Torres Rojas, Genara

FOI# 14015

From: laura.sand@portsamerica.com
Sent: Tuesday, May 28, 2013 12:56 PM
To: Duffy, Daniel
Cc: Torres Rojas, Genara; Van Duyne, Sheree
Subject: Freedom of Information Online Request Form

Information:

First Name: Laura
Last Name: Sand
Company: Ports America
Mailing Address 1: 55 North Arizona Place
Mailing Address 2: Suite 400
City: Chandler
State: AZ
Zip Code: 85225
Email Address: laura.sand@portsamerica.com
Phone: 480-403-3723
Required copies of the records: Yes

List of specific record(s):
AGREEMENT between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY and NYCT New York Container Terminal

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

June 7, 2013

Ms. Laura Sand
Ports America
55 North Arizona Place, Suite 400
Chandler, AZ 85225

Re: Freedom of Information Reference No. 14015

Dear Ms. Sand:

This is a response to your May 28, 2013 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code") for a copy of the agreement between the Port Authority and New York Container Terminal.

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/14015-LPA.pdf. Paper copies of the available records are available upon request.

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

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

Very truly yours,

Daniel D. Duffy
FOI Administrator

225 Park Avenue South, 17th Floor
New York, NY 10003
T: 212 435 3642
F: 212 435 7555

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

AGREEMENT OF LEASE

between

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

and

HOWLAND HOOK CONTAINER TERMINAL, INC.

Dated as of: March 31, 2004

CONFORMED COPY

CMC

Leasing Files

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MLPF-11551

THIS AGREEMENT OF LEASE, made as of the 31st day of March, 2004, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America and having an office and place of business at 225 Park Avenue South, New York, New York 10003 and HOWLAND HOOK CONTAINER TERMINAL, INC., a New York corporation (hereinafter called "the Lessee") with an office and place of business at 300 Western Avenue, Staten Island, New York 10303, whose representative is: James J. Devine;

WITNESSETH, That:

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

ARTICLE I. The Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority, at the Facility (as defined in paragraph (j) of Section 25 of the Terms and Conditions hereof, as amended by subparagraph (h) of Paragraph 15 of the Special Endorsements attached to this Agreement) in the City of New York, County of Richmond, State of New York, the enclosed area shown in diagonal cross hatching (hereinafter sometimes called "the Building") and the open area of land shown in stipple on the drawing attached hereto, hereby made a part hereof and marked "Exhibit A" together with the buildings, structures, fixtures, improvements, and other property; if any, of the Port Authority located or to be located therein or thereon, the said areas, buildings (including, without limitation thereto, the Building), structures, fixtures, improvements and other property of the Port Authority being hereinafter called "the premises". The Port Authority and the Lessee hereby acknowledge that the foregoing premises constitute non-residential real property.

ARTICLE II. The term of the letting shall commence at 12:01 o'clock A.M. on April 1, 2004, said date being hereinafter called the "Commencement Date" and, unless sooner terminated, shall expire at 11:59 o'clock P.M. on December 31, 2019.

ARTICLE III. The Lessee shall pay a basic rental as set forth in Paragraph 1 of the Special Endorsements attached to this Agreement.

ARTICLE IV. The Lessee shall use and occupy the premises for the following purposes only, and for no other purpose whatsoever: the enclosed area shown in diagonal cross hatching on Exhibit A for the receipt, handling, warehousing, repackaging and distribution of waterborne general cargo incidental to the transportation of cargo transported or to be transported by seagoing vessels; and the open area shown in stipple on Exhibit A for the parking of motor vehicles, trailers and semi-trailers owned or operated by the Lessee, by employees of the Lessee or by those doing business with it at the Facility for the purposes set forth in this Article or at the premises under the Other Lease (as defined in Paragraph 11 of the Special Endorsements attached to this Agreement) for the purposes set forth in Section 8 thereof.

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

TITLE	NUMBER	DATE
Late Charges	Standard Endorsement No. L8.1	7/30/82
Special Endorsements		
Space Plan	Exhibit A	4/1/03
Space Plan	Exhibit A-1	8/1/04
Space Plan	Exhibit B	4/1/03

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

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

ATTEST:

(Seal) SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By

Title RICHARD M. LARRABEE
DIRECTOR, PORT COMMERCE DEPT.

ATTEST:

(Corporate Seal)

HOWLAND HOOK CONTAINER TERMINAL, INC.

By

Title President + CEO

APPROVED:
FORM JL by NR
TERMS

TERMS AND CONDITIONS

SECTION 1. ***Ingress and Egress***

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

SECTION 2. ***Governmental and Other Requirements***

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

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

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

SECTION 3. ***Rules and Regulations***

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

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

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

SECTION 4. *Method of Operation*

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. ***Signs***

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

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

SECTION 6. ***Indemnity***

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

SECTION 7. ***Maintenance and Repair***

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

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

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

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

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

SECTION 8. *Casualty*

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

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

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

(b) "Substantial part" shall mean for the purpose of this Section at least twenty-five percent (25%) of the usable floor space in the structure or building or part thereof comprising the premises, or, if there is more than one structure or building on the premises, at least twenty-five percent (25%) of the aggregate usable floor space comprising the premises in all of the structures and buildings covered by insurance.

(c) The parties hereby stipulate that if the premises are in New Jersey neither the provisions of Titles 46:8-6 and 46:8-7 of the Revised Statutes of New Jersey nor those of any other similar statute shall extend or apply to this Agreement and if the premises are in New York, neither the provisions of Section 227 of the Real Property Law of New York nor those of any other similar statute shall extend or apply to this Agreement.

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

SECTION 9. ***Assignment and Sublease***

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

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

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

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

SECTION 10. ***Condemnation***

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

(b) In the event that all or any portion of the premises is required by the Port Authority to comply with any present or future governmental law, rule, regulation, requirement, order or direction, the Port Authority may by notice given to the Lessee terminate the letting with respect to all or such portion of the premises so required. Such termination shall be effective on the date specified in the notice. The Lessee hereby agrees to deliver possession of all or such portion of the premises so required upon the effective date of such termination in the same condition as that required for the delivery of the premises upon the date originally fixed by this Agreement for the expiration of the term of the letting. No taking by or conveyance to any governmental authority as described in paragraph (a) of this Section, nor any delivery

by the Lessee nor taking by the Port Authority pursuant to this paragraph, shall be or be construed to be an eviction of the Lessee or a breach of this Agreement or be made the basis of any claim by the Lessee against the Port Authority for damages, consequential or otherwise.

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

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

(e) In the event that the taking or conveyance or the delivery by the Lessee or taking by the Port Authority pursuant to paragraph (b) of this Section covers fifty percent (50%) or more of the total usable area of the premises including both open and enclosed space, then the Lessee and the Port Authority shall each have an option exercisable by notice given within ten (10) days after such taking or conveyance to terminate the letting hereunder, as of the date of such taking, and such termination shall be effective as if the date of such taking were the original date of expiration hereof.

SECTION 11. ***Construction by the Lessee***

Except with the prior consent of the Port Authority, the Lessee shall not erect any structures, make any improvements or do any other construction work on the premises or alter, modify, or make additions, improvements or repairs to or replacements of, any structure now existing or built at any time during the letting, or install any fixtures, and in the event any construction, improvement, alteration, modification, addition, repair or replacement is made with or without such consent and unless the consent of the Port Authority shall expressly provide otherwise, the same shall immediately become the property of the Port Authority, and the Lessee shall have no right to remove the same either during the letting or at the expiration thereof unless the Port Authority, at any time prior to the expiration of the term of the letting, or any extension or renewal thereof, or within sixty (60) days after expiration or earlier termination of the term of the letting, shall give notice to the Lessee to remove the same, or to cause the same to be changed to the satisfaction of the Port Authority, in which case the Lessee agrees to remove the same, or change it in compliance with such notice. In case of any failure on the part of the Lessee to comply with such notice, the Port Authority may effect the removal or change, and the Lessee hereby agrees to pay the cost thereof to the Port Authority upon demand.

SECTION 12. ***Additional Rent and Charges***

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

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

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

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

SECTION 13. ***Rights of Entry Reserved***

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

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

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

(d) Nothing in this Section shall or shall be construed to impose upon the Port Authority any obligations so to construct or maintain or to make repairs, replacements, alterations or additions, or shall create any liability for any failure so to do. The Lessee is and shall be in exclusive control and possession of the premises and the Port Authority shall not in any event be liable for any injury or damage to any property or to any person happening on or about the premises nor for any injury or damage to the premises nor to any property of the Lessee or of any other person located in or thereon (other than those occasioned by the acts of the Port Authority).

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

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

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

SECTION 14. ***Limitation of Rights and Privileges Granted***

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

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

(c) Nothing in this Agreement contained shall grant to the Lessee any rights whatsoever in the air space above the roof of the building or buildings or portion of a building or buildings, if any are included in the premises, (except to the extent required in either case for the performance of any of the obligations of the Lessee hereunder), or more than twenty (20) feet above the present ground level of any open area included in the premises.

SECTION 15. ***Prohibited Acts***

(a) Unless otherwise expressly permitted so to do, the Lessee shall not install, maintain or operate, or permit the installation, maintenance or operation on the premises of any vending machine or device designed to dispense or sell food, beverages, tobacco, tobacco products or merchandise of any kind, whether or not included in the above categories, or of any restaurant, cafeteria, kitchen, stand or other establishment of any type for the preparation, dispensing or sale of food, beverages tobacco, tobacco products or merchandise of any kind, whether or not included in the above categories, or of any equipment or device for the furnishing to the public of service of any kind, including therein, without limitation thereto, telephone pay-stations.

(b) The Port Authority, by itself or by contractors, lessees or permittees, shall have the exclusive right to install, maintain and receive and retain the revenues from all coin-operated or other machines or devices for the sale of merchandise of all types, or for the rendering of services, which may be operated on the premises; *provided, however,* that no such machine or device shall be installed except upon the request of the Lessee. This provision shall not be construed to confer upon the Lessee any right to have such machine installed except at the sole discretion of the Port Authority.

SECTION 16. ***Termination***

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

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

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

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

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

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

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

(7) By or pursuant to, or under authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of the Lessee, and such possession or control shall continue in effect for a period of fifteen (15) days; or

(8) The Lessee shall voluntarily abandon, desert or vacate the premises or discontinue its operations at the premises or at the Facility or, after exhausting or abandoning any right of further appeal, the Lessee shall be prevented for a period of thirty (30) days by action of any governmental agency from conducting its operations on the premises, regardless of the fault of the Lessee; or

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

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

(11) The Lessee shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this agreement, on its part to be kept, performed or observed, within ten (10) days after its receipt of notice of default thereunder from the Port Authority (except where fulfillment of its obligation requires activity over a period of time, and the Lessee shall have commenced to perform whatever may be required for fulfillment within ten (10) days after receipt of notice and continues such performance without interruption except for causes beyond its control);

then upon the occurrence of any such event or at any time thereafter during the continuance thereof, the Port Authority may by five (5) days' notice terminate the letting and the Lessee's rights hereunder, such termination to be effective upon the date specified in such notice. Such right of termination and the exercise thereof shall be and operate as a conditional limitation.

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

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

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

SECTION 17. ***Right of Re-entry***

The Port Authority shall, as an additional remedy upon the giving of a notice of termination as provided in Section 16 of these Terms and Conditions, have the right to re-enter the premises and every part thereof upon the effective date of termination without further notice of any kind, and may regain and resume possession either with or without the institution of summary or any other legal proceedings or otherwise. Such re-entry, or regaining or resumption of possession, however, shall not in any manner affect, alter or diminish any of the obligations of the Lessee under this Agreement, and shall in no event constitute an acceptance of surrender.

SECTION 18. ***Waiver of Redemption***

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

SECTION 19. ***Survival of the Obligations of the Lessee***

(a) In the event that the letting shall have been terminated in accordance with a notice of termination as provided in Section 16 of these Terms and Conditions, or the interest of the Lessee shall have been cancelled pursuant thereto, or in the event that the Port Authority has re-entered, regained or resumed possession of the premises in accordance with the provisions of Section 17 of these Terms and Conditions, all of the obligations of the Lessee under this Agreement shall survive such termination or cancellation, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of the letting, as originally fixed in Article II hereof, and the amount or mounts of damages or deficiency shall become due and payable to the Port Authority to the same extent, at the same time or times and in the same manner as if no termination, cancellation, re-entry, regaining or resumption of possession had taken place. The Port Authority may maintain separate actions each month to recover the damage or deficiency then due or at its option and at any time may sue to recover the full deficiency less the proper discount, for the entire unexpired term.

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

(1) The amount of the total of all annual rentals, less the installments thereof prior to the effective date of termination except that the credit to be allowed for the installment paid on the first day of the month in which the termination is effective shall be prorated for the part of the month the letting remains in effect on the basis of a 30-day month; and

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

SECTION 20. Reletting by the Port Authority

The Port Authority, upon termination or cancellation pursuant to Section 16 of these Terms and Conditions, or upon any re-entry, regaining or resumption of possession pursuant to Section 17 of these Terms and Conditions, may occupy the premises or may relet the premises and shall have the right to permit any person, firm or corporation to enter

upon the premises and use the same. Such reletting may be of part only of the premises or of the premises or a part thereof together with other space, and for a period of time the same as or different from the balance of the term hereunder remaining, and on terms and conditions the same as or different from those set forth in this Agreement. The Port Authority shall also, upon termination or cancellation pursuant to Section 16 of these Terms and Conditions, or upon re-entry, regaining or resumption of possession pursuant to Section 17 of these Terms and Conditions have the right to repair and to make structural or other changes in the premises, including changes which alter the character of the premises and the suitability thereof for the purposes of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder. In the event either of any reletting or of any actual use and occupancy by the Port Authority (the mere right to use and occupy not being sufficient however) there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the said premises or portion thereof during the balance of the term of the letting as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the premises as the Port Authority may itself during such period actually use and occupy, all expenses, costs and disbursements incurred or paid by the Port Authority in connection therewith. No such reletting or such use and occupancy shall be or be construed to be an acceptance of a surrender.

SECTION 21. ***Remedies to Be Nonexclusive***

All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any other remedy available to the Port Authority at law or in equity, and the exercise of any remedy, or the existence herein of other remedies or indemnities shall not prevent the exercise of any other remedy.

SECTION 22. ***Surrender***

(a) The Lessee covenants and agrees to yield and deliver peaceably to the Port Authority possession of the premises on the date of the cessation of the letting, whether such cessation be by termination, expiration or otherwise, promptly and in the same condition as at the commencement of the letting, reasonable wear arising from use of the premises to the extent permitted elsewhere in this Agreement, excepted.

(b) Unless the same are required for the performance by the Lessee of its obligations hereunder, the Lessee shall have the right at any time during the letting to remove from the premises, and, on or before the expiration or earlier termination of the letting, shall so remove its equipment, removable fixtures and other personal property, and all property of third persons for which it is responsible, repairing all damage caused by such removal. If the Lessee shall fail to remove such property on or before the termination or expiration of the letting, the Port Authority may remove such property to a public warehouse for deposit or may retain the same in its own possession and in either event may sell the same at public auction, the proceeds of which shall be applied: first, to the expenses of removal, including repair required thereby, and of storage and sale; second, to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if the expenses of such removal, repair, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority upon demand. The Lessee shall indemnify the Port Authority against all claims based on Port Authority action hereunder.

SECTION 23. ***Acceptance of Surrender of Lease***

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

SECTION 24. ***Notices***

(a) All notices, permissions, requests, consents and approvals given or required to be given to or by either party shall be in writing (which shall include a telegram when delivered to the telegraph company), and all such notices

and requests shall be telegraphed or personally delivered to the party or to the duly designated officer or representative of such party or delivered to an office or residence of such party, officer or representative during regular business hours, or delivered to the residence of such party, officer or representative or delivered to the premises, or forwarded to him or to the party at the office or residence address by registered mail. The Lessee shall designate an office within the Port of New York District and an officer or representative whose regular place of business is at such office. Until further notice, the Port Authority hereby designates its Executive Director, and the Lessee designates the person whose name appears on the first page of this Agreement as their respective officers or representatives upon whom notices and requests may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Lessee designates its office, the address of which is set forth on the first page of this Agreement, as their respective offices where notices and requests may be served.

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

SECTION 25. ***General***

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

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

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

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

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

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

(c) Unless otherwise stated in Article IV on page 2 of this Agreement, the rights of user thereby granted to the Lessee with respect to the premises shall be exercised by the Lessee only for its own account and, without limiting the generality of the foregoing, shall not be exercised as agent, representative, factor, broker, forwarder, bailee, or consignee without legal title to the subject matter of the consignment.

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

(e) The Section headings in these Terms and Conditions and in the endorsements, if any, attached hereto are inserted only as a matter of convenience and for reference, and they in no way define or limit or describe the scope or intent of any provision hereof.

(f) All payments required of the Lessee by this Agreement shall be mailed to The Port Authority of New York and New Jersey, P.O. Box 17309, Newark, New Jersey 07194, or to such other officer or address as may be substituted therefor. If the commencement date of the letting under this Agreement is other than the first day of a calendar month, the basic rental for the portion of the month during which the letting is effective shall be the amount of the monthly installment prorated on a daily basis using the actual number of days in the month, and if the expiration or termination date of the letting is other than the last day of a calendar month, the basic rental for the portion of the month during which the letting is effective shall be the amount of the monthly installment similarly prorated.

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

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

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

SECTION 26. ***Premises***

(a) The Lessee acknowledges that it has not relied upon any representation or statement of the Port Authority or its Commissioners, officers, employees or agents as to the condition of the premises or the suitability thereof for the operations permitted on the premises by this Agreement. The Lessee, prior to the execution of this Agreement, has thoroughly examined the premises and has found them to be in good order and repair and determined them to be suitable for the Lessee's operations hereunder. Without limiting any obligation of the Lessee to commence operations hereunder at the time and in the manner stated elsewhere in this Agreement, the Lessee agrees that no portion of the premises will be used initially or at any time during the letting which is in a condition unsafe or improper for the conduct of the Lessee's operations hereunder so that there is possibility of injury or damage to life or property and the Lessee further agrees that before any use it will immediately correct any such unsafe or improper condition.

