facility”** 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 License; but until further notice from the Port Authority to the Licensee it shall mean the General Manager (or temporary or Acting General Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

(h) **“Hazardous Substance”** shall mean 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, endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(i) **“Licensee’s Representative”** shall mean the individual named in Item 3 on the Cover Page, or such other individual as the Licensee may designate by Notice in accordance with the provisions of the Section hereof entitled *“Notices”*.

(j) **“Restricted Space”** shall mean a Bus Parking Space so designated by the General Manager of the Facility. Restricted Spaces may be used only during the hours of 10:00 o’clock a.m. to 4:00 o’clock p.m. and 8:00 o’clock p.m. and 12:59 o’clock a.m., seven days a week.

(k) **“Unrestricted Space”** shall mean any Bus Parking Space that is not a Restricted Space.

## 2. Effectiveness.

(a) The permission granted by this License shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days’ prior notice, and terminated by the Licensee without cause upon thirty (30) days’ prior notice; provided, however, that it may be revoked on twenty-four (24) hours’ notice if the Licensee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this License, including without limitation the obligation to pay fees. Further, in the event the Port Authority exercises its right to revoke or terminate this License for any reason other than “without cause”, the Licensee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space which may be used and occupied under this License (on failure of the Licensee to have it restored), preparing such space for use by a succeeding licensee, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the space in order (such as but not limited to cleaning the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Licensee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) Without limiting any other rights it may have hereunder, the Port Authority shall have the right to revoke this License by giving to the Licensee at least five (5) days’ prior notice if, by reason of the revocation, termination or expiration of any existing or future other agreements, the Licensee shall cease to be entitled to use, on a continuing contract basis, an enclosed vehicular level at the Facility. Revocation by the Port Authority pursuant to this paragraph shall have the same effect as if the effective date of revocation were the Expiration Date, and the Licensee agrees that such revocation shall not relieve the Licensee of any liabilities or obligations of the Licensee which shall have accrued on or prior to the effective date of revocation.

(c) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this License or a waiver of any other rights or remedies which may be available to the Port Authority under this License or otherwise.

3. Licensee's Rights and Obligations.

(a) The Bus Parking Spaces shall be used, pursuant to the permission hereby granted,

(i) if the Licensee is a corporation, by the Licensee acting only through the medium of its officers and employees,

(ii) if the Licensee is an unincorporated association, or a "Massachusetts" or business trust, by the Licensee acting only through the medium of its members, trustees, officers and employees,

(iii) if the Licensee is a partnership, by the Licensee acting only through the medium of its general partners and employees, or

(iv) if the Licensee is an individual, by the Licensee acting only personally or through the medium of his employees; or

(v) if the Licensee is a limited liability company, by the Licensee acting only through the medium of its members, managers and employees;

and the Licensee shall not, without the written approval of the Port Authority, use the Bus Parking Spaces through the medium of any other person, corporation or legal entity. The Licensee shall not assign or transfer this License or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this License to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Licensee shall be the joint and several obligation of each such individual or other legal entity.

(b) The Licensee's Representative shall have full authority to act for the Licensee in connection with this License and any act or things done or to be done hereunder, and to execute on the Licensee's behalf any amendments or supplements to this License or any extension hereof and to give and receive Notices hereunder.

(c) This License shall not constitute the Licensee the agent or representative of the Port Authority for any purpose whatsoever.

(d) Neither the execution and delivery of this License nor any act done pursuant thereto shall create between the Licensee and the Port Authority the relationship of bailor and bailee, storer and garagekeeper or any other relationship except that of licensee and licensor; nor shall there be created thereby any legal status which would impose upon the Port Authority with respect to any vehicles or other property in the Bus Parking Spaces any duty or obligation whatsoever. The Licensee expressly agrees that the Port Authority shall have no liability with respect to the Licensee's vehicles or other property, to property or vehicles for which the Licensee is responsible, to vehicles or other property in the Bus Parking Spaces with the consent of the Licensee or to property of employees, drivers or passengers of the Licensee left in or on such vehicles. Without limiting the generality the Section hereof entitled

"*Indemnification of the Port Authority*", the Licensee hereby agrees to indemnify the Port Authority and hold it harmless against all claims and demands of third persons for loss of or damage to vehicles using or parked in the Bus Parking Spaces, whether owned or operated by the Licensee or owned or operated by third persons or to property of owners, shippers, consignees or other persons interested, or of drivers, employees, passengers or other persons doing business or connected with the Licensee, contained in or on such vehicles.

4. Requirements as to Buses.

(a) Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Licensee shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

(i) Buses shall not exceed one hundred two inches (102") in width.

(ii) Buses shall not exceed forty-five feet (45') in length.

(iii) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(iii) Buses operating on the Lower Bus Level of the Facility shall not exceed twelve feet (12') in height.

(iv) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the Facility shall not exceed eleven feet six inches (11'6") in height.

Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) Buses shall be kept clean and maintained in good working order, and shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel.

5. Condition of Bus Parking Spaces.

(a) The Licensee hereby acknowledges that prior to the execution of this License it has thoroughly examined and inspected the Bus Parking Spaces and has found the Bus Parking Spaces in good order and repair and has determined the Bus Parking Spaces to be suitable for the Licensee's operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Licensee for the purposes contemplated herein. The Licensee agrees to and shall take the Bus Parking Spaces in their "as is" condition and the Port Authority shall have no obligation hereunder for preparation of the Bus Parking Spaces for the Licensee's use. The Licensee agrees that no portion of the Bus

Parking Spaces will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property, and the Licensee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) The parties to this License hereby acknowledge that the Bus Parking Spaces are non-residential real estate.

6. Payments.

(a) Payments to be made pursuant to this License shall be sent to the following address:

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

or made via the following wire transfer instructions:

Bank: Commerce Bank  
Bank ABA Number: 031201360  
Account Number: Ex. 1

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by Notice to the Licensee.

(b) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

(c) Upon execution of this License by the Licensee, the Licensee shall pay to the Port Authority all unpaid fees and other monies due and payable under this License as of the date of execution.

7. Late and Service Charges.

(a) If the Licensee fails to pay any amount required under this License when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each "late charge period" (described below) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of

amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this License. Each late charge shall be payable immediately upon demand therefor made at any time 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. 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 License, including without limitation the Port Authority's rights set forth in the Section of this License entitled "*Effectiveness*" or (ii) any obligations of the Licensee under this License. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this License shall be payable instead at such legal maximum.

(b) (i) The Licensee shall permit and/or cause to be permitted in ordinary business hours during the effective period of the permission granted under this License and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Licensee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be relevant in connection with the Licensee's use of the Bus Parking Spaces as permitted hereunder within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

(ii) In the event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority from the Licensee (the "**Audit Findings**"), the Licensee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in an amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand therefor (by Notice, bill or otherwise) made at any time by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority from the Licensee under this License or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority to payment of any late charge(s) or other service charge(s) payable under the provisions of this License with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this License, including, without limitation, the Port Authority's rights to revoke this License or (ii) any obligations of the Licensee under this License.