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

(c) If permission is given to the Lessee to enter into the possession of the premises or to occupy space other than the premises prior to the date specified in Article II as the commencement of the term of the letting, the Lessee agrees that such possession or occupancy shall be deemed to be under all the terms, covenants, conditions and provisions of this Agreement except as to the covenant to pay rent and except as may be expressly provided otherwise by the written instrument, if any, giving such possession or occupancy; in either case, rent shall commence on the date specified in this Agreement, and in the event of possession of the premises, the date of such possession shall be the date of commencement of the term hereunder.

SECTION 27. ***Postponement***

If the Port Authority shall not give possession of the premises on the date fixed in Article II for the commencement of the term, by reason of the fact that the premises or any part thereof are in the course of construction,

repair, alteration or improvement or by reason of the fact that the occupant thereof failed or refused to deliver possession to the Port Authority, or by reason of any cause or condition beyond the control of the Port Authority, the Port Authority shall not be subject to any liability for the failure to give possession on said date. No such failure to give possession on the date of commencement of the term shall in any wise affect the validity of this Agreement or the obligations of the Lessee hereunder, nor shall the same be construed in any wise to extend the term beyond the date stated in Article II for expiration. However, the rent shall not commence until possession of the premises is tendered by the Port Authority to the Lessee; the tender shall be made by notice given at least five (5) days prior to the effective date of the tender and in the event that such notice of tender is not given for possession to commence on or before one hundred eighty-five (185) days after the date stated in Article II for commencement of the term then this Agreement shall be deemed cancelled, except that each party shall and does hereby release the other party of and from any and all claims or demands based on this Agreement, or a breach or alleged breach thereof.

SECTION 28. ***Force Majeure***

(a) The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control, including, without limitation thereto, strikes, boycotts, picketing, slowdowns, work stoppages or labor troubles of any other type (whether affecting the Port Authority, its contractors, or subcontractors). Further, the Port Authority shall not be liable unless the failure, delay or interruption shall result from failure on the part of the Port Authority to use reasonable care to prevent or reasonable efforts to cure such failure, delay or interruption.

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

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

SECTION 29. ***Brokerage***

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

SECTION 30. ***Non-liability of Individuals***

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

If the Lessee should fail to pay any amount required under this Agreement when due to the Port Authority, including without limitation any payment of basic, percentage or other rental or any payment of utility or other charges or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods 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 (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this Endorsement 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 rental. Nothing in this Endorsement is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the section of this Agreement entitled "Termination" or (ii) any obligations of the Lessee under this Agreement. In the event that any late charge imposed pursuant to this Endorsement shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Agreement shall be payable instead at such legal maximum.

STANDARD ENDORSEMENT NO. L8.1
LATE CHARGES
All Facilities
7/30/82

SPECIAL ENDORSEMENTS

1. (a) The Lessee shall pay to the Port Authority a basic rental for the premises of at the annual rate of Five Hundred Sixty-six Thousand Five Hundred Ninety-seven Dollars and Sixty-four Cents ($566,597.64) payable in advance in equal monthly installments of Forty-seven Thousand Two Hundred Sixteen Dollars and Forty-seven Cents ($47,216.47) on the Rent Commencement Date, as defined in paragraph (c) of this Section, and on the first day of each calendar month thereafter throughout the balance of the term of the letting hereunder, as the same shall be adjusted in accordance with the provisions of subparagraph (b) of this Paragraph.

(b) The basic rental set forth in subparagraph (a) of this Paragraph, as the same may have been most recently adjusted in accordance with this subparagraph, shall be adjusted during the term of the letting as follows: Commencing on each anniversary of the Commencement Date and for the period commencing with such anniversary and continuing through the earlier of the day preceding the immediately following anniversary of the Commencement Date, or the expiration date of the term of the letting under this Agreement, both dates inclusive, in lieu of the basic rental set forth in subparagraph (a) of this Paragraph, the Lessee shall pay a basic rental at an annual rate equal to the product obtained by multiplying the annual basic rental payable immediately prior to such anniversary (including all amounts included therein as a result of prior adjustments thereof pursuant to the provisions of this subparagraph) by one hundred two percent (102%). Such adjusted annual basic rental shall be paid in monthly installments each equal to one-twelfth of the annual rate.

(c). For the purposes of this Agreement the term "Rent Commencement Date" shall mean the ninetieth day following the Commencement Date. The provisions of subparagraph (a) of this Paragraph to the contrary notwithstanding, if the Rent Commencement Date is other than the first day of a calendar month, the installment of basic rental payable on the Rent Commencement Date shall be the amount of the monthly installment stated in said subparagraph (a) multiplied by a fraction, the numerator of which shall be the number of days in the period commencing on the Rent Commencement Date and ending on the last day of the calendar month in which the Rent Commencement Date falls and the denominator of which shall be the number of days in that calendar month. If the anniversaries of the Commencement Date are other than the first day of a calendar month the installment of basic rental payable on each such anniversary shall be an amount equal to the product of the excess of the amount of the monthly installment of basic rental determined as set forth in subparagraph (b) of this Paragraph as payable on such anniversary over the amount of the monthly installment of basic rental payable on the first day of the calendar month in which such anniversary falls, multiplied by a fraction, the numerator of which shall be the number of days from such anniversary to the end of the calendar month in which such anniversary occurs, both days inclusive, and the denominator of which shall be the number of days in that calendar month. If the date of expiration or earlier termination of this Agreement occurs on other than the last day of a calendar month the installment of basic rental payable for the month during which the effective date of expiration or earlier termination occurs shall be an amount equal to (1) the monthly installment set forth in said subparagraph (a), or (2) determined as set forth in subparagraph (b) of this Paragraph on the anniversary of the Commencement Date next

preceding such expiration of termination, as the case may be; in each case prorated on a daily basis.

2. (a) The Lessee acknowledges that it has thoroughly examined and inspected the premises and has found the same to be suitable for the Lessee's operations under this Agreement and agrees to take the premises in their "as is" condition, and the Port Authority shall have no obligation under this Agreement to prepare the premises for the Lessee's use or to perform any construction, installation or finishing work on the premises. The Lessee acknowledges and agrees that it has not relied upon any representation or statement of the Port Authority or of its Commissioners, officers, employees or agents as to the suitability of the premises for the performance of the construction and installation work as hereinafter defined or for its permitted operations under this Agreement. The Lessee at its sole cost and expense shall finish off and equip the Building as required for the performance of its permitted operations under this Agreement. All of such construction, installation and finishing work is sometimes hereinafter collectively called the "construction and installation work" or the "work".

(b) Prior to the commencement of any construction and installation work in the premises, the Lessee shall prepare and submit to the Port Authority for its approval a construction application, in the form supplied by the Port Authority and containing such terms and conditions as the Port Authority may include, setting forth in detail by appropriate plans and specifications the construction and installation work proposed by the Lessee and the manner and time periods for performing the same, including without limitation a schedule listing each contract proposed to be entered into for the performance of the work and the estimated cost of the work to be performed under each such contract. The data to be supplied by the Lessee shall identify each of the items constituting the construction and installation work, and shall describe in detail the improvements, fixtures, equipment and systems to be constructed and installed by the Lessee and shall show the proposed method of tying in the same to utility lines. The Lessee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be required by the Port Authority and for developing, completing and submitting detailed plans and specifications for the construction and installation work. The plans and specifications to be submitted by the Lessee to the Port Authority shall bear the seal of a qualified architect or professional engineer who shall be responsible for the administration of the work in accordance with the Port Authority's requirements and shall be in sufficient detail for a contractor to perform the work. In connection with the review by the Port Authority of the Lessee's submissions under this Paragraph, the Lessee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may find necessary. Following the Port Authority's receipt of the Lessee's construction application and complete plans and specifications, the Port Authority shall give its written approval or rejection thereof, or shall request such revisions or modifications thereto as the Port Authority may find necessary. The Lessee shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor, and the contracts such contractor or subcontractor is operating under, have been approved by the Port Authority. The Lessee shall include in each such contract or subcontract such provisions as are required in accordance with the provisions of this Agreement and the construction application approved by the Port Authority. The Lessee shall obtain and maintain or cause each contractor to obtain and

maintain in force such insurance coverage as is described in subparagraph (j) of this Paragraph and such performance bonds as the Port Authority may specify. All work to be performed by the Lessee hereunder shall be in accordance with the said construction application and final plans and specifications approved by the Port Authority, shall be subject to inspection by the Port Authority during the progress of the work and after the completion thereof and the Lessee shall redo or replace at its own expense any work not done in accordance therewith. Upon final completion of all the work the Lessee shall deliver to the Port Authority a certificate to such effect signed by a responsible officer of the Lessee and by the architect or engineer who sealed the Lessee's plans pursuant to the provisions of this Paragraph with respect to the work certifying that all of the work has been performed in accordance with the approved plans and specifications and the provisions of this Agreement, and the Lessee shall supply the Port Authority with one (1) set of "as-built" drawings of the work, which drawings shall be capable of being of being clearly and completely reproduced on a standard office reproduction machine. The Lessee shall keep such drawings current throughout the term of the letting under this Agreement. No changes or modifications to the work shall be made without prior Port Authority consent. Following its receipt of the Lessee's certificate, the Port Authority shall inspect the work and, unless such certification is not correct, or the Port Authority determines that the premises are unsuitable for occupancy and use by the Lessee, a certificate of final completion as to such work shall be delivered to the Lessee by the Port Authority.

(c) No construction or installation work shall be commenced by the Lessee in the premises until the construction application and plans and specifications referred to in subparagraph (b) above for the premises have been finally approved by the Port Authority. The Lessee recognizes that its obligation to pay the rental set forth in this Agreement shall commence as set forth in Paragraph 1 of these Special Endorsements whether or not any construction work which the Lessee intends to perform in the premises has begun and whether or not the Lessee is then conducting therein any of the operations described in Article IV of this Agreement. The Lessee shall conduct no public operations in the premises using any of the improvements, fixtures or equipment constituting a part of the work until the Port Authority shall have notified the Lessee in writing that the work has been completed or substantially completed to the Port Authority's satisfaction. In the event of any inconsistency between the provisions of this Agreement and the construction application, the provisions of this Agreement shall control.

(d) The Port Authority shall have the right through its duly designated representative to inspect the construction and installation work at any and all times during the progress of such work and after completion thereof including the machinery or equipment used in connection therewith, which the Lessee or its contractor shall demonstrate upon reasonable request from the Port Authority.

(e) Without limiting the generality of any of the provisions of this Agreement, the work shall be performed in such a manner that there will be at all times during construction a minimum of air pollution, water pollution or any other type of pollution, and a minimum of noise emanating from, arising out of, or resulting from construction. Subject to the provisions of this Agreement, the Lessee shall construct such reasonable structures, fences,

equipment, devices and other facilities as may be necessary or appropriate to accomplish the objectives set forth in this subparagraph (e), and, without limiting the generality of the foregoing, such construction shall be subject to the Port Authority's review and approval in accordance with the provisions of this Paragraph 2.

(f) The Lessee shall be solely responsible for the plans and specifications used by it, and for the adequacy and sufficiency of such plans and specifications and all the improvements, fixtures and equipment depicted thereon or covered thereby, and for any loss or damage resulting from the use thereof, regardless of the consent thereto or approval thereof by the Port Authority or the incorporation therein of any Port Authority requirements or recommendations. Notwithstanding the requirement for approval by the Port Authority of the contracts to be entered into by the Lessee or the incorporation therein of Port Authority requirements or recommendations, and notwithstanding any rights the Port Authority may have reserved to itself hereunder, the Port Authority shall have no obligations or liabilities in connection with the performance of the construction and installation work performed by the Lessee or on its behalf or the contracts for the performance thereof entered into by the Lessee and the Lessee hereby releases and discharges the Port Authority, its Commissioners, officers, representatives and employees of and from any and all liability, claims for damages or losses of any kind, whether legal or equitable, or from any action or cause of action arising or alleged to arise out of the performance of any construction and installation work pursuant to the contracts between the Lessee and its contractors. Any warranties extended or available to the Lessee in connection with the construction and installation work shall be for the benefit of the Port Authority as well as the Lessee.

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

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

(i) All construction and installation work which the Lessee shall perform under this Paragraph shall be performed strictly in accordance with the following:

(1) The Lessee hereby assumes the risk of loss or damage to the construction and installation work or any part thereof prior to the completion thereof and the risk of loss or damage to any property of the Port Authority arising out of or in connection with the performance of the construction and installation work. In the event of such loss or damage, the Lessee shall forthwith repair, replace and make good the construction and installation work and the property of the Port Authority without cost or expense to the Port Authority.

(2) The Lessee hereby indemnifies the Port Authority, its Commissioners, officers, agents and employees from and against the risk of death, injury, or damage, direct or consequential, to it or all or any of them, and to its or their property, arising out of or in connection with the construction and installation work.

(3) The Lessee shall itself and shall also require its contractors to indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from and against all claims and demands, just or unjust, of third persons (including employees, officers, and agents of the Port Authority) arising or alleged to arise out of the performance of the construction and installation work and for all expenses incurred by it and by them in the defense, settlement or satisfaction thereof, including without limitation thereto, claims and demands for death, for personal injury or for property damage, direct or consequential, whether they arise from the acts or omissions of the Lessee, of any contractors of the Lessee, of the Port Authority, or of third persons, or from acts of God or of the public enemy, or otherwise.

The foregoing indemnities shall cover the Port Authority, its Commissioners, officers, agents and employees against the foregoing risks, whether they arise from the acts or omissions of the Lessee, its contractors, the Port Authority or third persons or from acts of God or the public enemy or otherwise, excepting only claims which result solely from the affirmative willful acts of the Port Authority.

(j) In addition to all other insurance required under this Agreement, the Lessee shall procure and maintain, or shall require each contractor engaged by it for the performance of the construction and installation work to procure and maintain, the following policy or policies of insurance during the performance of the construction and installation work:

(1) Commercial General Liability Insurance including, but not limited to, coverage for Independent Contractors, Premises-Operations and Products Liability-Completed Operations, and to include a Broad Form Property Damage endorsement and a contractual liability endorsement covering the obligations assumed by the Lessee pursuant to clauses (1), (2) and (3) of subparagraph (i) of this Paragraph, which coverage shall not exclude claims arising out of, or in connection with, work

performed within fifty (50) feet of railroad property and which are customarily insured under such a policy, with a minimum combined single limit coverage for death, bodily injury and property damage of Five Million Dollars and No Cents ($5,000,000.00) per occurrence. Said insurance shall also include coverage for explosion, collapse, and underground property damage. If the work entails the ownership, maintenance, operation, use, loading or unloading of watercraft, whether owned, non-owned or hired, the Lessee shall have any exclusion for such watercraft deleted or shall purchase equivalent coverage under a policy of Protection and Indemnity Insurance and shall provide the Port Authority with a certificate of insurance evidencing such coverage.

(2) Comprehensive Automobile Liability Insurance covering all owned, non-owned or hired vehicles with a minimum combined single limit coverage for death, bodily injury and property damage of Two Million Dollars and No Cents ($2,000,000.00) per occurrence.

(3) Workers Compensation Insurance and Employers Liability Insurance as required by law. The Workers' Compensation Policy shall be specially endorsed to include coverage afforded by (i) the U.S. Longshoremen's and Harbor Workers' Compensation Act and Coverage B – "Jones Act", maritime (including coverage for Masters or Members of the Crew of Vessels) and (ii) Coverage - B under the Federal Employers' Liability Act.

(4) Builders Risk Insurance, Completed Value Form covering loss or damage (including, without limitation, loss or damage resulting from flood, earthquake, collapse, transit, testing or installation including boilers and machinery) to any buildings, structures, improvements, fixtures, equipment and materials on the premises during the performance of the construction and installation work whether or not attached to the land, in an amount equal to the full replacement cost thereof. Such policy shall name the Port Authority as an insured and shall provide that the loss be adjusted with and payable to the Port Authority, the proceeds thereof to be made available to the Lessee to be applied strictly and solely to the payment of the cost of the repair, replacement, rebuilding or other performance of the construction and installation work with any excess to be retained by the Port Authority.

(5) Environmental Impairment Liability Insurance covering both gradual and sudden occurrences, on a claims-made basis, with a 1-year extended reporting period on the construction and installation work and including the Port Authority, as owner, as an insured (rather than as an additional insured as required in the following clause (6)) and including without limitation thereto asbestos abatement and lead abatement site specific to the construction and installation work and which shall include both on-site and off-site clean-up and with a contractual liability endorsement covering the obligations assumed by the Lessee and by its contractors pursuant to the provisions of subparagraph (i) of this Paragraph 2 with respect to Hazardous Substances (as defined in subparagraph (n) of this Paragraph) with a minimum combined single limit

coverage for death, bodily injury, property damage and clean-up, both on-site and off-site, of Two Million Dollars and No Cents ($2,000,000.00).

(6) With the exception of the policies of Workers Compensation Insurance, Employers Liability Insurance, Environmental Impairment Liability Insurance and Builder's Risk Insurance, each policy of insurance described in this subparagraph (j) shall include the Port Authority as an additional insured, and no such policy shall contain any care, custody or control exclusions, or any exclusion for bodily injury to or sickness, disease or death of any employee of the Lessee or of any of its contractors which would conflict with or in any way impair the coverages resulting from the Port Authority's status as an additional insured or the coverage under the contractual liability endorsement described in clause (1) of this subparagraph. Each such insurance policy shall contain an endorsement providing that the protection afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third party shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority or against the Port Authority by the Lessee, but such endorsement shall not limit, vary, change or affect the protections afforded the Port Authority as an additional insured. Each such insurance policy shall also contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the, tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.

(7) Unless otherwise set forth herein, each policy of insurance described in this subparagraph (j) shall be subject to the applicable provisions of Paragraph 8 of these Special Endorsements.

(k) Legal title to all the construction and installation work including improvements and fixtures shall vest in the Port Authority immediately upon erection or affixation of all or any part thereof on or to the premises. If requested so to do, the Lessee shall execute such documents as the Port Authority may request confirming such ownership by the Port Authority and the date or dates thereof. Title to any personal property of the Lessee (including equipment and trade fixtures) removable without material damage to the premises which are installed by the Lessee in or on the premises and which are not part of the construction and installation work shall vest in the Lessee upon the installation thereof.