8. Security Deposit

(a) *Security Deposit Requirement.*

(i) As security for the Licensee's full, faithful and prompt performance of and compliance with all of its obligations under this License, the Licensee shall, upon its execution and delivery of this License, deposit with the Port Authority (and shall keep

deposited throughout the effective period of the permission granted under this License) the sum set forth in Item 8 on the Cover Page (the “**Required Deposit Amount**”) either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Licensee shall be required, instead, to deliver to the Port Authority a letter of credit as provided in the following paragraph (b).

(ii) Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Licensee may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Licensee) in a manner satisfactory to the Port Authority. The Licensee may request the Port Authority to accept a registered bond in the Licensee’s name and, if acceptable to the Port Authority the Licensee shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the security deposit is returned to the Licensee, any expenses incurred by the Port Authority in re-registering a bond to the name of the Licensee shall be borne by the Licensee.

(iii) In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the security deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Licensee. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the security deposit itself shall cure any default or breach of this License on the part of the Licensee. With respect to any bonds deposited by the Licensee, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Licensee, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Licensee. The Licensee hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Licensee. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Licensee. Any balance remaining shall be retained in cash toward bringing the security deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the security deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have declined below the Required Deposit Amount, the Licensee shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the security deposit at all times at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this paragraph.

(iv) The Licensee shall not assign or encumber the security deposit.

(v) The Licensee may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part

thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(vi) After the expiration or earlier termination of the effective period of the permission granted under this License, and upon condition that the Licensee shall then be in no way in default under any part of this License, and upon written request therefor by the Licensee, the Port Authority will return the security deposit to the Licensee less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Licensee of this License.

(b) *Letter of Credit.*

(i) In lieu of the security deposit required pursuant to the preceding paragraph (a), the Licensee may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Licensee under this License, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

(ii) The form and terms of each letter of credit delivered pursuant to this paragraph (b), 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 effective period of the permission granted under this License 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.

(iii) Upon acceptance of such letter of credit by the Port Authority, and upon request by the Licensee made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of the preceding paragraph (a). The Licensee shall have the same rights to receive such security deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of this License and fulfillment of the obligations of the Licensee under this License.

(iv) Upon notice of cancellation of a letter of credit the Licensee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and thereafter the Port Authority will hold the same as security under the preceding paragraph (a). If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Licensee, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

(v) Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to the preceding paragraph (a), any failure at any time to provide such letter of credit that is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this License on the part of the Licensee.

(vi) 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 such letter of credit, shall be deemed to be a waiver of any default by the Licensee under the terms of this License, and all remedies under this License of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

(c) The Licensee acknowledges and agrees that the Port Authority reserves the right, in its sole discretion at any time and from time to time upon fifteen (15) days' notice to the Licensee, to adjust the Required Deposit Amount. Not later than the effective date set forth in said Notice by the Port Authority, the Licensee shall furnish additional cash or bonds, as provided for in paragraph (a) above, or an amendment to, or a replacement of, the letter of credit providing for such adjusted Required Deposit Amount, as the case may be, and such additional cash and/or bonds or adjusted (or replaced) letter of credit shall thereafter constitute the security deposit required under this License.

(d) If the Licensee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Licensee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Licensee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any security deposit pursuant thereto also shall be deemed obligations of the Licensee under this License and as security hereunder as well as under any such other agreement, and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby 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 deposit shall apply or any permitted assignment of such other agreement shall not affect such obligations as to such security deposit, which shall continue in full force and effect hereunder.

#### 9. Indemnification of the Port Authority.

(a) The Licensee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal costs and 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 Licensee in performing or observing any term or provision of this License, or out of the use and occupancy of the Bus Parking Spaces by the Licensee, its officers, members, managers (if any), employees and persons who are doing business with the Licensee, or out of any of the operations, acts or omissions of the Licensee, or out of the acts or omissions of others on the Bus Parking Spaces with the Licensee's consent, or out of the acts or

omissions of the Licensee, its officers, members, managers (if any), and employees at the Facility..

(b) The Licensee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any way connected with this License. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Licensee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Licensee under or in any way connected with this License.

(c) If so directed, the Licensee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of 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.

(d) In the event of any injury or death to any person (other than employees of the Licensee) at the Facility when caused by the Licensee's operations, acts or omissions of the Licensee hereunder, or damage to any property (other than the Licensee's property) at the Facility when caused by the Licensee's operations, acts or omissions of the Licensee hereunder, the Licensee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Licensee's insurance carrier.

#### 10. Insurance.

(a) The Licensee, in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of permission granted under this License on a policy, or policies, of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the minimum limit set forth in Item 9 on the Cover Page, and Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles and including automatic coverage for newly acquired vehicles and providing for coverage in the minimum limit set forth in Item 9 on the Cover Page. Without limiting the foregoing, the Licensee shall maintain Workers' Compensation and Employers Liability Insurance in accordance with the Licensee's statutory obligations under the applicable State Workers' Compensation Law for those employees of the Licensee employed in operations conducted pursuant to this License at or from the Facility. In the event the Licensee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers' Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of this License.

(b) Each policy of insurance, except for the Workers' Compensation and Employers Liability Insurance policies, shall also contain an ISO standard "separation of insureds" clause or a cross liability endorsement providing that the protections afforded the Licensee thereunder with respect to any claim or action against the Licensee by a third person shall pertain and apply with like effect with respect to any claim or action against the Licensee by the Port Authority and any claim or action against the Port Authority by the Licensee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Licensee under the Section of this License entitled "*Indemnification of the Port Authority*".

(c) 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 effective period of the permission granted under this License. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the aforementioned insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Licensee shall promptly comply therewith.

(d) Each policy shall contain a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer "shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority." The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of this License by the Licensee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance delivered to the Port Authority at least seven (7) days prior to the expiration of each expiring policy, except for any policy expiring after the Expiration Date. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Licensee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Licensee under this License. The foregoing insurance requirements shall not constitute a representation or

warranty as to the adequacy of the required coverage to protect the Licensee with respect to the obligations imposed on the Licensee by this License or any other agreement or by law.

11. Right of Entry Reserved. The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Bus Parking Spaces and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

12. Rules and Regulations. The Licensee shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of the permission granted under this License, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Licensee of every rule and regulation hereafter adopted by it at least five (5) days before the Licensee shall be required to comply therewith.

13. Conduct of Operations.

(a) The Licensee shall immediately comply with all orders, directives and procedures as may be issued by the General Manager of the Facility covering the operations of the Licensee under this License at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder. The Licensee shall comply with the directions of the General Manager of the Facility with respect to the movement and circulation of the Licensee's Buses within the Facility.

(b) The Licensee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(c) The Licensee shall at all times maintain the Bus Parking Spaces in a clean and orderly condition and appearance. The Licensee shall immediately wipe up any oil, gasoline, grease, lubricants and other inflammable liquids and substances from, and shall immediately wipe up all liquids or substances having a corrosive or detrimental effect on the paving or other surface of the Bus Parking Spaces, which may leak, be spilled or be placed upon the Bus Parking Spaces. The Bus Parking Spaces are to be used only for the parking of Buses in accordance with the provisions of this License, and the Licensee agrees that no personal property of the Licensee or others may at any time be placed or installed in the Bus Parking Spaces. Without limiting the generality of the foregoing, the Licensee specifically agrees that it shall not store in the Bus Parking Spaces any automotive fuel, lubricating oil or grease or other chemicals.

(d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Bus Parking Spaces without the written approval of the General Manager of the Facility; and any not approved by him may be removed by the Port Authority at the expense of the Licensee. The Licensee shall not display, or permit the display of, advertising of third parties in the Bus Parking Spaces.

(e) Except as expressly herein permitted, the Licensee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

(f) The operations of the Licensee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Licensee shall provide and its employees shall wear or carry badges or other suitable means of identification, which shall be subject to the approval of the General Manager. The Port Authority shall have the right to object to the Licensee as to the demeanor, conduct and appearance of the Licensee's employees, invitees and those doing business with it, whereupon the Licensee will take all steps necessary to remove the cause of the objection.

(g) In the use of the means of ingress to and egress from the Bus Parking Spaces, the Licensee shall exercise a high degree of care to avoid injuries to persons and damage to property, and, in addition, the indemnity provided in the Section hereof entitled "*Indemnification of the Port Authority*" shall govern and apply to all claims of third persons for death, personal injuries or property damages which arise out of such use, regardless of the degree of care exercised and regardless of whether such use was by the Licensee or by others with its consent.

(h) The Licensee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Licensee. The receptacles shall be kept covered except when filling or emptying the same. The Licensee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

(i) The Licensee understands and acknowledges that there will be no ingress to or egress from the Bus Parking Spaces permitted between the hours of 1:00 o'clock a.m. and 6:00 o'clock a.m. on any day of the week.

(j) The Licensee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York and any other body or organization exercising similar functions which may pertain or apply to the Licensee's use of the Bus Parking Spaces hereunder. If by reason of the Licensee's failure to comply with the provisions of this paragraph, any fire insurance, extended coverage or rental insurance rate with respect to the Facility or any part thereof shall at any time be higher than it otherwise would be, then the Licensee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been increased because of such failure to comply.

14. Prohibited Acts.

(a) The Licensee shall not do or permit to be done any act which

(i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or

(ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or

(iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this License, or

(iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or

(v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or

(vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.

(b) For purposes of this Section, "Facility" includes all structures located thereon.

15. Specifically Prohibited Activities.

(a) The Licensee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.

(b) The Licensee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Licensee (or permitted by the Licensee to be disposed of, released or discharged) on the Facility shall upon Notice by the Port Authority to the Licensee be completely removed and/or remediated by the Licensee at its sole cost and expense.

(c) The Licensee shall not perform mechanical, electrical or structural repairs on Buses at the Bus Parking Spaces. The Licensee shall not fuel, lubricate or paint Buses in the Bus Parking Spaces. The Licensee shall not use any cleaning materials having a harmful or corrosive effect in the Bus Parking Spaces.

(d) The Licensee shall not fuel or defuel any equipment in the Bus Parking Spaces or elsewhere at the Facility without the prior approval of the General Manager of the Facility except in accordance with Port Authority rules and regulations.

(e) The Licensee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

16. Labor Disturbances.

(a) (i) The Licensee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Licensee under this License.

(ii) The Licensee shall immediately give notice to the Port Authority (to be followed by written Notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Licensee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

(b) If any type of strike or other labor activity is directed against the Licensee at the Facility or against any operations pursuant to this License resulting in picketing or boycott for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority, adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Licensee, and whether caused by the employees of the Licensee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' notice, revoke this License, effective at the time specified in the Notice. Revocation shall not relieve the Licensee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation.

17. Notices.

(a) Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail or by nationally-known overnight courier.

(b) Until further notice, the Port Authority hereby designates its Executive Director, and the Licensee designates the Licensee's Representative, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Licensee designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

18. No Broker. The Licensee represents and warrants that no broker has been concerned in the negotiation or execution of this License and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Licensee shall indemnify the Port Authority and save it harmless from any and all claims which have been or which may be made by any and all persons, firms, or corporations whatsoever for services in connection with the negotiation and execution of this License or in connection with any permission to use the Bus Parking Spaces.

19. Waiver of Trial by Jury. The Licensee hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Licensee in respect of the Bus Parking Spaces and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this License. The Licensee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Licensee.

20. Effect of Use after Expiration, Revocation or Termination: Without in any way limiting any other provision of this License, unless otherwise notified by the Port Authority in writing, in the event the Licensee continues its use of the Bus Parking Spaces after the expiration, revocation or termination of the effective period of the permission granted under this License, as such effective period of permission may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this License or other remedies the Port Authority may have by law or otherwise, the Licensee shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such revocation or termination and ending on the date that the Licensee shall surrender and completely vacate the Bus Parking Spaces, at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Licensee any right to continue its use of the Bus Parking Spaces after the expiration, revocation or termination of the effective period of the permission granted under this License. The Licensee acknowledges that the failure of the Licensee to surrender, vacate and yield up the Bus Parking Spaces to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Licensee 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 Licensee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

21. No Personal Liability. No Commissioner, officer, agent or employee of the Port Authority shall be charged personally by the Licensee with any liability, or held liable to it, under any term or provision of this License, or because of its execution or attempted execution, or because of any breach hereof.

22. No Waiver. No failure by the Port Authority to insist upon the strict performance of any agreement, term, covenant or condition of this License or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this License during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or

during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this License to be performed or complied with by the Licensee, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the Port Authority. No waiver by the Port Authority of any default or breach on the part of the Licensee in performance of any agreement, term, covenant or condition of this License shall affect or alter this License but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

23. Construction and Application of Terms.

(a) The use of headings in this License is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

(b) Wherever in this License a third person singular neuter pronoun or adjective is used, referring to the Licensee or the Port Authority, the same shall be deemed to refer to the Licensee or the Port Authority, regardless of the actual gender or number thereof. Wherever in this License a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective; and plural nouns or pronouns shall be deemed to include the singular.