(l) In the performance of the construction and installation work the Lessee shall not permit any situation or condition to continue that may cause or be conducive to any labor troubles at the Facility which interferes with the progress of other construction work at the Facility. The determinations of the Port Authority shall be conclusive on the Lessee and, upon notice from the Port Authority, the Lessee shall or shall cause its contractor to immediately rectify any condition specified in the notice. In the event of failure by the Lessee or any of its contractors to immediately comply with the requirements of this paragraph (whether or not such failure is due to the Lessee's fault) the Port Authority by notice shall have the right to suspend

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

(m) The Lessee agrees to and shall require its contractor to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBE's) and Women Business Enterprises (WBE's) in the construction and installation work. "Meaningful participation" shall mean at least twelve percent (12%) of the firms performing the work are MBE's, and at least five percent (5%) of the firms performing the work are WBE's. A Minority Business Enterprise shall mean a company or firm at least 51% of which is owned and controlled by a minority or minorities. A Women Business Enterprise shall mean a company or firm at least 51% of which is owned and controlled by a woman or women. For the purposes of this paragraph a person is a minority if they are a member of one of the following groups:

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

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

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

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

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

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

(2) Actively and affirmatively soliciting bids for subcontracts from MBE's and WBE's, including circulation of solicitations to minority and female contractor associations. The contractor shall maintain records detailing the efforts made to proved for meaningful MBE and WBE participation in the work, including the names and addresses of all MBE's and WBE's contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

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

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

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

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

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

(n) For the purposes of this Agreement, the term *"Hazardous Substances"* shall mean and include in the plural and *"Hazardous Substance"* shall mean and include in the singular any pollutant, contaminant, toxic or hazardous waste, dangerous substance, potentially dangerous substance, noxious substance, toxic substance, flammable, explosive, radioactive, corrosive, infectious, carcinogenic or mutagentic material, including without limitation thereto urea formaldehyde foam, asbestos, polychlorinated biphenyls (*"PCB's"*), radon, fuel oil, chemicals known to cause cancer, endocrine disruption or reproductive toxicity, petroleum and petroleum products and other substances, whether solid, liquid or gaseous, alone or in combination, mixture or solution,

(1) which have been or in the future shall be declared to be hazardous or toxic,

(2) the removal, containment or restriction of which have been or in the future shall be required, or

(3) the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which have been or in the future shall be restricted, prohibited, regulated or penalized

in each case, 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, or which poses or could pose a threat or nuisance to the safety or health of any person on the premises or on any property geographically, geologically or hydrologically adjacent to the premises.

3. (a) The Lessee shall pay all license, certification, permit and examination fees, duties, excises and all other governmental charges of every character present and future which may be assessed, levied, exacted or imposed on the Lessee's property, operations or occupancy hereunder or on any property whatsoever which may be received at the premises or

on the gross receipts, rental or income therefrom including any penalties or interest thereon and any taxes on personal property which may be assessed, levied, exacted, or imposed, and the Lessee shall make all applications and reports required in connection therewith. If any bond or other undertaking shall be required by any governmental authority in connection with any of the operations of the Lessee or any property received or exhibited by the Lessee at the premises, the Lessee shall furnish the same and pay all expenses in connection therewith. The Lessee shall also pay any corporate franchise and excise and other taxes, fees and other charges assessed, levied or imposed on the Lessee in respect of its corporate existence or its right to do business.

(b) The Lessee shall pay any and all real estate taxes or any other tax, assessment, levy, fee or charge, general or special, ordinary or extraordinary, foreseen or unforeseen, of whatever nature or kind which during the term of the letting hereunder may be levied, assessed, imposed or charged by any taxing or other governmental authority upon the premises or upon the building or any other structure or improvement erected or made thereon or any appurtenances to the Building or upon the leasehold estate hereby created, or with respect to the rental or Lessee's income therefrom in lieu of any tax, assessment, levy or charge which would otherwise be a real estate tax, assessment, levy or charge. The Lessee's obligation hereunder shall include any such as are levied, assessed, imposed or charged upon the Port Authority and any payments made by the Port Authority to the taxing authority, by agreement or otherwise, in lieu of any tax, assessment, levy or charge except that if any such tax, assessment, levy or charge, or payment in lieu thereof, is paid directly by the Port Authority, the Lessee shall pay the Port Authority therefor. If the taxing or governmental body imposing the tax or charge referred to herein does not segregate the amount thereof attributable to the premises from the balance of the Facility then the Port Authority shall allocate the same equitably on the basis of a proportion between the total number of square feet in the Facility subject to such taxes and the total number of square feet in the premises. The Lessee shall pay the allocable portion thereof as directed by the Port Authority either to the Port Authority or to the taxing or governmental body. The Lessee shall file all applications and furnish all information required in connection therewith and shall pay any penalties or interest thereon other than on accounts directly payable by the Port Authority as to which the Lessee has made prompt and timely payments to the Port Authority as required hereunder.

4. Without limiting any of the terms and conditions of this Agreement, including but not limited to Section 4 of the Terms and Conditions, the Lessee in performance of its obligations hereunder hereby agrees to the following:

(a) The Lessee agrees to use its best efforts to conduct all its operations at the premises in a safe and careful manner and shall not use the premises or operate therein in a manner which the Port Authority determines is unsafe or dangerous and shall not have on the premises or store thereon chemicals, fuel or liquefied natural gas or similar materials unless same are incidental to the effectuation of the Lessee's operations and the Lessee has received the written approval of the Port Authority. Without limiting the foregoing all flammable liquids shall be kept and stored in rooms or areas expressly constructed for the storage of such materials and within such safety containers of the type approved by the Underwriters Laboratories of the Factory Mutual Insurance Association.

(b) All storage areas, stored materials, utility installations and other items which the Port Authority considers unsightly shall be screened by the Lessee so as not to be visible from outside the Facility or from the premises of other tenants and occupants at the Facility.

(c) The Lessee shall not use the premises or operate therein in a manner which the Port Authority finds objectionable by reason of the creation of excessive or offensive odor, dust, fumes, smoke, noise or vibration or by reason of the Lessee's operations having an adverse effect on or interfering with the activities of other tenants and occupants at the Facility or surrounding areas.

(d) In addition to compliance by the Lessee with all laws, ordinances, governmental rules, regulations and orders now or at any time in effect during the term of the letting hereunder which as a matter of law are applicable to the operation, use or maintenance by the Lessee of the premises or the operations of the Lessee under this Agreement (the foregoing not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them), the Lessee agrees that it shall exercise the required degree of safety and care and shall conduct all its operations under the Agreement and shall operate, use and maintain the premises in accordance with the highest standards of the industry pertaining to the same and in such manner that there will be at all times a minimum of air pollution, water pollution or any other type of pollution and a minimum of noise emanating from, arising out of or resulting from the operation, use or maintenance of the premises by the Lessee and from the operations of the Lessee under this Agreement.

(e) The obligations assumed by the Lessee under this Paragraph 4 shall continue throughout the term of the letting under this Agreement and shall not be limited, affected, impaired or in any manner modified by the fact that the Port Authority shall have approved the Lessee's drawings and specifications and its construction and installation work and notwithstanding that the Port Authority may have at any time during the term of the letting under this Agreement consented to or approved any particular procedure or method of operation which the Lessee may have proposed or the Port Authority may have itself prescribed.

5. (a) The Port Authority shall not be obligated to provide any utilities or services whatsoever with respect to the premises nor to police the same, including but not limited to water, gas, electricity, sewerage, heat, steam, air-conditioning, telephone, telegraph, cable or electrical, guard or watch service. Notwithstanding the foregoing the Port Authority may elect to provide extermination service in the enclosed portion of the premises for which the Lessee agrees to pay the reasonable cost thereof upon demand. The Lessee understands and agrees that the Lessee shall be obligated to keep any sidewalks adjacent to the premises free of ice and snow, to keep same clean and to make all repairs thereto.

(b) The Lessee shall promptly pay all water bills covering its consumption in the premises. Such payment shall include any factor which may have been included by the appropriate governmental authority as a sewer-rent or other charge for the use of

a sewer system. In the event that any such water bill shall remain unpaid for a period of six (6) months after the same becomes due and payable, or in the event that any such bill remains unpaid at the date of expiration or earlier termination of the term of the letting under this Agreement, the Port Authority may pay the same and any interest or penalties thereon, and the total payment or payments at any time so made shall constitute an additional item of rental, payable to the Port Authority upon demand.

(c) Subject to the provisions of Paragraph 2 of these Special Endorsements, the Lessee shall construct and install such lines, mains, conduits, pipes, cables, wires, manholes, fittings, meters and other facilities as shall in the opinion of the Port Authority be necessary or desirable, both on and off the premises, to supply all necessary or desirable services to the premises, including without limitation storm sewer, sanitary sewer, electrical, telephone, fire alarm and fire protection services including any increase in supply lines and facilities located off the premises which may be necessary to supply such utilities and the tie-in with supply lines off the premises at such locations at the Facility as shall be designated by the Port Authority. The Lessee shall be required to make arrangements with the appropriate municipality or public utility for the supply and direct payment of such services and utilities and for bringing such services or utilities from the off-premises point or points of connection therefor to the premises and for the handling and distribution thereof within the premises.

(d) Without limiting or affecting any other term or provision of the Lease or this Agreement, the Lessee shall be solely responsible for the design, adequacy and operation of all equipment, systems, piping systems, tie-ins, utilities, lines and connections, mechanical, electrical, communications and other systems serving the premises or any portions thereof. Without limiting in any way the extent of the Lessee's maintenance obligations as set forth elsewhere in this Agreement, the Lessee shall do all preventative maintenance and make all repairs, replacements, rebuilding and improvements necessary to keep such systems (whether the same involves structural or non-structural work and whether located on or off the premises) in the condition they were in when made or installed.

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

(f) If any federal, state, municipal or other governmental body, authority or agency, or any public utility or other entity providing any service, assesses, levies, imposes, makes or increases any charge, fee, rent or assessment on the Port Authority, for any service, system or utility now or in the future supplied to or available at the Facility or to any tenant, lessee, occupant or user thereof, or to the structures or buildings which, or a portion or portions of which, are included in the premises (including but not limited to any sewer-rent or other charge for the use of a sewer system or systems), the Lessee shall, at the option of the Port Authority exercised at any time and from time to time by notice to the Lessee, pay, in accordance with such notice, such charge, fee, rent or assessment or such increase thereof (or the portion thereof allocated by the Port Authority to the premises or to the operations of the Lessee in the premises) either directly to the governmental body, authority or agency, or to the public utility or

other entity, or directly to the Port Authority, as such notice may direct. All payments to be made by the Lessee under this subparagraph shall constitute items of additional rental.

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

6. Without limitation to any other provision of this Agreement, the Lessee agrees to provide to the Port Authority, prior to the commencement of its permitted operations under this Agreement and on an annual basis thereafter, copies of all environmental permits and approvals from all governmental authorities having jurisdiction thereof in connection with its permitted operations under this Agreement.

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

(b) In addition to and without limiting the foregoing and without limiting the provisions of subparagraph (m) of Paragraph 2 of these Special Endorsements, it is hereby agreed that the Lessee, in connection with its continuing operation, maintenance and repair of the Facility, or any portion thereof, and in connection with every award or agreement for concessions or consumer services at the Facility, shall throughout the term of the letting hereunder commit itself to and use good faith efforts to implement an extensive program of Affirmative Action, including specific affirmative action steps to be taken by the Lessee, to ensure maximum opportunities for employment and contracting by minorities and women. In meeting the said commitment the Lessee agrees to submit its said extensive Affirmative Action program, including the specific affirmative action steps to be taken by the Lessee to meet its aforesaid commitment, within sixty (60) days after the commencement of the term of the letting under this Agreement to the Port Authority for its review and approval. The Lessee shall incorporate in its said program such revisions and changes as the Port Authority and the Lessee may agree upon from time to time. The Lessee throughout the term of the letting hereunder shall document its efforts in implementing the said program, shall keep the Port Authority fully advised of the Lessee's progress in implementing the said program and shall supply to the Port Authority such information, data and documentation with respect thereto as the Port Authority may from time to time and at any time request, including but not limited to annual reports. The obligations imposed on the Lessee under this paragraph shall not be construed to impose any

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

(c) "Minority" as used herein shall be as defined in subparagraph (m) of Paragraph 2 of these Special Endorsements.

(d) In the implementation of this Paragraph 7 the Port Authority may consider compliance by the Lessee with the provisions of any federal, state or local law concerning affirmative action equal employment opportunity which are at least equal to the requirements of this Paragraph, as effectuating the provisions of this Paragraph. If the Port Authority determines that by virtue of such compliance with the provisions of any such federal, state or local law that the provisions hereof duplicate or conflict with such law the Port Authority may waive the applicability of the provisions of this Paragraph to the extent that such duplication or conflict exists.

(e) Nothing herein provided shall be construed as a limitation upon the application of any laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents.

(f) Nothing in this Paragraph shall grant or be deemed to grant to the Lessee the right to make any agreement or award for concessions or consumer services at the Facility.

8. (a) In addition to any other insurance provided for or required under this Agreement, the Lessee shall secure and maintain in its own name as assured and shall pay the premiums on the following policies of insurance in the limits set forth below, which policies shall be effective during the term of the letting under this Agreement:

(1) All risk property damage insurance covering the full replacement cost of the all structures, improvements, fixtures and equipment, furnishings and physical property now or in the future located on or constituting a part of the premises leased to the Lessee, and which is owned, leased, or within the care, custody or control of the Lessee. Full replacement cost shall be determined at the request of the Port Authority by an appraiser selected by the Lessee and acceptable to the Port Authority, from time to time, but not more frequently than once every two years. No omission on the part of the Port Authority to request any such appraisal shall relieve the Lessee of its obligations to maintain the appropriate insurance under this Section. Such insurance shall cover and insure against such hazards and risks as at least would be insured against under the Standard Form of Fire Insurance Policy in the State of New York, or any successor thereto, and the broadest form of extended coverage endorsement prescribed as of the effective date of said insurance by the rating organization having jurisdiction.

(2) Boiler and machinery insurance covering all boilers, pressure-vessels and machines operated by the Lessee or others in or on any structure located on the premises, the policy to be effective throughout the letting in such amounts

as the Port Authority may determine to be reasonable coverage against the hazards and perils occasioned by the existence and operation of such boilers, pressure vessels and machinery and to be in the form as may now or in the future be prescribed as of the effective date of said insurance by the rating organization having jurisdiction and/or the Superintendent of Insurance of the State of New York.

(3) Commercial General Liability Insurance covering the Lessee's operations on the premises throughout the effective period of this Agreement, which coverage shall not exclude claims arising out of, or in connection with, work performed within fifty (50) feet of railroad property and which are customarily insured under such a policy; such policy or policies shall include the Port Authority as an additional insured, shall contain a contractual liability endorsement covering the indemnification obligations assumed by the Lessee pursuant to the Section of the Terms and Conditions of this Agreement entitled "*Indemnity*" and an endorsement providing that the protection afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third person shall obtain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority and against the Port Authority by the Lessee, but said endorsement shall not limit, vary, change or affect the protections afforded the Port Authority as an additional assured. The combined single limit of such coverages shall be not less than Five Million Dollars and No Cents ($5,000,000.00) per occurrence. If the work entails the ownership, maintenance, operation, use, loading or unloading of watercraft, whether owned, non-owned or hired, the Lessee shall have any exclusion for such watercraft deleted or shall purchase equivalent coverage under a policy of Protection and Indemnity Insurance and shall provide the Port Authority with a certificate of insurance evidencing such coverage.

(4) Comprehensive Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the premises with a minimum combined single limit of Two Million Dollars ($2,000,000) for bodily injury, for wrongful death and for property damage arising from any one occurrence.

(5) War risk insurance upon the Building, if and when such insurance is obtainable from the United States of America or any agency or instrumentality thereof or from an insurance company qualified to do business in the State of New York which shall have filed rates of premium for such insurance with the Superintendent of Insurance of the State of New York (and if no such company, then from another company approved by the Port Authority) and if and when a state of war or national or public emergency exists, or, in the reasonable judgment of the Port Authority, such state of war or national or public emergency threatens, in an amount not less than the full replacement cost thereof, or in the maximum amount of such insurance which is obtainable, whichever is lower.

(6) Workers Compensation Insurance and Employers Liability Insurance as required by law. The Workers' Compensation Policy shall be specially endorsed to include coverage afforded by (i) the U.S. Longshoremen's and Harbor

Workers' Compensation Act and Coverage B – "Jones Act", maritime (including coverage for Masters or Members of the Crew of Vessels) and (ii) Coverage - B under the Federal Employers' Liability Act.

(7) Such other and additional insurance, in such amounts, as from time to time may be required by the Port Authority against such other insurable hazards, as at the time would be insured against by a prudent owner, including risks to property.

(8) The commercial general liability policy which the Lessee shall carry in compliance with the provisions of subparagraph (3) of this paragraph shall also provide for the benefit of the Port Authority, insurance against sprinkler leakage legal liability and water damage legal liability including damage caused by water or any other substance discharged from any part of the fire protective equipment for the premises and for adjoining property or the collapse or fall of tanks forming part of such fire protective equipment or the component parts or supports of such tanks in a combined single limit of One Million Dollars ($1,000,000.00) per occurrence.

(b) All insurance provided for in this Agreement shall be written by companies authorized to do business in the State of New York or subject to service of process in the State of New York and approved in advance by the Port Authority. At any time that the Port Authority shall determine that any policy shall be unsatisfactory as to form, limits, or substance, or that any of the carriers issuing such policies shall be unsatisfactory, the Lessee shall obtain a satisfactory policy in replacement with a carrier which the Port Authority shall determine to be satisfactory. The limits of coverage shall not be reduced without the Port Authority's prior written consent.

(c) Unless otherwise directed by the Port Authority, all property damage insurance policies required by this Section shall name the Port Authority (with insurance clauses consistent with the provisions of this Agreement) as the insured. As to any insurance required by this Agreement (including without limitation thereto insurance required by subparagraph (j) of Paragraph 2 of these Special Endorsements), a certified copy of each of the policies or a certificate of insurance, or binders, shall be delivered to the General Manager, Risk Management, of the Port Authority, Room 301, Port Authority Technical Center, 241 Erie Street, Jersey City, New Jersey 07310, within fifteen (15) days after the execution of this Agreement or, in the case of insurance required under the provisions of said Paragraph 2 of these Special Endorsements, prior to the commencement of the work. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance including all required endorsements and waivers of subrogation. In the event that at any time during the term of the letting under this Agreement a notice of claim shall be filed or an action or proceeding commenced against the Port Authority which is required to be covered by insurance pursuant to the provisions of this Agreement or in the event that an action or proceeding at law or in equity or a dispute shall arise, whether between the Port Authority and the Lessee or between the Port Authority and a third party, or which otherwise involves the Port Authority, and which may relate to a matter covered by any such policy, then in either such event

the Lessee shall deliver to the Port Authority, within thirty (30) days after a request by the Port Authority, a certified copy of any policy covering the premises which provides coverage against such claim, action or proceeding, or which relates to such dispute. Each such copy or certificate shall contain a valid provision or endorsement that: (1) the Lessee shall be solely responsible for the payment of premiums therefor notwithstanding that the Port Authority is named as an additional insured, (2) that the policy may not be cancelled, terminated, changed or modified, without giving at least thirty (30) days written advance notice thereof to the Port Authority, (3) that the insurance as to the interest of the Port Authority shall not be invalidated by any act or negligence of the Lessee or any other insured, and (4) that the Port Authority will be given at least thirty (30) days prior notice of any material change in the policy. A certificate of insurance with respect to a renewal policy shall be delivered to the General Manager, Risk Management, of the Port Authority at the address set forth in this paragraph at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the effective period hereof.

(d) Each policy of insurance involving liability required by this Section shall contain a provision that in any action or proceeding under or in connection with such policy, the insurance carrier shall not without obtaining express advance consent from the General Counsel of the Port Authority raise any defense involving in any way the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, the provisions of any statutes respecting suits against the Port Authority, or the jurisdiction of the tribunal over the person of the Port Authority.

(e) Loss, if any, under any of the policies mentioned and provided for in this Paragraph (except Commercial General Liability Insurance and Automobile Liability Insurance) shall be adjusted with the Port Authority and paid to the Port Authority, and the insurance proceeds paid to the Port Authority under this paragraph shall be made available to the Lessee and used by it solely for the repair, replacement or rebuilding of the damaged portions of the premises.

(f) Each party hereby releases the other party with respect to any claim (including a claim for negligence) which it might otherwise have against the other party for loss, damage or destruction with respect to its property (including business interruption) occurring during the term of the letting under this Agreement and with respect and to the extent to which it is insured under a policy or policies containing a waiver of subrogation or permission to release liability as provided in paragraph (g) of this Section.

(g) Each party shall include in each of its insurance policies covering loss, damage or destruction by fire or other casualty (insuring the Facility and the Port Authority's property therein in the case of the Port Authority, and insuring the Lessee's property required to be insured by Lessee pursuant to the provisions of this Paragraph in the case of the Lessee) a waiver of the insurer's right of subrogation against the other party or, if such waiver should be unobtainable or unenforceable, (1) an express agreement that such policy shall not be invalidated if the insured waives before the casualty the right of recovery against any party responsible for a casualty covered by such policies, or (2) any other form of permission for the

release of the other party. If any party hereto is unable to obtain such waiver, agreement or permission without additional charge, then such party shall be relieved from providing such waiver, agreement or permission unless the other party shall so elect and shall pay the carrier's additional charge therefor. Nothing contained in this paragraph shall be deemed to impose upon the Port Authority any duty to procure or maintain any insurance referred to in this Section. If the Lessee shall fail to maintain insurance in effect as required pursuant to the provisions of this Section, the release by the Lessee set forth in this paragraph shall be in full force and effect to the same extent as if such required insurance (containing a waiver of subrogation) were in effect. Notwithstanding anything to the contrary contained in this Agreement, the carrying of insurance by the Lessee in compliance with this Section shall not modify, reduce, limit or impair the Lessee's obligations and liability under the Section, of the Terms and Conditions of this Agreement entitled "*Indemnity*".

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

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

(c) So long as the Port Authority shall remain the lessor of the premises under this Agreement, the Lessee, upon paying all of the rentals provided for in this Agreement and observing and performing all the terms, covenants and conditions on the Lessee's part to be observed and performed under this Agreement, may peaceably and quietly have, hold and enjoy the premises during the term of the letting free of any act or acts of the Port Authority, except as expressly permitted in this Agreement.

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

(e) Without in any way limiting the obligations of the Lessee as elsewhere stated in this Agreement, the Lessee shall be liable to the Port Authority for any damage done to the Facility or to any part thereof, or to any property of the Port Authority thereon through any act or omission of those in charge of any one or more highway or other vehicles, or other transportation equipment while the same are at, coming to or leaving the Facility.

10. (a) Subject to such rules and regulations as the Port Authority may have or may hereafter promulgate for the safe and efficient operation of the Facility, and in connections with the rights granted by the Section of the Terms and Conditions of this Agreement entitled *"Ingress and Egress"*, the Port Authority hereby grants to the Lessee the right to use the open area shown in diagonal hatching on Exhibit A, attached to this Agreement, and hereby made a part hereof (sometimes hereinafter referred to as the "Common Area"), for vehicular and pedestrian access to the premises. Nothing in this subparagraph shall be deemed or construed to be a grant of an interest in or a letting to the Lessee of the Common Area or of any other roadway or walkway. The effective period of the permission granted under this Agreement with respect to the use of the Common Area shall commence on the Commencement Date and, except as set forth in subparagraph (b) of this Paragraph, shall expire simultaneously with the expiration (or earlier termination) of the letting of the premises hereunder. The Lessee may pave or otherwise improve the Common Area subject to the provisions of this Agreement including without limitation thereto, the requirement for the Port Authority's review and approval of the Lessee's construction plans and specifications in accordance with the provisions of Paragraph 2 of these Special Endorsements.

(b) Effective on October 1, 2005 (hereinafter referred to as the "Exhibit A-1 Effective Date"):

(1) Exhibit A attached hereto shall be deemed deleted, Exhibit A-1 also attached hereto and hereby made a part hereof shall be deemed substituted in lieu thereof for all purposes of this Agreement and all references to Exhibit A in any part of this Agreement other than this subparagraph (b) and subparagraph (c) of this Paragraph 10 shall be deemed to refer to said Exhibit A-1; and

(2) the Lessee's permission to use the open area shown in diagonal hatching on Exhibit A shall be revoked effective on the date preceding the Exhibit A-1 Effective Date, effective on the Exhibit A-1 Effective Date the Lessee is hereby granted the right to use the open area labeled "Common Area" shown in diagonal hatching on Exhibit B for vehicular and pedestrian access to the premises, and from and after the Exhibit A-1 Effective Date the term "Common Area" as defined in this Paragraph 10 and as used in this Agreement shall mean and refer to the open area shown in diagonal hatching on Exhibit A-1.

(c) Effective on not less than thirty (30) days prior notice from the Port Authority to the Lessee, delivered subsequent to the Exhibit A-1 Effective Date, such notice setting forth the effective date of the following acts:

(1) Exhibit A-1 attached hereto shall be deemed deleted, Exhibit B also attached hereto and hereby made a part hereof shall be deemed substituted in lieu thereof for all purposes of this Agreement and all references to Exhibit A or Exhibit A-1 in any part of this Agreement other than this subparagraph (c) shall be deemed to refer to said Exhibit B, *provided*, that the area shown in diagonal cross hatching on Exhibit A and Exhibit A-1 attached hereto and labeled "HH-74" and "HH-75" on all of Exhibit A, Exhibit A-1 and Exhibit B attached hereto shall continue to be a part of the premises referred to as "the Building" despite not being shown in diagonal cross hatching on said Exhibit B;

(2) in addition to the premises heretofore let to the Lessee pursuant to Article I of this Agreement, the letting of which shall continue in full force and effect, the open area shown in stipple on Exhibit B and not so shown in stipple on Exhibit A or Exhibit A-1 shall become a part of the premises under this Agreement, together with the buildings, structures, fixtures, improvements, and other property; if any, of the Port Authority located or to be located therein or thereon (which space, together with such buildings, structures, fixtures, improvements and other property, is sometimes referred to in this Agreement as the "Additional Open Area"), the Additional Open Area shall be and become a part of the premises from and after 12:01 o'clock a.m. on the date set forth in the Port Authority's notice (and from and after the date set forth in the Port Authority's notice the term "premises" as defined in said Article I and as used in this Agreement shall include the Additional Open Area) and the term of the letting of the Additional Open Area under this Agreement shall continue for the balance of the term of the letting hereunder; and

(3) effective on the date set forth in the Port Authority's notice the Lessee is hereby granted the right to use the open area labeled "Access Road" shown in diagonal hatching on Exhibit B and not so shown in diagonal hatching on Exhibit A-1 for vehicular and pedestrian access to the premises, and from and after the date set forth in the Port Authority's notice the term "Common Area" as defined in this Paragraph 10 and as used in this Agreement shall mean and refer to both open areas shown in diagonal hatching on Exhibit B.

The Port Authority and the Lessee hereby acknowledge that the Additional Open Area constitutes non-residential real property.

11. If any event described in the Agreement of Lease dated as of June 30, 1995, by and between the Port Authority and the Lessee and denominated by Port Authority Lease Number HHT-4 (said agreement of lease as it has been amended and supplemented from time to time being hereinafter called the "Other Lease"), as a ground for termination or event of default, including without limitation thereto the events set forth in subparagraphs (1) through (11) of paragraph (a) of Section 25 of the Other Agreement entitled "*Termination*", shall occur, such event shall be a ground for termination under this Agreement in the same manner and to

the same extent as if it had been explicitly enumerated in paragraph (a) of the Section of this Agreement entitled *"Termination"*.

12. (a) For purposes of this Paragraph, the following terms shall have the meanings set forth below:

(1) "Qualifying Cost" shall mean an amount equal to the reasonable cost of the Lessee's construction and installation work on the premises. To the extent permitted by sound accounting practice, the sum of the following items of cost incurred by the Lessee in performing the Lessee's construction and installation work shall constitute the reasonable cost thereof for the purposes of this paragraph:

(i) The Lessee's payments to contractors for the performance of the Lessee's construction and installation work;

(ii) The Lessee's payments for supplies and materials for the performance of the Lessee's construction and installation work;

(iii) The Lessee's payments for all necessary permits and governmental authorizations for the performance of the Lessee's construction and installation work;

(iv) The Lessee's payments of premiums for performance bonds and for the insurance the Lessee is required to maintain in effect in accordance with the provisions of subparagraphs (b), (i) and (j) of Paragraph 2 hereof with respect to and during the period of performance of the Lessee's construction and installation work only;

(v) The Lessee's payments for engineering services, consulting services, surveys and construction management fees in connection with the Lessee's construction and installation work;

(vi) The Lessee's payments for architectural, planning and design services in connection with the Lessee's construction and installation work;

(vii) The sum of the costs accepted under items (iv), (v) and (vi) of this subparagraph shall not exceed 20% of the sum of the costs approved under items (i) and (ii) of this subparagraph; if in fact there is any such excess, such excess shall not be a part of the cost incurred by the Lessee in the performance of the Lessee's construction and installation work for the purposes of this paragraph.

No payment or payments on account of administrative or other overhead costs and no payment to employees of the Lessee shall be included in the cost of the Lessee's

construction and installation work whether or not allocated to the cost of the work by the Lessee's own accounting practices. No payment to a firm or corporation wholly or partially owned by or in common ownership with the Lessee shall be included in the cost of the Lessee's construction and installation work;

(2) "Unamortized Investment of the Lessee in the Work" shall be ascertained by multiplying the unallocated Qualifying Cost by a fraction, the numerator of which shall be the number of whole calendar months (in the term of the letting as originally set forth) subsequent to the effective date of termination, and the denominator of which shall be the total number of months in the term of the letting as originally set forth.

(b) In the event that the Port Authority, in its sole discretion, shall determine that the premises are required for terminal redevelopment, the Port Authority shall have the right to terminate this Agreement and the letting hereunder, without cause, at any time, on one hundred eighty (180) days' notice to the Lessee. In the event of termination pursuant to this subparagraph, this Agreement and the letting hereunder shall cease and expire as if the effective date of termination stated in the notice were the date originally stated herein for the expiration of this Agreement. In the event that the Port Authority shall terminate this Agreement and the letting thereunder pursuant to the provisions of this subparagraph, the Port Authority shall pay to the Lessee on account of the Lessee's construction and installation work performed in accordance with the provisions of Section 2 hereof one hundred percent (100%) of the Unamortized Investment of the Lessee in the Work, determined as of the effective date of termination stated in the notice.

(c) Any payment required under this paragraph shall not be or be deemed prerequisite to the exercise of the Port Authority's right of termination under subparagraph (b) of this Paragraph and any such payment shall be conditioned upon the Lessee's having delivered possession of the premises to the Port Authority. On the payment by the Port Authority of the Unamortized Investment of the Lessee in the Work, all equipment, fixtures and improvements in the premises constituting any part of the Lessee's construction and installation work and all interest of the Lessee therein which have not already become the property of the Port Authority shall be and become the property of the Port Authority and the Lessee shall execute any and all instruments necessary to transfer title and any such interest.

(d) Notwithstanding any other provision of this paragraph, in ascertaining the amount that the Port Authority shall be obligated to pay to the Lessee under this paragraph, such amount shall be diminished by the amount of the cost of any equipment, fixtures or improvements constituting any part of the Lessee's construction and installation work that are secured by liens, mortgages, security interests, or other encumbrances and less any other amounts whatsoever due from the Lessee to the Port Authority under the Lease as herein amended. In addition, the Port Authority shall have the right to perform an audit of the Qualifying Cost of the Lessee's construction and installation work prior to making any payment to the Lessee under this paragraph, with the Port Authority to have all of the rights of audit as are set forth in subparagraph (e) of this paragraph. In no event whatsoever shall the Qualifying Cost of the

Lessee's construction and installation work include any expenses, outlays or charges whatsoever by or for the account of the Lessee for or in connection with any equipment, fixtures or improvements constituting any part of the Lessee's construction and installation work unless said equipment, fixtures and/or improvements are actually and completely installed in and/or made to the premises and remain intact and/or therein.

(e) The Lessee shall maintain in accordance with accepted accounting practice during the extended term of the letting under the Lease as herein amended and for three years thereafter records and books of account recording all transactions in any way connected with or reflecting upon any payment to be made by the Port Authority to the Lessee under this paragraph; and which records and books of account shall be kept at all times within the Port of New York District, as defined in the Port Compact of 1921 authorized by C. 154 Laws of N.Y. 1921 and C. 151 Laws of N.J. 1921, approved by Public Resolution No. 17 of the 67th Congress, First Session, and permit, in ordinary business hours during such time, the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account and also any of such records and books of account of any company which is owned or controlled by the Lessee, if said company performs services, similar to those performed by the Lessee, anywhere in the Port of New York District.

13. The Lessee hereby grants permission to the Port Authority, or to any third person designated by the Port Authority by notice to the Lessee, to enter upon the premises on 48 hours' prior notice for the purpose of performing soil and groundwater remediation of any Hazardous Substance pursuant to, and in implementation of the Voluntary Cleanup Agreement dated July 13, 2004, between the New York State Department of Environmental Conservation and the Port Authority, and identified by NYSDEC Index No. W2-0987-02-04 relating to Site No. V-00675-2, it hereby being understood and agreed that the Port Authority shall have no obligation whatsoever to the Lessee to perform or pay for any such remediation and no permission or approval of the Port Authority hereunder, or in connection therewith, shall be or be deemed to have imposed any obligation whatsoever on the Port Authority to perform or pay for any soil, groundwater or other remediation in, on or under the premises. The Lessee agrees that no performance of any remediation work in, on or under the premises shall constitute an eviction or constructive eviction of the Lessee nor be grounds for any abatement of fees or charges payable by the Lessee under this Agreement or otherwise nor give rise to or be the basis of any claim or demand by the Lessee against the Port Authority, its Commissioners, officers, employees or agents for damages, consequential or otherwise. Prior to the date set forth in any notice to the Lessee from the Port Authority of the performance of any remediation work in, on or under the premises, the Lessee shall make available the areas designated in such notice for the performance of the remediation, including without limitation the removal of all goods, equipment and other personal property from said designated areas.

14. The parties acknowledge that the Lessee has heretofore deposited security in the amount of One Million Dollars and No Cents ($1,000,000.00) in accordance with the provisions of Section 40B of, and Standard Endorsement No. L23.2C to, the Other Lease. The Lessee and the Port Authority hereby agree that all sums deposited by the Lessee as security under the Other Lease shall be held and used by the Port Authority as security for the full,

faithful and prompt performance of and compliance with, on the part of the Lessee, all of the terms, provisions, covenants and conditions of this Agreement and no part of the security deposited under the Other Lease shall be repaid to the Lessee until this Agreement and the Other Lease shall have expired and except in accordance with the provisions of the last of the said agreements to expire. The provisions of Standard Endorsement No. L23.2C annexed to Supplement No. 12 to the Other Lease shall apply to the Lessee's obligations under this Agreement and shall be incorporated herein as if set forth herein *in haec verba.*

15. Prior to the execution of this Agreement by either party hereto the following changes were made to the Terms and Conditions of this Agreement:

(a) The words, "National Fire Protection Association", appearing in the seventh line of paragraph (i) of Section 4 of the Terms and Conditions of this Agreement were deleted and the words, "New York Board of Fire Underwriters", were inserted in lieu thereof.

(b) The parenthetical phrase, "(and shall reimburse the Port Authority for the Port Authority's reasonable costs and expenses, including legal expenses incurred in connection with the defense of)", was inserted after the word, "from", appearing in the second line of Section 6 of the Terms and Conditions, and the following paragraph was added to said Section 6:

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

(c) Section 7 of the Terms and Conditions were deleted and the following was inserted in lieu thereof:

> "*Section 7. Maintenance and Repair*
>
> "(a) The Lessee shall at all times keep the premises clean, and in an orderly condition and appearance, together with all the fixtures, equipment and personal property of the Lessee located in or on the premises.
>
> "(b) The Lessee shall repair, replace, rebuild and paint all or any part of the premises which may be damaged or destroyed by the acts or omissions of the Lessee or by those of its officers, employees or of other persons on or at the premises with the consent of the Lessee.