(c) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this License or any amendments, addenda or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

(d) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

(e) To the extent that any provisions of this License are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

24. Entire Agreement. This License, including the Cover Page, the Terms and Conditions, Special Endorsements and other attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on behalf of the parties and attached hereto. The Licensee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

\* \* \* \* \*

## SPECIAL ENDORSEMENTS

1. **Fees.** During the effective period of the permission granted under this License, the Licensee shall pay to the Port Authority a fee for each Bus Parking Space as follows:

(a) *Restricted Spaces:*

(i) During the period commencing on January 1, 2011 and continuing through December 31, 2011, in the amount of Four Hundred Seventy-three Dollars and Eighty-three Cents (\$473.83) per space per month, payable in advance on January 1, 2011 and on the first day of each month thereafter occurring during such period;

(ii) During the period commencing on January 1, 2012 and continuing through December 31, 2012, in the amount of Five Hundred Ten Dollars and Sixty-seven Cents (\$510.67) per space per month, payable in advance on January 1, 2012 and on the first day of each month thereafter occurring during such period;

(iii) From and after January 1, 2013, in the amount of Five Hundred Forty-seven Dollars and Fifty-eight Cents (\$547.58) per space per month, payable in advance on January 1, 2013 and on the first day of each month thereafter occurring.

(b) *Unrestricted Spaces:*

(i) During the period commencing on January 1, 2011 and continuing through December 31, 2011, in the amount of Seven Hundred Seventy-five Dollars and Seventy-five Cents (\$757.75) per space per month, payable in advance on January 1, 2011 and on the first day of each month thereafter occurring during such period;

(ii) During the period commencing on January 1, 2012 and continuing through December 31, 2012, in the amount of Eight Hundred Sixteen Dollars and Thirty-three Cents (\$816.33) per space per month, payable in advance on January 1, 2012 and on the first day of each month thereafter occurring during such period;

(iii) From and after January 1, 2013, in the amount of Eight Hundred Seventy-five Dollars and No Cents (\$875.00) per space per month, payable in advance on January 1, 2013 and on the first day of each month thereafter occurring.

2. **Effect of Security Agreement.** Notwithstanding anything to the contrary contained in this License, the Licensee hereby agrees that this License is one of the "Agreements", as such term is defined in that certain security agreement entered into between the Port Authority and the Licensee, dated as of October 1, 2007, and identified by Port Authority Agreement No. BT-SUB-SEC-004 (the "Security Agreement"), and that a breach or failure to perform or comply with any of the terms and conditions of the Security Agreement, including without limitation failure to provide a letter of credit in accordance with the terms and provisions of the Security Agreement at any time during the term under any of the Agreements

valid and available to the Port Authority or any failure of any banking institution issuing a letter of credit to make one or more payments as provided in such letter of credit, shall constitute a material breach of this License and the Security Agreement thereby entitling the Port Authority to immediately exercise any and all rights available to it, including without limitation the right to terminate this License for cause.

3. Prior to the execution of this Permit by either party hereto the following deletions, additions and substitutions were made in the foregoing Terms and Conditions:

(a) Paragraph 4(a) (iii) of the foregoing Terms and Conditions shall be deleted in its entirety and the following shall be deemed to have been inserted in lieu thereof:

“Buses at the Facility shall have a maximum gross loaded weight not in excess of forty-eight thousand eight hundred forty pounds (48,840) avoirdupois, distributed to provide not more than twenty thousand five hundred (22,500) pounds per axle, provided that the combined weight of the drive and tag axles does not exceed thirty-four thousand five-hundred (34,500) pounds.”

(b) Paragraph 9(a) of the foregoing Terms and Conditions shall be deleted in its entirety and the following shall be deemed to have been inserted in lieu thereof:

“The Licensee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority’s costs and expenses including legal costs and 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 Licensee in performing or observing any term or provision of this License, or out of the use and occupancy of the Bus Parking Spaces by the Licensee, its officers, members, managers (if any), employees and persons who are doing business with the Licensee, or out of any of the operations, acts or omissions of the Licensee, or out of the acts or omissions of others on the Bus Parking Spaces with the Licensee’s consent, (except to the extent resulting from the Port Authority’s negligence or willful misconduct), or out of the acts or omissions of the Licensee, its officers, members, managers (if any), and employees at the Facility (except to the extent resulting from the Port Authority’s negligence or willful misconduct).”

(c) Paragraph 10(c) of the foregoing Terms and Conditions shall be deleted in its entirety and the following shall be deemed to have been inserted in lieu thereof:

“If at any time any policy fails to reflect the minimum policy requirements outlined in this agreement, the Carrier shall promptly obtain a new and satisfactory policy in replacement. All insurance policies shall be issued by

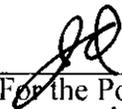
insurance carriers authorized to conduct business in the State of New York with an A.M. Best Company Rating of A – or better, provided however, that if the A.M. Best Company or any successor rating company shall cease to exist, the Port Authority and Carrier shall negotiate in good faith on a substitute.”

(d) Paragraph 10(e) of the foregoing Terms and Conditions shall be deleted in its entirety and the following shall be deemed to have been inserted in lieu thereof:

“As to all insurance required hereunder, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within thirty (30) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days’ written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy.”

It shall be unnecessary to physically indicate the foregoing additions, deletions and substitutions on the foregoing Terms and Conditions and Standard Endorsements.

Initialed:

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

  
\_\_\_\_\_  
For the Licensee

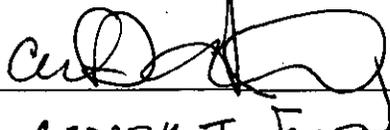
**PORT AUTHORITY BUS TERMINAL  
BUS PARKING LICENSE**

The Port Authority of New York and New Jersey (the "Port Authority") hereby grants to the Licensee named below permission to use, on a non-exclusive basis, at the Port Authority Bus Terminal, in the Borough of Manhattan, City, County and State of New York (the "Facility"), such interior bus parking space(s) as the General Manager of the Facility may designate from time to time (each, a "Bus Parking Space", and collectively, the "Bus Parking Spaces"), in accordance with the Terms and Conditions and Special Endorsements hereto; and the Licensee agrees to pay the fee specified below and to perform all other obligations imposed upon it in the said Terms and Conditions and said Special Endorsements:

1. **LICENSEE:** TRANS-BRIDGE, INC., a Pennsylvania corporation
2. **LICENSEE'S ADDRESS:** 2012 Industrial Drive  
Bethlehem, Pennsylvania 18017
3. **LICENSEE'S REPRESENTATIVE:** Kirby Parnell, Senior Vice President
4. **PERMITTED USE:** For the parking of buses operated by the Licensee, but only when the same are empty and only in connection with the Licensee's operations at the Facility, and for no other use whatsoever.
5. **FEES:** As set forth in Special Endorsement No. 1 hereof.
6. **EFFECTIVE DATE:** January 1, 2011
7. **EXPIRATION DATE:** December 31, 2013, unless sooner revoked or terminated as herein provided.
8. **REQUIRED SECURITY DEPOSIT AMOUNT:** As set forth in Special Endorsement No. 2 hereof.
9. **INSURANCE REQUIREMENTS:** \$2,000,000.00 minimum limit Commercial General Liability  
\$5,000,000.00 minimum limit Automobile Liability
10. **ENDORSEMENTS:** Special Endorsements.