"(c) Subject to the provisions of the Section of this Agreement entitled "*Casualty*", the Lessee shall at all times throughout the term of the letting of the premises assume the entire responsibility and shall relieve the Port Authority from all responsibility for all repair, rebuilding, maintenance and care whatsoever in the premises, whether such repair, rebuilding, maintenance or care be ordinary or extraordinary, partial or entire, inside or outside foreseen or unforeseen, structural or otherwise, and without limiting the generality of the foregoing, the Lessee shall:

"(1) Keep the premises and all the fixtures, equipment and personal property which are located in any part of the premises at all times in a clean and orderly condition and appearance;

"(2) Remove all snow and ice and perform all other activities and functions necessary or proper to make the premises available for use by the Lessee including without limitation the maintenance and repair of curb cuts and driveways on the premises, and sidewalks, paving or other surfaces located thereon, but excluding (i) water distribution lines more than twenty (20) feet from the exterior building walls of buildings on the premises served by such lines or beyond the valve connection for such line, (ii) underground sanitary lines leading from the buildings on the premises, and (iii) underground storm drainage systems (excluded items (i), (ii) and (iii) being hereinafter referred to collectively or individually as "Excepted Areas");

"(3) Take good care of the premises and all parts thereof, including, but without limitation thereto, such of the following as are or may be during the term of the letting located in or on the premises: fences, the exterior and interior and operating mechanisms of and attachments to windows and skylights, screens, roofs, foundations: steel work, columns, the exterior and interior and operating mechanism of and attachments to doors, partitions, floors, ceilings, inside and outside paved and unpaved areas, glass of every kind, and the utility, mechanical, electrical and other systems (but excluding the Excepted Areas), and the Lessee shall maintain the same at all times in good condition, and shall perform all necessary preventive maintenance, including but not limited to painting (the exterior of the structures on the premises and areas visible to the general public to be painted only in colors which have been approved by the Port Authority) so that at the expiration or termination of the letting of the premises and all times during the letting, the same (or a reconstruction of all or any part thereof) will be in as good condition as on the Commencement Date (or, in the case of improvements made thereafter during the letting hereunder, in as good condition as at the time of the installation or construction thereof), except for reasonable wear which does not adversely affect the watertight condition or structural

integrity of the buildings or other structures on the premises or adversely affect the efficient or the proper utilization of any part of the premises. Without limiting the generality of the foregoing the Lessee shall maintain and make repairs and replacements, structural or otherwise to all improvements located on the premises and all other fixtures, machinery or equipment now or hereafter belonging to or connected with the premises or the Lessee's operations being conducted thereon, including without limitation thereto all maintenance, repair and replacement of:

"(i) the electrical system, equipment and fixtures, including without limitation thereto, cables, ducts, communication systems, reefer outlets, assemblies, substations, lighting fixtures, switches, outlets, receptacles and other electrical devices and accessories, and including, further, all relamping and fuse replacement;

"(ii) the plumbing system, fixtures and equipment and all finished plumbing (but excluding the Excepted Areas);

"(iii) buildings and all parts thereof and loading devices, whether mechanical, electrical, hydraulic or other, fencing, signs and fire extinguishers

"(iv) all painting

"(v) Light pole foundations and other structural aspects of the light poles; and

"(vi) paving, which shall mean maintenance paving, crack sealing, weed removal, repair of damaged or overstressed surfaces, manholes, catch basins, underground storm water pipes, and grate support systems. In addition, the Lessee shall be responsible for maintenance repairs, and damages, that are required above the structural concrete chamber of catch basins and manholes. Such repairs shall include the concrete brick collar, concrete collar, brick collar, asphalt concrete pavement, Portland cement concrete pavement, the frame and grate or manhole cover and silt bucket when and where applicable. For the purpose of manhole and catch basin repair, the top of the structural chamber shall be the top of the concrete slab that covers the vertical walls of the underground manhole structure, and for the purpose of catch basin and manhole repair, the top of the structural chamber shall be the top of the (cast-in-place or pre-cast) vertical walls of the underground catch basin and manhole structure.

"The Lessee shall make periodic inspections of the foregoing and, subject to the Sections of this Agreement entitled "*Construction by the Lessee*" and "*Casualty*" and Paragraph 2 of these Special Endorsements shall make all repairs and replacements, and do all rebuilding, inside and outside, ordinary and extraordinary, partial and entire, foreseen and unforeseen, structural or otherwise, regardless of the cause of the condition requiring such repairs, rebuilding or replacements and whether or not caused by fire or other casualty, which repairs, rebuilding and replacements by the Lessee shall be in quality and class not inferior to the original in materials and workmanship; and the Lessee shall pay promptly the cost and expense of such repairs, replacements and maintenance.

"(4) Take such anti-erosion measures, including but not limited to periodic planting and replanting, as the Port Authority may require, and perform and maintain, such other landscaping with respect to all portions of the premises not paved or built upon as the Port Authority may require.

"(5) Maintain and repair all utilities service lines, including but not limited to, service lines for the supply of low and high pressure water, gas service lines, electrical power and telephone conduits and lines, sanitary sewers and storm sewers located on the premises, as well as connection pipes and mains therefor, and all other fixtures, machinery or equipment now or hereafter belonging to or connected with the premises.

"(6) Provide and maintain all fire protection and safety equipment required pursuant to the provisions of this. Agreement. If the Port Authority installs and maintains a central monitoring board at the Facility the Lessee shall ensure that all fire alarm signals with respect to the premises shall be transmitted thereto. The Port Authority shall not be obligated by the provisions of this paragraph to provide or maintain any such central monitoring board at the Facility.

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

"(d) Without limiting the obligations of the Lessee stated elsewhere in this Agreement, the Lessee shall be solely responsible to the Port Authority for loss or theft of or damage to any and all personal property, equipment and fixtures belonging to the Port Authority or for which it is responsible, located or to be located at the premises and shall promptly replace or repair the same within twenty (20) days after such loss, theft or damage (except

that if any such repair requires activity over a period of time, then the Lessee shall commence to perform such repair within such twenty (20) day period and shall diligently proceed therewith without interruption); and the Lessee shall yield and deliver the same or replacements thereof to the Port Authority at the expiration or earlier termination of the letting under this Agreement in the same condition as at the commencement of the letting, reasonable wear not materially affecting the efficient use and functioning of the same excepted.

"(e) The obligation of the Lessee as set forth in paragraphs (b) and (c) of this Section in the event of damage or destruction covered by any contract of insurance under which the Port Authority is the insured is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance, *provided, however*, that if 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 Lessee 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 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."

(d) Section 8 of the Terms and Conditions was deleted and the following was inserted in lieu thereof:

"*Section 8. Casualty*

"(a) In the event that, as a result of a casualty insured against in favor of the Port Authority under the standard form of fire insurance policy and extended coverage endorsement carried by it on Excepted Areas, the same or a part thereof is damaged (without the fault of the Lessee, its officers, employees, or others on or at the premises with its consent) so as to render the premises untenantable 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 one or more of the structures or buildings

which are a part of the premises or the entire premises require rebuilding, then the Port Authority shall have options: (i) to proceed with due diligence to repair or to rebuild as necessary; or (ii) to cancel this Agreement and terminate the letting as to the entire premises.

"'Substantial part' shall mean for the purpose of this Section at least twenty-five percent (25%) of the usable floor space in the building or part thereof located on the premises, or, if there is more than one structure or building on the premises, at least twenty-five percent (25%) of the aggregate usable floor space comprising the premises in all of the structures and buildings covered by insurance. The Port Authority shall not be obligated to obtain or maintain in force any insurance referred to in this Section, and, furthermore, if any such insurance is maintained and if any damage described in this paragraph (a) shall have been caused or contributed to by the fault of the Lessee, its officers, employees, or others on the premises with the Lessee's consent, then, notwithstanding the foregoing, the Port Authority shall have no obligation to repair such damage unless the proceeds of insurance covering such damage actually paid to the Port Authority by the insurance company are at least equal in amount to the Port Authority's estimate of the cost of such repairs. Nothing herein shall be construed to imply as an obligation on the Port Authority to carry any such insurance. The Port Authority will notify the Lessee if the Port Authority cancels any fire, extended coverage or all-risk insurance, or if it does not renew a policy of such insurance, *provided*, that such insurance is in effect on the Commencement Date.

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

"(d) The parties hereby stipulate that neither the provisions of Section 227 of the Real Property Law of New York nor those of any other similar statute, shall extend or apply to this Agreement.

"(e) If the premises, or any part thereof, shall be damaged by fire, the elements, other casualty or the public enemy, the Lessee shall, within thirty (30) days after the occurrence of such damage, remove all damaged property and all debris resulting from such damage from the premises, including damaged buildings and structures, whether such damaged property belongs to the Lessee or to any third person whatsoever, and thereafter shall diligently continue such removal, and if the Lessee does not perform its obligation under this paragraph, the Port Authority may remove such debris and dispose of the same and may remove such

property to a public warehouse for deposit or may retain the same in its own possession and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, and second to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; and if the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority on demand. Without limiting any term or provision of this Agreement, the Lessee shall indemnify and save harmless the Port Authority, its officers, agents, employees, contractors and subcontractors, from and against any and all claims of third persons arising out of the exercise by the Port Authority of its right to remove property as hereinabove provided including all claims for conversion, all claims for damage or destruction of property, all claims for injuries to persons (including death), and all other claims for damages, consequential or otherwise."

(e) Subject to all the terms and provisions of this Agreement including but not limited to Paragraph 2 of these Special Endorsements, and notwithstanding the provisions of paragraph (a) of Section 15 of the Terms and Conditions attached to this Agreement, the Lessee may install facilities for the warming and serving of food and non-alcoholic beverages (including a dwyer unit or microwave oven and vending machines and hot coffee and tea dispensing equipment) for consumption on the premises solely by the Lessee's employees and business guests, *provided*, that if such facilities are operated or supplied by an independent operator such contractor, operator or supplier shall be approved by the Port Authority. None of the foregoing equipment or machines shall be installed unless and until the Port Authority has consented in writing to the type of machine or equipment, the method of installation and the location where such machine or equipment may be installed, either separately or as part of the Port Authority's approval of the Lessee's construction application relating to the construction and installation of such machine or equipment pursuant to Paragraph 2 of these Special Endorsements. In the event the installation of such machines and equipment shall require modifications or alterations to building systems or equipment (including heating, ventilating or air-conditioning systems) and whether such modifications or installations thereof are performed by the Lessee or by the Port Authority, the Lessee shall be responsible for the cost of such machines and equipment, the installation thereof and any such modifications or alterations and no such installation, alteration or modification shall be commenced until the Lessee has received an approved construction application (in the form referred to in said Paragraph 2) therefor. The Port Authority reserves the right from time to time to make additional charges to the Lessee for any and all utilities or other building services used in connection with any of the aforesaid machines or equipment. The Lessee has represented to the Port Authority that no recognizable or measurable odors will result from its intended use of any such machines and equipment installed by the Lessee and the Lessee covenants and agrees that upon notification from the Port Authority that objectionable odors emanate or result from the Lessee's use of any such machines and equipment in the premises (whether through the building heating, ventilating or air-conditioning systems or otherwise), the Lessee will immediately discontinue use of any such machine or equipment and shall not resume the use or operation thereof until written consent therefor has been obtained from the Port Authority. Nothing herein is intended to permit the furnishing on the premises of any food to the public.

(f) The period at the end of subparagraph (4) of paragraph (a) of Section 25 of the Terms and Conditions of this Agreement was deleted and an semicolon was inserted in lieu thereof and the following was inserted at the end of said paragraph (a):

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

(g) The phrase, "except to the extent necessary for exercise of the rights of user granted by this Agreement", was inserted at the end of paragraph (c) of Section 25 of the Terms and Conditions of this Agreement.

(h) The following subparagraph was inserted at the end of Section 25 of the Terms and Conditions of this Agreement:

> "(j) As used in this Agreement, the term "Facility" shall mean the real property, buildings, structures, fixtures, improvements and other property, including without limitations thereto leasehold interests in property, located in the Borough of Staten Island, in the County of Richmond, in the City and State of New York, transferred to the Port Authority under the provisions of a Bargain and Sale Deed, without covenants, dated October 18, 2000, from The Procter & Gamble Manufacturing Company to the Port Authority, recorded in the Office of the Richmond County Clerk, on February 23, 2001, on page 23 of Book 10921; and the term "Howland Hook Marine Terminal" shall mean the real property, buildings, structures, fixtures, improvements and other property located in the Borough of Staten Island, in the County of Richmond, in the City and State of New York, leased to the Port Authority under the provisions of an agreement of lease made as of June 30, 1983 (hereinafter called "the 1983 Lease") by and between the City of New York (hereinafter called "the City") and the U.S. Lines, Inc. and subsequently assigned to the Port Authority and amended pursuant to that agreement made as of June 11, 1985 (hereinafter called "the Assignment") made by and among the City, the Port Authority and U.S. Lines, Inc., as the 1983

Lease as amended by the Assignment has been heretofore or may be hereafter from time to time supplemented and amended, including but not limited to that certain agreement between the City and the Port Authority dated as of May 10, 1990."

(i) Section 27 of the Terms and Conditions of this Agreement was deleted in its entirety.

(Port Authority Acknowledgment)

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

On the 22nd day of February in the year 2007 before me, the undersigned, a Notary Public in and for said state, personally appeared RICHARD M. LARRABEE DIRECTOR, PORT COMMERCE DEPT., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument the person upon behalf of which the individual acted, executed the instrument.

(notarial seal and stamp)

LUCY AMBROSINO
NOTARY PUBLIC, STATE OF NEW YORK
No 01AM6101070
QUALIFIED IN NEW YORK COUNTY
MY COMMISSION EXPIRES NOV 3, 2007

(Lessee Acknowledgment)

STATE OF New York)
) : ss.
COUNTY OF Richmond)

On the 11th day of August in the year 2006, before me, the undersigned, a Notary Public in and for said state, personally appeared James J. Devine, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ capacity, and that by his/~~her~~ signature on the instrument the person upon behalf of which the individual acted, executed the instrument.

Valerie Reonegro
(notarial seal and stamp)

VALERIE REONEGRO
Notary Public, State of New York
No. 01RE6137946
Qualified in Richmond County
Term Expires December 5, 2009

Port Authority Lease No. HHT-6
Supplement No. 1

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of June 1, 2007, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and NEW YORK CONTAINER TERMINAL, INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of March 31, 2004, the Port Authority and Howland Hook Container Terminal, Inc. entered into an agreement of lease (hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease") covering enclosed space and open area at the Howland Hook Marine Terminal and Port Ivory, in the Borough of Staten Island, in the County of Richmond and State of New York, all as more particularly described in the Lease; and

WHEREAS, the Lease was assigned to the Lessee by Assignment of Lease with Assumption and Consent made as of December 31, 2004 by and among the Port Authority, Howland Hook Container Terminal, Inc., and the Lessee; and

WHEREAS, the Port Authority and the Lessee desire to amend the Lease;

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

1. The Lessee acknowledges and agrees that the security deposited under that certain agreement of lease between the Port Authority and the Lessee, dated as of June 30, 1995 and bearing Port Authority lease number HHT-4 (hereinafter called "Lease No. HHT-4") was increased to Nine Million Dollars and No Cents ($9,000,000.00) pursuant to that certain supplemental agreement of lease between the Port Authority and the Lessee, dated as of June 1, 2007, and designated as Supplement No. 9 to Lease No. HHT-4. The Lessee further acknowledges and agrees that the Nine Million Dollars and No Cents ($9,000,000.00) so deposited (and any amount or amounts of security which shall hereafter be deposited by the Lessee as security under Lease No. HHT-4, as it may be supplemented, extended or amended) shall be the security deposit referred to in Special Endorsement No. 14 to

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the Lease for all purposes of the provisions of said Special Endorsement No. 14.

2. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

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

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

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

the Lessee. The Lessee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in the Lease or in this Agreement.

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

ATTEST:

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____
RICHARD M. LARRABEE

(Title) DIRECTOR, PORT COMMERCE DEPT.

(Seal)

ATTEST:

Secretary

NEW YORK CONTAINER TERMINAL, INC.