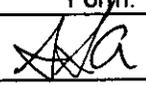
Dated: As of January 1, 2011

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

By   
Name CEDRICK T. FULTON  
(Please Print Clearly)  
(Title) Director

**TRANS-BRIDGE, INC., Licensee**

By   
Name THOMAS G. TEBRAN  
(Please Print Clearly)  
(Title) President

Port Authority Use Only	
Approval as to Terms:	Approval as to Form:
<u></u>	<u></u>

## TERMS AND CONDITIONS

### 1. Certain Definitions.

(a) **"Bus"** shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel, gasoline, diesel oil, or any other substance utilized by highway vehicles as fuel and permitted by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Facility (and then only in strict compliance with the requirements of such laws, rules and regulations).

(b) **"Cover Page"** shall mean the page, designated "Cover Page", attached to the front of this License and forming an integral part hereof.

(c) **"Effective Date"** shall mean the date designated as the "Effective Date" in Item 6 on the Cover Page.

(d) **"Executive Director"** shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this License; but until further notice from the Port Authority to the Licensee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(e) **"Expiration Date"** shall mean the date designated as the "Expiration Date" in Item 7 on the Cover Page.

(f) **"Facility"** shall mean the Port Authority Bus Terminal, comprising the building bounded by 40<sup>th</sup> and 41<sup>st</sup> Streets, 8<sup>th</sup> and 9<sup>th</sup> Avenues, in the City, County and State of New York, and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof.

(g) **"General Manager of the Facility"** 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 License; but until further notice from the Port Authority to the Licensee it shall mean the General Manager (or temporary or Acting General Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

(h) **"Hazardous Substance"** shall mean 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, endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in

effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

(i) **“Licensee’s Representative”** shall mean the individual named in Item 3 on the Cover Page, or such other individual as the Licensee may designate by Notice in accordance with the provisions of the Section hereof entitled *“Notices”*.

(j) **“Restricted Space”** shall mean a Bus Parking Space so designated by the General Manager of the Facility. Restricted Spaces may be used only during the hours of 10:00 o’clock a.m. to 4:00 o’clock p.m. and 8:00 o’clock p.m. and 12:59 o’clock a.m., seven days a week.

(k) **“Unrestricted Space”** shall mean any Bus Parking Space that is not a Restricted Space.

2. Effectiveness.

(a) The permission granted by this License shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days’ prior notice, and terminated by the Licensee without cause upon thirty (30) days’ prior notice; provided, however, that it may be revoked on twenty-four (24) hours’ notice if the Licensee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this License, including without limitation the obligation to pay fees. Further, in the event the Port Authority exercises its right to revoke or terminate this License for any reason other than “without cause”, the Licensee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space which may be used and occupied under this License (on failure of the Licensee to have it restored), preparing such space for use by a succeeding licensee, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the space in order (such as but not limited to cleaning the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Licensee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) Without limiting any other rights it may have hereunder, the Port Authority shall have the right to revoke this License by giving to the Licensee at least five (5) days’ prior notice if, by reason of the revocation, termination or expiration of any existing or future other agreements, the Licensee shall cease to be entitled to use, on a continuing contract basis, an enclosed vehicular level at the Facility. Revocation by the Port Authority pursuant to this paragraph shall have the same effect as if the effective date of revocation were the Expiration Date, and the Licensee agrees that such revocation shall not relieve the Licensee of any liabilities or obligations of the Licensee which shall have accrued on or prior to the effective date of revocation.

(c) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this License or a waiver of any other rights or remedies which may be available to the Port Authority under this License or otherwise.

3. Licensee's Rights and Obligations.

(a) The Bus Parking Spaces shall be used, pursuant to the permission hereby granted,

(i) if the Licensee is a corporation, by the Licensee acting only through the medium of its officers and employees,

(ii) if the Licensee is an unincorporated association, or a "Massachusetts" or business trust, by the Licensee acting only through the medium of its members, trustees, officers and employees,

(iii) if the Licensee is a partnership, by the Licensee acting only through the medium of its general partners and employees, or

(iv) if the Licensee is an individual, by the Licensee acting only personally or through the medium of his employees; or

(v) if the Licensee is a limited liability company, by the Licensee acting only through the medium of its members, managers and employees;

and the Licensee shall not, without the written approval of the Port Authority, use the Bus Parking Spaces through the medium of any other person, corporation or legal entity. The Licensee shall not assign or transfer this License or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this License to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Licensee shall be the joint and several obligation of each such individual or other legal entity.

(b) The Licensee's Representative shall have full authority to act for the Licensee in connection with this License and any act or things done or to be done hereunder, and to execute on the Licensee's behalf any amendments or supplements to this License or any extension hereof and to give and receive Notices hereunder.

(c) This License shall not constitute the Licensee the agent or representative of the Port Authority for any purpose whatsoever.

(d) Neither the execution and delivery of this License nor any act done pursuant thereto shall create between the Licensee and the Port Authority the relationship of bailor and bailee, storer and garagekeeper or any other relationship except that of licensee and licensor; nor shall there be created thereby any legal status which would impose upon the Port Authority with respect to any vehicles or other property in the Bus Parking Spaces any duty or

obligation whatsoever. The Licensee expressly agrees that the Port Authority shall have no liability with respect to the Licensee's vehicles or other property, to property or vehicles for which the Licensee is responsible, to vehicles or other property in the Bus Parking Spaces with the consent of the Licensee or to property of employees, drivers or passengers of the Licensee left in or on such vehicles. Without limiting the generality the Section hereof entitled "*Indemnification of the Port Authority*", the Licensee hereby agrees to indemnify the Port Authority and hold it harmless against all claims and demands of third persons for loss of or damage to vehicles using or parked in the Bus Parking Spaces, whether owned or operated by the Licensee or owned or operated by third persons or to property of owners, shippers, consignees or other persons interested, or of drivers, employees, passengers or other persons doing business or connected with the Licensee, contained in or on such vehicles.

4. Requirements as to Buses.

(a) Prior to introducing into the Facility any type, style, size or model of Bus theretofore not operating at the Facility, the Licensee shall in all events obtain the General Manager's written approval (notwithstanding that any such type, style, size or model of Bus or its proposed manner of operation in the Facility may conform to the following restrictions). All Buses shall, in any event, be subject to the following restrictions:

(i) Buses shall not exceed one hundred two inches (102") in width.

(ii) Buses shall not exceed forty-five feet (45') in length.

(iii) Buses shall have a maximum gross loaded weight not in excess of forty-eight thousand (48,000) pounds avoirdupois, distributed to provide not more than twenty thousand (20,000) pounds per axle.

(iv) Buses operating on the Lower Bus Level of the Facility shall not exceed twelve feet (12') in height.

(v) Buses operating on the Intermediate Bus Level (Third Floor) and Upper Bus Level (Fourth Floor) of the Facility shall not exceed eleven feet six inches (11'6") in height.

Buses fueled by Compressed Natural Gas ("CNG") may operate only in designated locations in the PABT.

(b) Buses shall be kept clean and maintained in good working order, and shall be operated in strict compliance with all applicable laws, rules and regulations, including without limitation the laws of New York and those of New Jersey and also under the rules and regulations governing the use of the Lincoln Tunnel.

5. Condition of Bus Parking Spaces.

(a) The Licensee hereby acknowledges that prior to the execution of this License it has thoroughly examined and inspected the Bus Parking Spaces and has found the Bus Parking Spaces in good order and repair and has determined the Bus Parking Spaces to be

suitable for the Licensee's operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Licensee for the purposes contemplated herein. The Licensee agrees to and shall take the Bus Parking Spaces in their "as is" condition and the Port Authority shall have no obligation hereunder for preparation of the Bus Parking Spaces for the Licensee's use. The Licensee agrees that no portion of the Bus Parking Spaces will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property, and the Licensee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) The parties to this License hereby acknowledge that the Bus Parking Spaces are non-residential real estate.

6. Payments:

(a) Payments to be made pursuant to this License shall be sent to the following address:

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

or made via the following wire transfer instructions:

Bank: TD Bank  
Bank ABA Number: 031201360  
Account Number: Ex. 1

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by Notice to the Licensee.

(b) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

(c) Upon execution of this License by the Licensee, the Licensee shall pay to the Port Authority all unpaid fees and other monies due and payable under this License as of the date of execution.

7. Late and Service Charges.

(a) If the Licensee fails to pay any amount required under this License when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each "late charge period" (described below) during

the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this License. Each late charge shall be payable immediately upon demand therefor made at any time 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. 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 License, including without limitation the Port Authority's rights set forth in the Section of this License entitled "*Effectiveness*" or (ii) any obligations of the Licensee under this License. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this License shall be payable instead at such legal maximum.

(b) (i) The Licensee shall permit and/or cause to be permitted in ordinary business hours during the effective period of the permission granted under this License and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Licensee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be relevant in connection with the Licensee's use of the Bus Parking Spaces as permitted hereunder within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

ii) In the event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority from the Licensee (the "**Audit Findings**"), the Licensee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in an amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand therefor (by Notice, bill or otherwise) made at any time by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority from the Licensee under this License or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority to payment of any late charge(s) or other service charge(s) payable under the provisions of this License with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this License, including, without limitation, the Port Authority's rights to revoke this License or (ii) any obligations of the Licensee under this License.

8. Security Deposit

(a) *Security Deposit Requirement.*

i) As security for the Licensee's full, faithful and prompt performance of and compliance with all of its obligations under this License, the Licensee shall, upon its execution and delivery of this License, deposit with the Port Authority (and shall keep deposited throughout the effective period of the permission granted under this License) the sum set forth in Item 8 on the Cover Page (the "**Required Deposit Amount**") either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Deposit Amount; provided, however, that if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater, the Licensee shall be required, instead, to deliver to the Port Authority a letter of credit as provided in the following paragraph (b).

ii) Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Licensee may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Licensee) in a manner satisfactory to the Port Authority. The Licensee may request the Port Authority to accept a registered bond in the Licensee's name and, if acceptable to the Port Authority the Licensee shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the security deposit is returned to the Licensee, any expenses incurred by the Port Authority in re-registering a bond to the name of the Licensee shall be borne by the Licensee.

iii) In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the security deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Licensee. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the security deposit itself shall cure any default or breach of this License on the part of the Licensee. With respect to any bonds deposited by the Licensee, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Licensee, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Licensee. The Licensee hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Licensee. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Licensee. Any balance remaining shall be retained in cash toward bringing the security deposit to the Required Deposit Amount. In the event that the Port Authority shall at any time or times so use the security deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have declined below the Required Deposit Amount, the Licensee shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the security deposit at all times

at the full Required Deposit Amount, and such additional deposits shall be subject to all the conditions of this paragraph.

iv) The Licensee shall not assign or encumber the security deposit.

v) The Licensee may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

vi) After the expiration or earlier termination of the effective period of the permission granted under this License, and upon condition that the Licensee shall then be in no way in default under any part of this License, and upon written request therefor by the Licensee, the Port Authority will return the security deposit to the Licensee less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Licensee of this License.

(b) *Letter of Credit.*

i) In lieu of the security deposit required pursuant to the preceding paragraph (a), the Licensee may deliver (if the Required Deposit Amount is less than Twenty Thousand Dollars and No Cents (\$20,000.00)), and *must* deliver (if the Required Deposit Amount is Twenty Thousand Dollars and No Cents (\$20,000.00) or greater) to the Port Authority, as security for all obligations of the Licensee under this License, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Deposit Amount.

ii) The form and terms of each letter of credit delivered pursuant to this paragraph (b), 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 effective period of the permission granted under this License 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.

iii) Upon acceptance of such letter of credit by the Port Authority, and upon request by the Licensee made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of the preceding paragraph (a). The Licensee shall have the same rights to receive such security deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of this License and fulfillment of the obligations of the Licensee under this License.

iv) Upon notice of cancellation of a letter of credit the Licensee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Deposit Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and thereafter the Port Authority will hold the same as security under the preceding paragraph (a). If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Licensee, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Deposit Amount.

v) Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to the preceding paragraph (a), any failure at any time to provide such letter of credit that is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this License on the part of the Licensee.

vi) 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 such letter of credit, shall be deemed to be a waiver of any default by the Licensee under the terms of this License, and all remedies under this License of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

(c) The Licensee acknowledges and agrees that the Port Authority reserves the right, in its sole discretion at any time and from time to time upon fifteen (15) days' notice to the Licensee, to adjust the Required Deposit Amount. Not later than the effective date set forth in said Notice by the Port Authority, the Licensee shall furnish additional cash or bonds, as provided for in paragraph (a) above, or an amendment to, or a replacement of, the letter of credit providing for such adjusted Required Deposit Amount, as the case may be, and such additional cash and/or bonds or adjusted (or replaced) letter of credit shall thereafter constitute the security deposit required under this License.

(d) If the Licensee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Licensee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Licensee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any security deposit pursuant thereto also shall be deemed obligations of the Licensee under this License and as security hereunder as well as under any such other agreement, and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby 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 deposit shall apply or any permitted assignment of such other agreement shall not affect such obligations as to such security deposit, which shall continue in full force and effect hereunder.