By _____

(Title) President

(Corporate Seal)

APPROVED:
FORM | TERMS
amc 1/5

Form - All-Purpose Ack. N.Y. (rev 9/1/99)

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

On the 29th day of January in the year 2008 before me, the undersigned, a Notary Public in and for said state, personally appeared RICHARD M. LARRABEE DIRECTOR, PORT COMMERCE DEPT., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

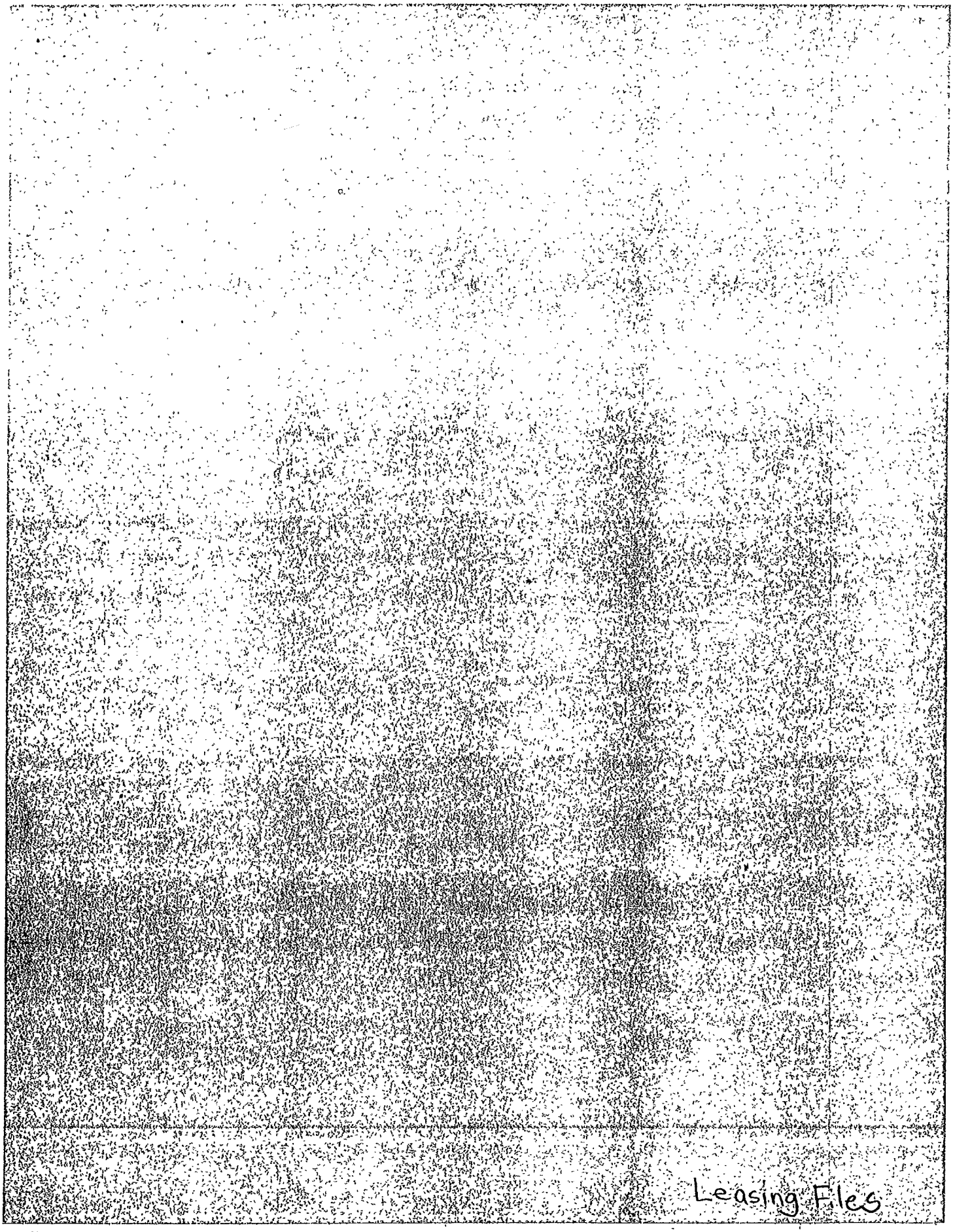
LUCY AMBROSINO
NOTARY PUBLIC, STATE OF NEW YORK
No. 01AM6101070
QUALIFIED IN NEW YORK COUNTY
MY COMMISSION EXPIRES NOV. 3, 2011

STATE OF New York)
) ss.
COUNTY OF Richmond)

On the 21st day of December in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared James J. Devine, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Valerie Reonegro
(notarial seal and stamp)

VALERIE REONEGRO
Notary Public, State of New York
No. 01RE6137946
Qualified in Richmond County
Term Expires December 5, 2009


Leasing Files

ASSIGNMENT OF LEASE
WITH ASSUMPTION AND CONSENT (Lease No. HHT-6)

THIS AGREEMENT, made as of December 31, 2004, by THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority"), a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States of America, having an office for the transaction of business at 225 Park Avenue South, in the Borough of Manhattan, in the City, County and State of New York 10003, and HOWLAND HOOK CONTAINER TERMINAL, INC. (hereinafter called "the Assignor"), a corporation organized and existing under the laws of the State of New York, with an office for the transaction of business at 300 Western Avenue, Staten Island, New York 10303, and NEW YORK CONTAINER TERMINAL, INC. (hereinafter called "the Assignee"), a corporation organized and existing under the laws of the State of New York, with an office for the transaction of business at 300 Western Avenue, Staten Island, New York 10303, the representative of which Assignee is James J. Divine.

WITNESSETH, THAT:

WHEREAS, the Assignor desires to assign to the Assignee that certain Agreement of Lease dated as of March 31, 2004, made by and between the Port Authority and the Assignor, and hereinafter, as the same has been heretofore amended and extended, called "the Lease", covering premises at the Port Authority Marine Terminal at Port Ivory, as set forth in the Lease, in the Borough of Staten Island, in the County of Richmond and State of New York; and

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

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

1. The Assignor does hereby assign, transfer and set over to the Assignee, and its successors, to its and their own proper use, benefit and behoof forever, the Lease, to have and to hold the same unto the Assignee and its successors from the 31st day of December, 2004, for and during all the rest, residue, and remainder of the

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term of the letting under the Lease, subject nevertheless to all the terms, provisions, covenants and conditions therein contained; and the Assignor does hereby assign, transfer and set over unto the Assignee and its successors, all right, title and interest of the Assignor in and to a certain deposit (whether of cash or bonds or letter of credit) in the amount of One Million Dollars and No Cents ($1,00,000.00) made by the Assignor with the Port Authority, as security for the performance of the terms, provisions, covenants and conditions of the Lease, but subject to the provisions of the Lease and to any claim or right to the said deposit or any part thereof heretofore or hereafter made or to be made on the part of the Port Authority.

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

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

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

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

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

(b) The impairment, limitation or other modification of the liability of the Assignee or its estate in bankruptcy, or of any remedy for the enforcement of the Assignee's said liability under the Lease, resulting from the operation of any present or future provision of the Federal Bankruptcy Code or any other statute or from the decision of any court having jurisdiction over the Assignee or its estate; or

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

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

6. This Agreement may be executed in counterparts.

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

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

ATTEST:

SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

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

ASSIGNOR:

ATTEST:

_____
Secretary

HOWLAND HOOK CONTAINER TERMINAL, INC.

By _____

(Title) Pres + CEO President

(Corporate Seal)

ASSIGNEE:

ATTEST:

_____
Secretary

NEW YORK CONTAINER TERMINAL, INC.

By _____

(Title) Pres + CEO President

(Corporate Seal)

APPROVED:
FORM: JL by NR
TERMS:

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

On the 22nd day of February in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared RICHARD M. LARRABEE, DIRECTOR, PORT COMMERCE DEPT., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Lucy Ambrosino
(notarial seal and stamp)
LUCY AMBROSINO
NOTARY PUBLIC, STATE OF NEW YORK
No 01AM6101070
QUALIFIED IN NEW YORK COUNTY
MY COMMISSION EXPIRES NOV 3, 2007

STATE OF New York)
) ss.
COUNTY OF Richmond)

On the 11th day of August in the year 2006, before me, the undersigned, a Notary Public in and for said state, personally appeared, James J. Devine personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Valerie Reonegro
(notarial seal and stamp)

VALERIE REONEGRO
Notary Public, State of New York
No. 01RE6137946
Qualified in Richmond County
Term Expires December 5, 2009

STATE OF New York)
) ss.
COUNTY OF Richmond)

On the 11th day of August in the year 2006, before me, the undersigned, a Notary Public in and for said state, personally appeared James J. Devine, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Valerie Reonegro
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VALERIE REONEGRO
Notary Public, State of New York
No. 01RE6137946
Qualified in Richmond County
Term Expires December 5, 2009

This Space for Port Authority Use Only:
Number: PHH-11

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

SPACE PERMIT

The Port Authority of New York and New Jersey (hereinafter called "the Port Authority") hereby grants to the Permittee hereinafter named permission to use and occupy the following described space (hereinafter called "the Space") at the Port Authority Facility hereinafter named, for the purposes hereinafter specified and purposes incidental thereto, in accordance with the Terms and Conditions hereof and the endorsements annexed hereto; and the Permittee agrees to pay the fees hereinafter specified and to perform all other obligations imposed upon it in the Terms and Conditions and endorsements.

1. FACILITY: Howland Hook Marine Terminal/Port Ivory

2. PERMITTEE: NEW YORK CONTAINER TERMINAL, INC.

3. PERMITTEE'S ADDRESS: 300 Western avenue
Staten Island, NY 10303

4. PERMITTEE'S REPRESENTATIVE: James Devine

5. SPACE: the open areas shown in diagonal hatching on the sketches attached hereto, hereby made a part hereof and marked "Exhibit A", "Exhibit B", and "Exhibit C".

6. PURPOSES: For the storage of container chassis and other equipment used in the Permittee's operations conducted under Lease No. HHT-4 (as defined in Special Endorsement No. 5 to this Permit), and for no other purpose or purposes whatsoever.

7. FEES: As set forth in Special Endorsement No. 1 hereto.

8. EFFECTIVE DATE: January 1, 2006

9. EXPIRATION: December 31, 2011, or when sooner terminated in accordance with the Terms and Conditions and Endorsements.

10. ENDORSEMENTS: 2.1, 5.0, 10.4, 11.1, 16.3, 17.1, 18.1, 21.1, 22.1, 28 and Special

Dated as of: January 1, 2006

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY

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

APPROVED:
FORM | TERMS

NEW YORK CONTAINER TERMINAL, INC.

By _____
[sign and print name]

(Title) President

CONFORMED COPY

TERMS AND CONDITIONS

1. The Permission hereby granted shall take effect upon the effective date hereinbefore set forth. Notwithstanding any other term or condition hereof, it may be terminated without cause by the Port Authority at any time upon thirty (30) days' written notice; provided, however, that it may be terminated by the Port Authority on twenty-four (24) hours' notice if the Permittee shall fail to keep, perform and observe any promise, agreement, condition, term or provision contained in this Permit, including but not limited to the obligation to pay fees. Unless sooner terminated, such permission shall expire in any event upon the expiration date, if any is herein set forth. Termination shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of such termination.

2. As used in this Permit:

(a) The term "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.

(b) The term "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 duly designated representative or representatives.

3. The rights granted hereby shall be exercised:

(a) If the Permittee is a corporation, by the Permittee acting only through the medium of its officers and employees;

(b) If the Permittee is an unincorporated association, or a business trust, by the Permittee acting only through the medium of its members, trustees, officers and employees;

(c) If the Permittee is a partnership, by the Permittee acting only through the medium of its partners and employees; or

(d) If the Permittee is an individual, by the Permittee acting only personally or through the medium of his or her employees.

The Permittee shall not assign or transfer this Permit or any of the rights or privileges granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the prior 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.

4. This Permit does not constitute the Permittee the agent or representative of the Port Authority for any purpose whatsoever.

5. 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 and, upon the request of the Port Authority, the employees shall wear appropriate uniforms. The badges, means of identification and uniforms shall be subject to the prior written approval of the Manager of the Facility. The Port Authority shall have the right to object to the Permittee regarding the demeanor, conduct and

appearance of the employees and invitees of the Permittee, and of those doing business with it, whereupon the Permittee will take all steps necessary to remove the cause of the objection.

6. In the use of all parkways, roads, streets, bridges, corridors, hallways, stairs and other common areas of the Facility as a means of ingress and egress to, from and about the Space and the Facility, and also in the use of portions of the Facility to which the general public is admitted, the Permittee shall conform (and shall require its employees, invitees and others doing business with it to conform) to the Rules and Regulations of the Port Authority which are now in effect or which may hereafter be adopted for the safe and efficient operation of the Facility.

Unless otherwise expressly provided, the Permittee, its employees, invitees and others doing business with it shall have no right hereunder to park vehicles within the Facility beyond a reasonable loading or discharging time, except in regular parking areas and upon payment of the regular charges therefore.

7. The Permittee 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 legal expenses incurred in connection with the defense of) all claims and demands of third persons including but not limited to those for death, for personal injuries or for property damages arising out of any default of the Permittee in performing or observing any term or provision of this Permit, or out of the use or occupancy of the Space by the Permittee or by others with its consent, or 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's consent where such acts or omissions are on 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 for claims arising solely out of the willful or affirmative negligent acts of the Port Authority.

8. The Permittee shall accept the Space in its present condition and shall promptly repair any damages thereto or to any other Port Authority property caused by its operations. The Permittee shall not install any fixtures or make any alterations or improvements in or additions or repairs to the Space except with the prior written approval of the Port Authority.

9. All property of the Permittee placed or installed in the Space shall remain the property of the Permittee and shall be removed on or before the effective date of termination or expiration of the permission hereby granted. In the event of revocation, the Permittee shall have five days, exclusive of Saturdays, Sundays and legal holidays (as determined by the laws of the State of New Jersey or of the State of New York, as the case may require), after the effective date of revocation, in which to remove such property.

If the Permittee shall fail so to remove such property upon the termination, expiration or revocation hereof, the Port Authority may, at its option, as agent for the Permittee and at the risk and expense of the Permittee, remove such property to a public warehouse, or may retain the same in its own possession, and in either event after the expiration of thirty (30) days may sell the same at public auction: the proceeds of any such sale shall be applied first to the expenses of removal, sale and storage, second to any sums owed by the Permittee to the Port Authority; any balance remaining shall be paid to the Permittee. 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.

10. The Permittee represents that it is the owner of or fully authorized to use and sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any wise connected with this Permit. Without in any wise limiting its obligations under Section 7 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 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 wise connected with this Permit.

11. Unless otherwise expressly provided, the Permittee shall not use the Space (or permit it to be used) for the sale to its employees or to the public, of any 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, or toilet articles, or for furnishing for a consideration, theater tickets, shoe-shines, pressing and cleaning (except of its employees' uniforms), developing and printing of photographs and films, baggage-checking service, or for the display of advertising of third parties, or for the installation of any coin-operated machines or devices.

12. No signs, posters or similar devices shall be erected, displayed or maintained by the Permittee in view of the general public in or on the Space or the Facility 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.

13. 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.

14. The representative of the Permittee hereinbefore specified (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 to do any act or thing to be done hereunder, and to execute on behalf of the Permittee any amendments, or supplements to this Permit or any extension thereof and to give and receive notices hereunder.

15. A bill or statement may be rendered, and any notice or communication which the Port Authority may desire to give the Permittee shall be deemed sufficiently rendered or given, if the same is in writing and sent by registered mail or by certified mail addressed to the Permittee at the address specified on the first page hereof or at the address that the Permittee may have most recently substituted therefor by notice to the Port Authority or left at such address, or personally delivered to the representative of the Permittee, and the time or 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 of delivered as herein provided. Any notice from the Permittee to the Port Authority shall be validly given if sent by registered mail addressed to the Executive Director of the Port Authority at 225 Park Avenue South, New York, New York 10003, or at such address as the Port Authority shall hereafter designate by notice to the Permittee.

16. This Permit, including the attached endorsements and exhibits, if any, constitutes the entire agreement of the Port Authority and the Permittee on the subject matter. It may not be changed, modified, discharged, or extended, except by written instrument duly executed on behalf of the Port Authority and the Permittee. The Permittee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

The fee specified is a monthly fee, payable in advance on the effective date hereof and on the first day of each and every calendar month thereafter.

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 via the following wire transfer instructions:

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

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

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.

The Port Authority shall be under no obligation to furnish any services or utilities whatsoever at or on the Space.

STANDARD ENDORSEMENT NO. 5.0
SERVICES
All Installations
4/4/77

The Permittee shall daily remove from the marine terminal 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 its operations 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, to be of a design safely and properly to contain whatever material may be placed therein, and to be 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 marine terminal. 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 marine terminal.

STANDARD ENDORSEMENT NO. 10.4
GARBAGE REMOVAL
Marine Terminals
10/6/75

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

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 of the Port Authority now in effect, and such further reasonable rules and regulations 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 including the Space, or for the safe and efficient operation of the Facility including the Space. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Permittee of every rule and every regulation hereafter adopted by it at least five (5) days before the Permittee shall be required to comply therewith.

The Permittee shall provide and its employees shall wear or carry badges or other suitable means of identification. The badges or means of identification shall be subject to the written approval of the Manager.

STANDARD ENDORSEMENT NO. 16.3
RULES & REGULATIONS COMPLIANCE
Marine Terminal Facilities
10/6/74

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

Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof 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 thereof.

STANDARD ENDORSEMENT NO. 18.1
NO PERSONAL LIABILITY
All Facilities
06/01/50

(1) The Permittee in its own name as assured shall secure and pay the premium or premiums for such of the following policies of insurance with respect to which minimum limits are fixed in the schedule below. Each such policy shall be maintained in at least the limit fixed with respect thereto, shall cover the operations of the Permittee under this Permit, and shall be effective throughout the effective period:

SCHEDULE

	Policy	Minimum Limit
(a)	Commercial general liability insurance (to include contractual liability endorsement)	
	(1) Bodily-injury liability: For injury or wrongful death to one person:	$2,000,000.00
	For injury or wrongful death to more than one person in any one occurrence:	$2,000,000.00
	(2) Property-damage liability: For all damages arising out of injury to or destruction of property in any one occurrence:	$2,000,000.00
	(3) Products liability:	$
(b)	Automotive liability insurance:	
	(1) Bodily-injury liability For injury or wrongful death to one person:	$2,000,000.00
	For injury or wrongful death to more than one person in any one occurrence:	$2,000,000.00
	(2) Property-damage liability: For all damages arising out of injury to or destruction of property in any one occurrence:	$2,000,000.00
(c)	Plate and mirror glass insurance, covering all plate and mirror glass in the premises, and the lettering, signs, or decorations, if any, on such plate and mirror glass:	$
(d)	Boiler and machinery insurance, covering all boilers, pressure vessels and machines operated by the Permittee in the Space:	$
(e)	"Additional Interest" policy of boiler and machinery insurance, covering all boilers, pressure vessels and machines operated by the Permittee in the Space:	$

(2) The Port Authority shall be named as an additional insured in any policy of liability insurance required by this Endorsement, unless the Port Authority shall, at any time during the effective period of this Permit, direct otherwise in writing, in which case the Permittee shall cause the Port Authority not to be so named.

(3) Every policy of insurance on property other than that of the Permittee required by this Endorsement shall name the Port Authority as the owner of property, unless the Space is located in an area as to which the Port Authority is itself a lessee, in which case the Port Authority shall be named as the lessee and the owner shall be named as the owner, and the policy shall be endorsed substantially as follows:

> "Loss, if any, under this policy, as to the interest of the owner and as to the interest of the Port Authority of New York and New Jersey, shall be adjusted solely with the Port Authority, and all proceeds under this policy shall be paid solely to the Port Authority."

(4) The "Additional Interest" policy of boiler and machinery insurance required by this Endorsement shall provide protection under Sections 1 and 2 only of the Insuring Agreements of the form of policy approved for use as of the date hereof by the National Bureau of Casualty Underwriters, New York, New York.

(5) As to any insurance required by this Endorsement, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority within ten (10) days after the execution of this Permit. 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. A renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy. If at any time any of the policies shall be or become unsatisfactory to the Port Authority as to form or substance, of if any of the carriers issuing such policies shall be or become unsatisfactory to the Port Authority as to form or substance, or if any of the carriers issuing such policies shall be or become unsatisfactory to the Port Authority, the Permittee shall promptly obtain a new and satisfactory policy in replacement.

(6) Each policy of insurance required by this Endorsement shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.

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 National Fire Protection Association and The Fire Insurance Rating Organization of N.J., 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 Endorsement, any fire insurance, extended coverage or rental insurance rate on the marine terminal 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.

The Permittee shall not do or permit to be done any act which,

(a) will invalidate or be in conflict with any fire insurance policies covering the marine terminal or any part thereof or upon the contents of any building thereon, or

(b) will increase the rate of any fire insurance, extended coverage or rental insurance on the marine terminal or any part thereof or upon the contents of any building thereon, or

(c) 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

(d) may cause or produce upon the marine terminal any unusual, noxious or objectionable smokes, gases, vapors or odors, or

(e) 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 marine terminal, or

(f) shall constitute a nuisance in or on the marine terminal or which may result in the creation, commission or maintenance of a nuisance in or on the marine terminal.

For the purpose of this Endorsement, "marine terminal" includes all structures located thereon.

STANDARD ENDORSEMENT NO. 22.1
PROHIBITED ACTS
NEW JERSEY MARINE TERMINALS
10/06/74

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.

STANDARD ENDORSEMENT NO. 28
DISTURBANCES
All Facilities
6/20/51

SPECIAL ENDORSEMENTS

1. The Permittee shall pay a basic fee for the Space under the Permit in accordance with the provisions of Standard Endorsement No. 2.1 annexed hereto in the following monthly amounts: (a) during the period from January 1, 2006 through December 31, 2006, at the monthly rate of Forty Thousand Six Hundred Eighty-one Dollars and Eighty Cents ($40,681.80); (b) during the period from January 1, 2007 through December 31, 2007, at the monthly rate of Forty-one Thousand Four Hundred Ninety-five Dollars and Forty-four Cents ($41,495.44); (c) during the period from January 1, 2008 through December 31, 2008, at the monthly rate of Forty-two Thousand Three Hundred Twenty-five Dollars and Thirty-five Cents ($42,325.35); (d) during the period from January 1, 2009 through December 31, 2009, at the monthly rate of Forty-three Thousand One Hundred Seventy-one Dollars and Eighty-five Cents ($43,171.85); (e) during the period from January 1, 2010 through December 31, 2010, at the monthly rate of Forty-four Thousand Thirty-five Dollars and Twenty-nine Cents ($44,035.29); and (f) during the period from January 1, 2011 through December 31, 2011, at the monthly rate of Forty-four Thousand Nine Hundred Sixteen Dollars and No Cents ($44,916.00).

2. The policy of comprehensive general liability insurance required by Standard Endorsement No. 21.1 to this Permit shall include a contractual liability endorsement covering the Permittee's indemnity obligations under this Permit. The policy of automobile liability insurance required by said Standard Endorsement No. 21.1 shall cover all owned, non-owned and hired vehicles. Without limiting the generality of any insurance coverage required under Standard Endorsement No. 21.1 to this Permit, the Port Authority shall be an additional insured thereunder for both premises-operations and completed operations. Each policy of insurance required by said Standard Endorsement No. 21.1 shall contain an endorsement providing that the protections afforded the Permittee thereunder with respect to any claim or action against the Permittee by a third party shall pertain and apply with like effect with respect to any claim or action against the Permittee by the Port Authority and against the Port Authority by the Permittee, but said endorsement shall not limit, vary, change or affect the protections afforded the Port Authority as an additional insured.

3. The Port Authority shall deliver the Space to the Permittee in its "as is" condition. The Permittee acknowledges that it has thoroughly inspected the Space and agrees to take the same in such "as is" condition. The Port Authority shall have no

responsibility or obligation hereunder for finishing work or for preparation of the Space for the Permittee's use.

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

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

(c) The Permittee shall assume the entire responsibility for, and shall relieve the Port Authority from all responsibility from, all care, maintenance, repair and rebuilding whatsoever at the Space, whether such care, maintenance, repair, or rebuilding be ordinary or extraordinary, partial or entire, inside or outside, foreseen or unforeseen, structural or otherwise; and without limiting the generality of the foregoing the Permittee shall maintain and make repairs and replacements, structural or otherwise to all improvements located at the Space and all other fixtures, machinery, or equipment now or hereafter belonging to or connected with said Space or the Permittee's operations being conducted thereon. The Permittee shall maintain all such improvements, fixtures, machinery and equipment at all times in good condition, and shall perform all necessary preventive maintenance thereto so that at the expiration or earlier termination of the period of the permission granted under this Permit and all times during such period, the same (or a reconstruction of all or any part thereof) will be in as good condition as at the commencement thereof, except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the buildings or other structures at the Space or adversely affect the efficient or the proper utilization of any part of the Space. The Permittee shall make frequent periodic inspections of the Space and shall make all repairs and replacements, and do all rebuilding, inside and outside, ordinary and extraordinary, partial and entire, foreseen and unforeseen, structural or otherwise, regardless of the cause of the condition requiring such repairs, rebuilding or replacements, which repairs, rebuilding and replacements by the Permittee shall be in quality and class not inferior to the original in materials and workmanship.

(d) Without limiting the obligations of the Permittee stated elsewhere in this Permit, the Permittee shall be solely responsible to the Port Authority for loss or theft of or

damage to any and all personal property, equipment and fixtures belonging to the Port Authority or for which it is responsible, located or to be located at the Space and shall promptly replace or repair the same within twenty (20) days after such loss, theft or damage (except that if any such repair requires activity over a period of time, then the Permittee shall commence to perform such repair within such twenty (20) day period and shall diligently proceed therewith without interruption); and the Permittee shall yield and deliver the same or replacements thereof to the Port Authority at the expiration or earlier termination of the period of the permission granted under this Permit in the same condition as at the commencement of said period, reasonable wear not materially affecting the efficient use and functioning of the same excepted.

5. The Permittee shall ensure labor harmony in its operations at the Facility, to the end of avoiding and preventing strikes, walkouts, work stoppages, slowdowns, boycotts and other labor trouble and discord. The Permittee particularly recognizes the essential necessity of the continued and full operation of the whole Facility.

6. The Port Authority and the Permittee have heretofore entered into an agreement of lease dated as of June 30, 1995 and bearing Port Authority Lease No. HHT-4 covering the letting of premises at the Howland Hook Marine Terminal (which agreement of lease, as the same has been or may be supplemented, amended or extended, is hereinafter called "Lease No. HHT-4"). The Permittee and the Port Authority hereby agree that all sums deposited by the Permittee, as lessee, as security under Lease No. HHT-4 shall be held and used by the Port Authority as security for the full, faithful and prompt performance of and compliance with, on the part of the Permittee, all of the terms, provisions, covenants and conditions of this Permit. All security deposited under Lease No. HHT-4 shall be considered as if deposited under this Permit and no part of the security deposited under Lease No. HHT-4 shall be repaid until Lease No. HHT-4 and this Permit shall have expired and except in accordance with the provisions of the last of the said agreements to expire. The provisions of Standard Endorsement No. L23.2C annexed to Supplement No. 12 to Lease No. HHT-4 shall apply to the Permittee's obligations under this Permit and shall be incorporated in this Permit as if set forth herein in haec verba.

7. If the Permittee should fail to pay any amount required under this Permit when due to the Port Authority,

including without limitation any payment of the basic fee or any payment of utility fees or charges, or other charges or fees, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period hereinbelow described during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under 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 Special Endorsement with respect to such unpaid amount. Each late charge shall be and become an additional fee, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fee or fees as set forth in this Permit. Nothing in this Special Endorsement 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 1 of the Terms and Conditions of this Permit, or (ii) any obligations of the Permittee under this Permit. In the event that any late charge imposed pursuant to this Special Endorsement 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.

8. As used in this Permit, the term "Facility " shall mean both Port Ivory and the Howland Hook Marine Terminal, as they are hereinafter defined in this Special Endorsement. "Port Ivory" shall mean the real property, buildings, structures, fixtures, improvements and other property, including without limitations thereto leasehold interest in property, located in

the Borough of Staten Island, in the County of Richmond, in the City and State of New York, transferred to the Port Authority under the provisions of a Bargain and Sale Deed, without covenants, dated October 18 , 2000, from The Procter & Gamble Manufacturing Company to the Port Authority, recorded in the Office of the Richmond County Clerk, on February 23, 2001, on page 23 of Book 10921. The "Howland Hook Marine Terminal" shall mean the real property, buildings, structures, fixtures, improvements and other property located in the Borough of Staten Island, in the County of Richmond, in the City and State of New York, leased to the Port Authority under the provisions of an agreement of lease made as of June 30, 1983 (hereinafter called "the 1983 Lease") by and between the City of New York (hereinafter called "the City") and the U.S. Lines, Inc. and subsequently assigned to the Port Authority and amended pursuant to that agreement made as of June 11, 1985 (hereinafter called "the Assignment") made by and among the City, the Port Authority and U.S. Lines, Inc., as the 1983 Lease as amended by the Assignment has been heretofore or may be hereafter from time to time supplemented and amended, including but not limited to that certain agreement between the City and the Port Authority dated as of May 10, 1990.

9. In addition to the rights set forth in Section 13 of the Terms and Conditions of this Permit, the Port Authority, its employees, agents, representatives, contractors, subcontractors and designees shall have the right to enter the Space (24) hours a day, seven (7) days a week for the purpose of performing any construction, installation or maintenance work that the Port Authority shall elect to perform, with such election to be within the sole discretion of the Port Authority.

10. In addition to the rights set forth in Section 1 of the Terms and Conditions of this Permit and Special Endorsement No. 9 to this Permit, the Port Authority shall have the right to terminate the permission granted under this Permit as to any portion of the Space, without cause, at any time, on thirty (30) days' prior written notice to the Permittee. Termination under the provisions of this Special Endorsement shall have the same effect as if the effective date of termination stated in the notice were the date of expiration of the period of the permission under this Permit of the portion of the Space designated in the notice. Such termination shall not relieve the Permittee of any liabilities or obligations which shall have accrued on or prior to the effective date of termination or which shall mature on such date, and shall not

affect the permission as to the balance of the Space under the Permit and the permission as to the balance of the Space shall continue in full force and effect notwithstanding such termination.

11. If any event described in Lease No. HHT-4 as a ground for termination or event of default, including without limitation thereto the events set forth in subparagraphs (1) through (11) of paragraph (a) of Section 25 of Lease No. HHT-4 entitled "Termination", shall occur, such event shall be a ground for termination under this Permit in the same manner and to the same extent as if it had been explicitly included in Section 1 of the Terms and Conditions of this Permit.

For the Port Authority

Initialled:

For the Permittee

Port Authority Permit No. PHH-11, dated January 1, 2006
Supplement No. 1
Port Authority Facility - Howland Hook Marine Terminal/Port Ivory

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

SUPPLEMENT TO PERMIT

THIS AGREEMENT, made by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and NEW YORK CONTAINER TERMINAL, INC. (hereinafter called "the Permittee"),

WITNESSETH, that the Port Authority and the Permittee hereby agree to amend, effective as of the "Effective Date" (as such term is hereinafter defined), that certain Permit (identified above by Port Authority Permit Number and by date and covering space at the above-mentioned Port Authority Facility) issued by the Port Authority to the Permittee, and hereinafter, as the same may have been previously supplemented and amended, called "the Permit", as follows:

1. The Permittee shall have the right to terminate the period of the permission granted under this Permit as to all or any portion of the Space, without cause, at any time, on thirty (30) days' prior written notice to the Port Authority; provided, that, the Permittee shall not be under notice of termination, from the Port Authority, either on the date of its giving of such notice to the Port Authority or the effective date thereof. Termination by the Permittee under the provisions of this paragraph shall have the same effect as if the effective date of termination stated in the notice were the date of expiration of the period of the permission granted under this Permit as to all of the Space or the portion thereof designated in such notice.

2. The term "Effective Date" shall mean the date that the Port Authority, as permittor, and the Permittee, as permittee shall have entered in that certain permit denominated as Permit

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No. PHH-13 and granting permission to the Permittee to occupy space at the Facility.

3. Without limiting the generality of any provision of this Permit, in the event the Port Authority exercises its right of termination under the provisions of Section 1 of the Terms and Conditions of this Permit for 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 termination, including without limitation any re-entry, regaining or resumption of possession, the collection of all amounts due to the Port Authority, the restoration of the Space (on failure of the Permittee to have it restored), the preparation of the Space for use and occupancy by a succeeding permittee, the care and maintenance of the Space during any period of non-use of the Space; the foregoing shall 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.

4. Unless otherwise notified by the Port Authority in writing at least ninety (90) days prior to the expiration or earlier termination of the period of the permission under this Permit, in the event that the Permittee remains in possession of the Space after the expiration or earlier termination of the period of the permission under this Permit (which period subsequent to expiration or termination is hereinafter called "the Holdover Period"), in addition to any damages to which the Port Authority may be entitled or other remedies that the Port Authority may have by law, the Permittee shall pay to the Port Authority a fee for and during the Holdover Period at the rate of twice the rate of the basic fee payable under this Permit at the time of such expiration or earlier termination. Nothing herein contained shall be deemed to give the Permittee any right to remain in possession of the Space after the expiration or earlier termination of the period of the permission under this Permit.

5. The Permittee hereby waives its right to trial by jury in any action that may hereafter be instituted by the Port Authority against the Permittee with respect of the permission granted hereunder 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 action for non-payment of any fee or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed.

6. In the event that upon conducting an examination and audit with respect to the matters set forth in this Permit (and as it may be hereinafter amended), 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. Nothing in this Special Endorsement 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 terminate this Permit or (ii) any obligations of the Permittee under this Permit.

7. As hereby amended, all the provisions of the Permit shall be and remain in full force and effect.

8. Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Permittee with any liability,

or held liable to the Permittee, under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach thereof.

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

Dated as of the Effective Date (as hereinbefore defined)

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By _____ RICHARD M. LARRABEE

(Title) DIRECTOR, PORT COMMERCE DEPT.

NEW YORK CONTAINER TERMINAL, INC.

By _____

(Title) President

[Print Name]

APPROVED:
FORM | TERMS
and KS

Port Authority Permit No. PHH-11, dated January 1, 2006
Supplement No. 2
Port Authority Facility - Howland Hook Marine Terminal/Port Ivory

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

SUPPLEMENT TO PERMIT

THIS AGREEMENT, made by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and NEW YORK CONTAINER TERMINAL, INC. (hereinafter called "the Permittee"),

WITNESSETH, that the Port Authority and the Permittee hereby agree to amend, effective as of June 1, 2007, that certain Permit (identified above by Port Authority Permit Number and by date and covering space at the above-mentioned Port Authority Facility) issued by the Port Authority to the Permittee, and hereinafter, as the same may have been previously supplemented and amended, called "the Permit", as follows:

1. The Permittee acknowledges and agrees that the security deposited under that certain agreement of lease between the Port Authority, as lessor, and the Permittee, as lessee, dated as of June 30, 1995 and bearing Port Authority lease number HHT-4 (hereinafter called "Lease No. HHT-4") was increased to Nine Million Dollars and No Cents ($9,000,000.00) pursuant to that certain supplemental agreement of lease between the Port Authority, as lessor, and the Permittee, as lessee, dated as of June 1, 2007, and designated as Supplement No. 9 to Lease No. HHT-4. The Permittee further acknowledges and agrees that the Nine Million Dollars and No Cents ($9,000,000.00) so deposited (and any amount or amounts of security which shall hereafter be deposited by the Lessee as security under Lease No. HHT-4, as it may be supplemented, extended or amended) shall be the security deposit referred to in Special Endorsement No. 6 to the Permit for all purposes of the provisions of said Special Endorsement No. 6.

2. As hereby amended, all the provisions of the Permit shall be and remain in full force and effect.

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

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

Dated as of June 1, 2007

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By _____
RICHARD M. LARRABEE

(Title) DIRECTOR, PORT COMMERCE DEPT.

NEW YORK CONTAINER TERMINAL, INC.

By _____

(Title) President

[Print Name]

JEUNE

APPROVED:
FORM | TERMS
and KS

Port Authority Permit No. PHH-11, dated January 1, 2006

Supplement No. 3

Port Authority Facility - Howland Hook Marine Terminal/Port Ivory

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

SUPPLEMENT TO PERMIT

THIS AGREEMENT, made as of December 30, 2009 by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (the "**Port Authority**") and NEW YORK CONTAINER TERMINAL, INC. (the "**Permittee**"),

WITNESSETH, that:

WHEREAS, the Port Authority has issued to the Permittee that certain Permit identified above by Port Authority Permit Number and by date and covering space at the above-mentioned Port Authority Facility (as the same has been previously supplemented and amended, the "**Permit**"), and

WHEREAS, Section 1 of Supplement No. 1 to the Permit provides that the Permittee shall have the right to terminate the period of the permission granted under this Permit as to all or any portion of the Space, without cause, at any time, on thirty (30) days' prior written notice to the Port Authority, as more specifically provided in Supplement No. 1, and

WHEREAS, the Permittee, in exercise of the aforesaid right, has heretofore terminated the permission granted under the Permit as to the 2.51-acre parcel of unimproved open area at Port Ivory shown in diagonal hatching on Exhibit B to the Permit (the "**Richmond Terrace/Catherine Street Parcel**"), and

WHEREAS, the parties would now like to add the Richmond Terrace/Catherine Street Parcel back to the Space under the Permit, and

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WHEREAS, the Port Authority and the Permittee would like to further amend the Permit as set forth below,

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the parties hereby agree as follows:

1. Effective as of the date hereof, the Richmond Terrace/Catherine Street Parcel is added back to the Space under the Permit, subject to the applicable terms and conditions of, and the fees currently payable under, the Permit.