#### 9. Indemnification of the Port Authority.

(a) The Licensee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and

shall reimburse the Port Authority for the Port Authority's costs and expenses including legal costs and 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 Licensee in performing or observing any term or provision of this License, or out of the use and occupancy of the Bus Parking Spaces by the Licensee, its officers, members, managers (if any), employees and persons who are doing business with the Licensee, or out of any of the operations, acts or omissions of the Licensee, or out of the acts or omissions of others on the Bus Parking Spaces with the Licensee's consent, or out of the acts or omissions of the Licensee, its officers, members, managers (if any), and employees at the Facility..

(b) The Licensee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any way connected with this License. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Licensee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Licensee under or in any way connected with this License.

(c) If so directed, the Licensee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of 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.

(d) In the event of any injury or death to any person (other than employees of the Licensee) at the Facility when caused by the Licensee's operations, acts or omissions of the Licensee hereunder, or damage to any property (other than the Licensee's property) at the Facility when caused by the Licensee's operations, acts or omissions of the Licensee hereunder, the Licensee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Licensee's insurance carrier.

#### 10. Insurance.

(a) The Licensee, in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of permission granted under this License on a policy, or policies, of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the minimum limit set forth in Item 9 on the Cover Page, and Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles and including automatic coverage for

newly acquired vehicles and providing for coverage in the minimum limit set forth in Item 9 on the Cover Page. Without limiting the foregoing, the Licensee shall maintain Workers' Compensation and Employers Liability Insurance in accordance with the Licensee's statutory obligations under the applicable State Workers' Compensation Law for those employees of the Licensee employed in operations conducted pursuant to this License at or from the Facility. In the event the Licensee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers' Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of this License.

(b) Each policy of insurance, except for the Workers' Compensation and Employers Liability Insurance policies, shall also contain an ISO standard "separation of insureds" clause or a cross liability endorsement providing that the protections afforded the Licensee thereunder with respect to any claim or action against the Licensee by a third person shall pertain and apply with like effect with respect to any claim or action against the Licensee by the Port Authority and any claim or action against the Port Authority by the Licensee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Licensee under the Section of this License entitled "*Indemnification of the Port Authority*".

(c) 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 effective period of the permission granted under this License. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the aforementioned insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Licensee shall promptly comply therewith.

(d) Each policy shall contain a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer "shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority." The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of this License by the Licensee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance delivered to the Port Authority at least seven (7) days prior to the expiration of each expiring policy, except for any policy expiring after the Expiration Date. The aforesaid insurance shall be written by a company or companies approved by the Port Authority.

If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Licensee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Licensee under this License. The foregoing insurance requirements shall not constitute a representation or warranty as to the adequacy of the required coverage to protect the Licensee with respect to the obligations imposed on the Licensee by this License or any other agreement or by law.

11. Right of Entry Reserved. The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Bus Parking Spaces and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

12. Rules and Regulations. The Licensee shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of the permission granted under this License, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Licensee of every rule and regulation hereafter adopted by it at least five (5) days before the Licensee shall be required to comply therewith.

13. Conduct of Operations.

(a) The Licensee shall immediately comply with all orders, directives and procedures as may be issued by the General Manager of the Facility covering the operations of the Licensee under this License at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder. The Licensee shall comply with the directions of the General Manager of the Facility with respect to the movement and circulation of the Licensee's Buses within the Facility.

(b) The Licensee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(c) The Licensee shall at all times maintain the Bus Parking Spaces in a clean and orderly condition and appearance. The Licensee shall immediately wipe up any oil, gasoline, grease, lubricants and other inflammable liquids and substances from, and shall immediately wipe up all liquids or substances having a corrosive or detrimental effect on the paving or other surface of the Bus Parking Spaces, which may leak, be spilled or be placed upon the Bus Parking Spaces. The Bus Parking Spaces are to be used only for the parking of Buses in

accordance with the provisions of this License, and the Licensee agrees that no personal property of the Licensee or others may at any time be placed or installed in the Bus Parking Spaces. Without limiting the generality of the foregoing, the Licensee specifically agrees that it shall not store in the Bus Parking Spaces any automotive fuel, lubricating oil or grease or other chemicals.

(d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Bus Parking Spaces without the written approval of the General Manager of the Facility; and any not approved by him may be removed by the Port Authority at the expense of the Licensee. The Licensee shall not display, or permit the display of, advertising of third parties in the Bus Parking Spaces.

(e) Except as expressly herein permitted, the Licensee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

(f) The operations of the Licensee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Licensee shall provide and its employees shall wear or carry badges or other suitable means of identification, which shall be subject to the approval of the General Manager. The Port Authority shall have the right to object to the Licensee as to the demeanor, conduct and appearance of the Licensee's employees, invitees and those doing business with it, whereupon the Licensee will take all steps necessary to remove the cause of the objection.

(g) In the use of the means of ingress to and egress from the Bus Parking Spaces, the Licensee shall exercise a high degree of care to avoid injuries to persons and damage to property, and, in addition, the indemnity provided in the Section hereof entitled "*Indemnification of the Port Authority*" shall govern and apply to all claims of third persons for death, personal injuries or property damages which arise out of such use, regardless of the degree of care exercised and regardless of whether such use was by the Licensee or by others with its consent.

(h) The Licensee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Licensee. The receptacles shall be kept covered except when filling or emptying the same. The Licensee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

(i) The Licensee understands and acknowledges that there will be no ingress to or egress from the Bus Parking Spaces permitted between the hours of 1:00 o'clock a.m. and 6:00 o'clock a.m. on any day of the week.

(j) The Licensee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the National Fire Protection Association, the Insurance Services Office of New York and any other body or organization exercising similar functions which may pertain or apply to the Licensee's use of the Bus Parking Spaces hereunder. If by reason of the Licensee's failure to comply with the provisions of this paragraph, any fire insurance, extended coverage or rental insurance rate with respect to the Facility or any part thereof shall at any time be higher than it otherwise would be, then the Licensee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been increased because of such failure to comply.

14. Prohibited Acts.

(a) The Licensee shall not do or permit to be done any act which

i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or

ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or

iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this License, or

iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or

v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or

vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.

(b) For purposes of this Section, "Facility" includes all structures located thereon.

15. Specifically Prohibited Activities.

(a) The Licensee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.

(b) The Licensee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Licensee (or permitted by the

Licensee to be disposed of, released or discharged) on the Facility shall upon Notice by the Port Authority to the Licensee be completely removed and/or remediated by the Licensee at its sole cost and expense.

(c) The Licensee shall not perform mechanical, electrical or structural repairs on Buses at the Bus Parking Spaces. The Licensee shall not fuel, lubricate or paint Buses in the Bus Parking Spaces. The Licensee shall not use any cleaning materials having a harmful or corrosive effect in the Bus Parking Spaces.

(d) The Licensee shall not fuel or defuel any equipment in the Bus Parking Spaces or elsewhere at the Facility without the prior approval of the General Manager of the Facility except in accordance with Port Authority rules and regulations.

(e) The Licensee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

16. Labor Disturbances.

(a) (i) The Licensee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Licensee under this License.

ii) The Licensee shall immediately give notice to the Port Authority (to be followed by written Notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Licensee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

iii) If any type of strike or other labor activity is directed against the Licensee at the Facility or against any operations pursuant to this License resulting in picketing or boycott for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority, adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Licensee, and whether caused by the employees of the Licensee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' notice, revoke this License, effective at the time specified in the Notice. Revocation shall not relieve the Licensee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation.

16. Notices.

(a) Except where expressly required or permitted to be oral, or to be otherwise delivered, all notices, requests, consents and approvals and the like required to be given to or by either party (each, a "Notice") shall be in writing, and all Notices 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 sent to him at such address by registered or certified mail or by nationally-known overnight courier.

(b) Until further notice, the Port Authority hereby designates its Executive Director, and the Licensee designates the Licensee's Representative, as their respective officers and representatives upon whom Notices may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Licensee designates its office at the address set forth on the Cover Page, as the respective offices where Notices may be served.

(c) The giving of any Notice shall be complete and effective upon receipt or, in the event of a refusal by the addressee, upon the first tender of the Notice to the addressee or at the address thereof.

17. No Broker. The Licensee represents and warrants that no broker has been concerned in the negotiation or execution of this License and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Licensee shall indemnify the Port Authority and save it harmless from any and all claims which have been or which may be made by any and all persons, firms, or corporations whatsoever for services in connection with the negotiation and execution of this License or in connection with any permission to use the Bus Parking Spaces.

18. Waiver of Trial by Jury. The Licensee hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Licensee in respect of the Bus Parking Spaces and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this License. The Licensee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Licensee.

19. Effect of Use after Expiration, Revocation or Termination: Without in any way limiting any other provision of this License, unless otherwise notified by the Port Authority in writing, in the event the Licensee continues its use of the Bus Parking Spaces after the expiration, revocation or termination of the effective period of the permission granted under this License, as such effective period of permission may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this License or other remedies the Port Authority may have by law or otherwise, the Licensee shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such revocation or termination and ending on the date that the Licensee shall surrender and completely vacate the Bus Parking Spaces, at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Licensee any right to continue its use of the Bus Parking Spaces after the expiration, revocation or termination of the effective period of the permission granted under this License. The Licensee acknowledges that the failure of the Licensee to surrender, vacate and yield up the Bus Parking Spaces to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Licensee 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 Licensee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

20. No Personal Liability. No Commissioner, officer, agent or employee of the Port Authority shall be charged personally by the Licensee with any liability, or held liable to it, under any term or provision of this License, or because of its execution or attempted execution, or because of any breach hereof.

21. No Waiver. No failure by the Port Authority to insist upon the strict performance of any agreement, term, covenant or condition of this License or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this License during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this License to be performed or complied with by the Licensee, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the Port Authority. No waiver by the Port Authority of any default or breach on the part of the Licensee in performance of any agreement, term, covenant or condition of this License shall affect or alter this License but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

22. Construction and Application of Terms.

(a) The use of headings in this License is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

(b) Wherever in this License a third person singular neuter pronoun or adjective is used, referring to the Licensee or the Port Authority, the same shall be deemed to refer to the Licensee or the Port Authority, regardless of the actual gender or number thereof. Wherever in this License a third person masculine pronoun or adjective is used to refer to an individual or individuals, the same shall be deemed to include the feminine and plural forms of the pronoun or adjective; and plural nouns or pronouns shall be deemed to include the singular.

(c) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this License or any amendments, addenda or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

(d) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

(e) To the extent that any provisions of this License are in any instance to be construed in accordance with the laws of a state, the laws of the State of New York shall apply.

23. Entire Agreement. This License, including the Cover Page, the Terms and Conditions, Special Endorsements and other attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on behalf of the parties and attached hereto. The Licensee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

\* \* \* \* \*

## SPECIAL ENDORSEMENTS

1. **Fees.** During the effective period of the permission granted under this License, the Licensee shall pay to the Port Authority a fee for each Bus Parking Space as follows:

(a) *Unrestricted Spaces:*

i) During the period commencing on January 1, 2011 and continuing through December 31, 2011, in the amount of Seven Hundred Fifty-seven Dollars and Seventy-five Cents (\$757.75) per space per month, payable in advance on January 1, 2011 and on the first day of each month thereafter occurring during such period;

ii) During the period commencing on January 1, 2012 and continuing through December 31, 2012, in the amount of Eight Hundred Sixteen Dollars and Thirty-three Cents (\$816.33) per space per month, payable in advance on January 1, 2012 and on the first day of each month thereafter occurring during such period; and

iii) From and after January 1, 2013, in the amount of Eight Hundred Seventy-five Dollars and No Cents (\$875.00) per space per month, payable in advance on January 1, 2013 and on the first day of each month thereafter occurring throughout the effective period of the permission granted under this License.

(b) *Unrestricted Spaces:*

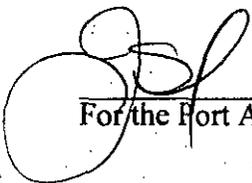
i) During the period commencing on January 1, 2011 and continuing through December 31, 2011, in the amount of Four Hundred Seventy-three Dollars and Eighty-three Cents (\$473.83) per space per month, payable in advance on January 1, 2011 and on the first day of each month thereafter occurring during such period;

ii) During the period commencing on January 1, 2012 and continuing through December 31, 2012, in the amount of Five Hundred Ten Dollars and Sixty-seven Cents (\$510.67) per space per month, payable in advance on January 1, 2012 and on the first day of each month thereafter occurring during such period; and

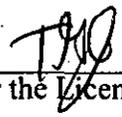
iii) From and after January 1, 2013, in the amount of Five Hundred Forty-seven Dollars and Fifty-eight Cents (\$547.58) per space per month, payable in advance on January 1, 2013 and on the first day of each month thereafter occurring throughout the effective period of the permission granted under this License.

2. **Effect of Security Agreement.** Notwithstanding anything to the contrary contained in this License, the Licensee hereby agrees that this License is one of the "Agreements", as such term is defined in that certain security agreement entered into between the Port Authority and the Licensee, dated as of October 1, 2007, and identified by Port Authority Agreement No. BT-TBL-SEC-006 (the "Security Agreement"), and that a breach or failure to perform or comply with any of the terms and conditions of the Security Agreement,

including without limitation failure to provide a letter of credit in accordance with the terms and provisions of the Security Agreement at any time during the term under any of the Agreements valid and available to the Port Authority or any failure of any banking institution issuing a letter of credit to make one or more payments as provided in such letter of credit, shall constitute a material breach of this License and the Security Agreement thereby entitling the Port Authority to immediately exercise any and all rights available to it, including without limitation the right to terminate this License for cause.

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

Initialed:

  
\_\_\_\_\_  
For the Licensee