2. Effective as of the date hereof, Section 1 of Supplement No. 1 to the Permit is amended and restated as follows:

> "1. The Permittee shall have the right, at any time on thirty (30) days' prior written notice to the Port Authority, (x) to terminate, without cause, the period of the permission granted under this Permit as to any or all of the discrete portions of the Space shown in Exhibits A, B and C, respectively (as so terminated, the "**Terminated Space**"), and (y) to add any Terminated Space back to the Space under the Permit; provided, that, the Permittee shall not be under notice of termination or revocation, from the Port Authority, either on the date of its giving of such notice to the Port Authority or the effective date thereof. Termination by the Permittee under the provisions of this paragraph shall have the same effect as if the effective date of termination stated in the notice were the date of expiration of the period of the permission granted under this Permit as to the Terminated Space; and all Terminated Space added back to the Space under the Permit shall be subject to the terms and conditions (including without limitation Special Endorsement No. 3 to the Permit, relating to the "as is" condition of the Space), and the fees payable, as are then applicable under the Permit with respect to the Space."

3. As hereby amended, all the provisions of the Permit shall be and remain in full force and effect.

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

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

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

(name) RICHARD M. LARRABEE
(title) DIRECTOR, PORT COMMERCE DEPT.

NEW YORK CONTAINER TERMINAL, INC.

(name)
(title) President + CEO

(Corporate Seal)

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

JJL

Port Authority Permit No. PHH-11, dated January 1, 2006

Supplement No. 4

Port Authority Facility - Howland Hook Marine Terminal/Port Ivory

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

SUPPLEMENT TO PERMIT

THIS AGREEMENT, made as of December 31, 2011 by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (the "**Port Authority**") and NEW YORK CONTAINER TERMINAL, LLC, successor by merger to New York Container Terminal, Inc. (the "**Permittee**"),

WITNESSETH, that:

WHEREAS, the Port Authority has issued to the Permittee's predecessor that certain Permit identified above by Port Authority Permit Number and by date and covering space at the above-mentioned Port Authority Facility (as the same has been previously supplemented and amended, the "**Permit**"), and

WHEREAS, the parties desire to extend the term of the permission granted pursuant to the Permit, and to further amend the Permit as set forth below,

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the parties hereby agree as follows:

1. The term of the permission granted pursuant to the Permit is hereby extended through December 31, 2015.

2. The Permittee shall pay a basic fee for the Space under the Permit (constituting the areas shown in Exhibits A and C to the Permit), in accordance with the provisions of Standard Endorsement 2.1 to the Permit, in the following monthly amounts: (a) during the period from January 1, 2012 through December 31, 2012, at the monthly rate of Thirty-Five Thousand Two Hundred Eighty-Five

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Dollars and Seven Cents ($35,285.07); (b) during the period from January 1, 2013 through December 31, 2013, at the monthly rate of Thirty-Five Thousand Nine Hundred Ninety Dollars and Seventy-Seven Cents ($35,990.77); (c) during the period from January 1, 2014 through December 31, 2014, at the monthly rate of Thirty-Six Thousand Seven Hundred Ten Dollars and Fifty-Nine Cents ($36,710.59); and (d) during the period from January 1, 2015 through December 31, 2015, at the monthly rate of Thirty-Seven Thousand Four Hundred Forty-Four Dollars and Eighty Cents ($37,444.80). The foregoing basic fee shall be subject to adjustment to reflect changes to the Space made in accordance with Section 1 of Supplement No. 1 to the Permit, as amended and restated in Supplement No. 3 to the Permit.

3. As hereby extended and amended, all the provisions of the Permit shall be and remain in full force and effect.

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

[Signatures on Following Page]

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

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

(name) RICHARD M. LARRABEE
(title) DIRECTOR, PORT COMMERCE DEPT.

NEW YORK CONTAINER TERMINAL, LLC

(name) JAMES DEVINE
(title) President + CEO
(Corporate Seal)

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

JJL

Permit No. PHH-12

PERMIT

between

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

and

NEW YORK CONTAINER TERMINAL, INC.

Dated as of August 1, 2006

CONFORMED COPY

Leasing Files

This Space for Port Authority Use Only:
Number: PHH-12

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

SPACE PERMIT

The Port Authority of New York and New Jersey (hereinafter called "the Port Authority") hereby grants to the Permittee hereinafter named permission to use and occupy the following described space (hereinafter called "the Space") at the Port Authority Facility hereinafter named, for the purposes hereinafter specified and purposes incidental thereto, in accordance with the Terms and Conditions hereof and the endorsements annexed hereto; and the Permittee agrees to pay the fees hereinafter specified and to perform all other obligations imposed upon it in the Terms and Conditions and endorsements.

1. FACILITY: HOWLAND HOOK MARINE TERMINAL/PORT IVORY

2. PERMITTEE: NEW YORK CONTAINER TERMINAL, INC.

3. PERMITTEE'S ADDRESS: 300 Western Avenue
Staten Island, New York 10303

4. PERMITTEE'S REPRESENTATIVE: James J. Devine

5. SPACE: Approximately 17.5 acres of open area and enclosed space shown respectively in diagonal crosshatching and diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A". The Port Authority and the Permittee agree that the Space constitutes non-residential real property.

6. PURPOSES: For: (i) the operation and management of the ExpressRail Staten Island intermodal rail terminal as a public, multi-user marine container rail interchange terminal; (ii) the ingress and egress of railroad cars and locomotives to and from areas adjacent to the Space; (iii) the receipt and delivery of containerized waterborne freight which has arrived or will be departing by vessel through the Port of New York and New Jersey, to and from such railroad cars; and (iv) such other purposes as may be approved by the Facility Manager in writing.

7. FEES: As set forth in Special Endorsement No. 1.

8. EFFECTIVE DATE: As set forth in Section 1 of the Terms and Conditions, except as such date may be postponed pursuant to Special Endorsement No. 11.

9. EXPIRATION: July 31, 2016, except as such date may be postponed pursuant to Special Endorsement No. 11, unless terminated or revoked in accordance with the Terms and Conditions and Endorsements.

10. ENDORSEMENTS: 10.4, 11.1, 17.1, 18.1, 22.1, 28 and Special.

Dated as of: August 1, 2006

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY

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

NEW YORK CONTAINER
TERMINAL, INC.

By _____ x
(Title) President x

APPROVED:
FORM | TERMS

TERMS AND CONDITIONS

1. (a) The permission hereby granted shall take effect on August 1, 2006, as such date may be changed pursuant to Special Endorsement No. 11 below (hereinafter called "the Commencement Date").

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

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

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

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

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

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

(6) By or pursuant to, or under authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of the Permittee, and such possession or control shall continue in effect for a period of fifteen (15) days; or

(7) The Permittee shall voluntarily abandon, desert or vacate the Space or discontinue its operations at the Space or, after exhausting or abandoning any right of further appeal, the Permittee shall be prevented for a period of thirty (30) days by action of any governmental agency, from conducting its operations at the Space, regardless of the fault of the Permittee; or

(8) Any lien shall be filed against the Space because of any act or omission of the Permittee and shall not be discharged within twenty (20) days; or

(9) The Permittee shall fail duly and punctually to pay the fees or to make any other payment required hereunder when due to the Port Authority; or

(10) The Permittee shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Permit, on its part to be kept, performed or observed, within seven (7) days after its receipt of notice of default thereunder from the Port Authority (except where fulfillment of its obligation requires activity over a period of time, and the Permittee shall have commenced to perform whatever may be required for fulfillment within seven (7) days after receipt of notice and continues such performance without interruption except for causes beyond its control); then upon the occurrence of any such event or at any time thereafter during the continuance thereof, the Port Authority may by seven (7) days' notice revoke this Permit, such revocation to be effective upon the date specified in such notice. Such right of revocation and the exercise thereof shall be and operate as a conditional limitation.

(c) 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 such revocation or termination.

2. (a) As used in this Permit, the term "Annual Period" shall mean as the context requires the twelve-month period commencing with the Commencement Date and each of the twelve-month periods thereafter occurring during the period of the permmission granted under this Permit commencing on each anniversary of the Commencement Date occurring during the period of the permmission granted under this Permit, except that if the Commencement Date shall occur on a day other than the first day of a calendar month then the first Annual Period shall mean the portion of the calendar month in which the Commencement Date shall occur commencing with the Commencement Date and the eleven-month period following said month and each succeeding Annual Period shall mean the twelve-month period commencing on the anniversary of the first day of the calendar month in which the Commencement Date shall occur; provided, however, that the last Annual Period shall expire in any event on the expiration date of the period of the permmission granted under this Permit .

(b) As used in this Permit, the term "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) As used in this Permit, the terms "Facility Manager" and "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 Facility Manager or his or her duly designated representative.

(d) As used in this Permit, the term "Facility " shall mean both Port Ivory and the Howland Hook Marine Terminal, as they are hereinafter defined in this paragraph. "Port

Ivory" shall mean the real property, buildings, structures, fixtures, improvements and other property, including without limitations thereto leasehold interests in property, located in the Borough of Staten Island, in the County of Richmond, in the City and State of New York, transferred to the Port Authority under the provisions of a Bargain and Sale Deed, without covenants, dated October 18, 2000, from The Procter & Gamble Manufacturing Company to the Port Authority, recorded in the Office of the Richmond County Clerk, on February 23, 2001, on page 23 of Book 10921. The "Howland Hook Marine Terminal" shall mean the real property, buildings, structures, fixtures, improvements and other property located in the Borough of Staten Island, in the County of Richmond, in the City and State of New York, leased to the Port Authority under the provisions of an agreement of lease made as of June 30, 1983 (hereinafter called "the 1983 Lease") by and between the City of New York (hereinafter called "the City") and the U.S. Lines, Inc. and subsequently assigned to the Port Authority and amended pursuant to that agreement made as of June 11, 1985 (hereinafter called "the Assignment") made by and among the City, the Port Authority and U.S. Lines, Inc., as the 1983 Lease as amended by the Assignment has been heretofore or may be hereafter from time to time supplemented and amended, including but not limited to that certain agreement between the City and the Port Authority dated as of May 10, 1990.

(e) As used in this Permit, the term "Space" shall mean the area shown on Exhibit A hereto together with the buildings, structures, fixtures, improvements, and other property, if any, of the Port Authority located or to be located therein or thereon (including, without limitation, the Building and the Gate as such terms are defined in paragraph (a) of Special Endorsement No. 2 hereto).

(f) As used in this Permit, the term "Terminal" shall mean the ExpressRail Staten Island intermodal rail terminal located on the Space as such terminal shall exist on the Effective Date and at any time thereafter during the period of the permission granted under this Permit.

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

3. The rights granted hereby shall be exercised by the Permittee acting only through the medium of its officers and employees. The Permittee shall not assign, transfer, mortgage or otherwise encumber this Permit, the Building (as such term is defined in Special Endorsement No. 2 hereto) or any other improvements of the Port Authority on the Space or any of the rights or privileges granted under this Permit or enter into any contract requiring or permitting the doing of anything under this Permit by an independent contractor, without the prior written approval of the Port Authority.

4. This Permit does not constitute the Permittee the agent or representative of the Port Authority for any purpose whatsoever.

5. The operations of the Permittee, its employees, invitees and those doing business with it, shall be conducted in an orderly and proper manner. The Port Authority shall have the right to object to the Permittee regarding the demeanor, conduct and appearance of the employees and invitees of the Permittee and of those doing business with it, whereupon the Permittee will take all steps necessary to remove the cause of the objection.

6. 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 of the Port Authority now in effect, and such further reasonable rules and regulations 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, including the Space, or for the safe and efficient operation of the Facility, including the Space. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Permittee of every rule and every regulation hereafter adopted by it at least five (5) days before the Permittee shall be required to comply therewith.

7. (a) The Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, representatives and contractors, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal expenses incurred in connection with the defense of) all claims and demands of third persons including but not limited to claims and demands for death or personal injuries, or for property damages, arising out of any default of the Permittee, its officers, employees, and persons who are doing business with it, in performing or observing any term or provision of this Permit, or out of any of the operations, acts or omissions of the Permittee, its officers, employees, and persons who are doing business with it, including claims and demands of the City of New York, from which the Port Authority derives its rights in the Howland Hook Marine Terminal, for indemnification arising by operation of law or through agreement of the Port Authority with the said City.

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

(c) The Permittee in its own name as assured shall secure and pay the premium or premiums for such of the following policies of insurance affording those coverages as to which minimum limits are fixed in the schedule set forth below. Each such policy shall be maintained in at least, the limit fixed with respect thereto, shall cover the operations of the Permittee under this Permit and shall be effective throughout the effective period of this Permit.

SCHEDULE

Policy			Minimum Limit
(1)	Commercial general liability insurance		
	(i)	Bodily-injury liability: For injury or wrongful death to one person	$10,000,000.00
		For injury or wrongful death to more than one person in any one occurrence	$10,000,000.00
	(ii)	Property-damage liability: For all damages arising out of injury to or destruction of property in any one occurrence	$10,000,000.00
(2)	Commercial automobile liability insurance:		
	(i)	Bodily-injury liability: For injury or wrongful death to one person	$ 5,000,000.00
		For injury or wrongful death to more than one person in any one occurrence	$ 5,000,000.00
	(ii)	Property-damage liability: For all damages arising out of injury to or destruction of property in any one occurrence	$ 5,000,000.00

(d) The policy of commercial general liability insurance required hereunder: (i) shall include coverage of completed operations and premises-operations in the amount set forth above; (ii) shall not exclude property damage to any property in the care, custody or control of any party insured under such policy; (iii) shall include a contractual liability endorsement covering the Permittee's indemnity obligations under this Permit and (iv) shall name the Port Authority and the City of New York as additional insureds for all purposes of the above-listed insurance coverages, including without limitation coverage for completed operations and premises-operations. The policy of commercial automobile liability insurance required by this paragraph shall include all owned, non-owned and hired vehicles. In addition, the Permittee shall take out and maintain Workers' Compensation and Employers' Liability Insurance, including coverage for U.S. Longshoremen's and Harbor Workers' Compensation Act. Each policy of liability insurance required by this Special Endorsement shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or

the provisions of any statutes respecting suits against the Port Authority, and each such policy of insurance shall provide or contain an 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 against the Port Authority by the Permittee, but such endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured.

(e) In addition to the policies of insurance required by paragraph (a) of this Section, the Permittee in its own name as assured shall secure and pay the premium or premiums for all risk property damage insurance to be effective during the effective period of this Permit and covering the full replacement cost of any property now or in the future used by the Permittee under this Permit, including without limitation, the Building and the Gate (as such terms are defined in Special Endorsement No. 2 hereto) under this Permit. Full replacement cost shall be determined by the Port Authority from time to time. Such insurance shall cover and insure against such hazards and risks as at least would be insured against under the Standard Form of Fire Insurance policy in the State of New York, or any successor thereto, and the broadest form of extended coverage endorsement prescribed as of the effective date of said insurance by the rating organization having jurisdiction, including without limitation hazards and risks of floods and earthquake. The proceeds of insurance policies required hereunder actually received by the Port Authority (see paragraph (c) below) shall be made available to the Permittee as necessary to cover costs and expenses incurred by the Permittee in connection with its obligations of repair and replacement under this Permit undertaken in connection with damage for which such proceeds have been paid.

(f) Unless otherwise directed by the Port Authority, every policy of insurance on property other than that of the Permittee required by this Section shall name the Port Authority and the City of New York (with insurance clauses consistent with the provisions of this Permit) as the insureds, as their respective interests shall appear, and shall provide that loss, if any, shall be adjusted with and payable solely to the Port Authority.

(g) As to insurance of any type whatsoever required or permitted by any provision of this Permit, a certified copy of each of the policies or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority at least fifteen (15) days prior to the effective date of this Permit. In the event any binder is delivered, it shall be replaced with due diligence by a certified copy of the policy or by a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be canceled, terminated, changed or modified, without giving ten (10) days written advance notice thereof to the Port Authority. Any renewal policy shall be delivered to the Port Authority at least thirty (30) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the effective period under this Permit. If at any time any policy shall be or become unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing any one or more such policies shall be or become unsatisfactory to the Port Authority, the Permittee shall promptly obtain one or more new and satisfactory policies in replacement.

8. (a) If the Space, including the Building and the Gate (as such terms are defined in Special Endorsement No. 2 hereto) and other improvements and personal property furnished by the Port Authority, or any part thereof, shall be damaged by fire, the elements, the public enemy or other casualty, the Permittee shall promptly remove all debris resulting from such damage from the Space, and to the extent, if any, that the removal of debris under such circumstances is covered by insurance, the proceeds thereof shall be made available to and be used by the Permittee for such purpose.

(b) If the Space, including the Building and the Gate and other improvements and personal property furnished by the Port Authority, or any part thereof, shall be damaged by fire, the elements, the public enemy or other casualty but not rendered untenantable or unusable for a period of ninety (90) days, the Space shall be repaired with due diligence in accordance with the plans and specifications for the same as they existed prior to such damage by and at the expense of the Permittee unless otherwise directed by the Port Authority in writing, and if such damage is covered by insurance, the proceeds thereof shall be made available to and be used by the Permittee for such repairs.

(c) If the Space, including the Building and the Gate and other improvements and personal property furnished by the Port Authority, or any part thereof, shall be destroyed or so damaged by fire, the elements, the public enemy or other casualty as to be unusable for ninety (90) days, or if within ninety (90) days after such damage or destruction the Permittee notifies the Port Authority in writing that in its opinion the same will be unusable for ninety (90) days then: The Permittee, unless otherwise directed by the Port Authority in writing, shall proceed with due diligence to make the necessary repairs or replacements to restore the Space, including the Building and the Gate and other improvements and personal property furnished by the Port Authority in accordance with the plans and specifications therefor as the same existed prior to such damage or destruction; or with the approval in writing of the Port Authority make such other repairs, replacements or changes as may be desired by the Permittee. If such damage or destruction was covered by insurance, the proceeds thereof shall be made available to and used by the Permittee for such restoration.

(d) The obligation of the Permittee to repair or replace shall be limited to the amount of the insurance proceeds provided the Permittee has carried insurance to the extent and in accordance with Section 7 of the Terms and Conditions of this Permit. Any excess of the proceeds of insurance over the costs of the restoration shall be retained by the Port Authority.

(e) The parties hereby stipulate that neither the provisions of Section 227 of the Real Property Law of the State of New York nor those of any other similar statute shall extend or apply to this Permit.

9. (a) All personal property (including trade fixtures) which is installed by the Permittee in or on the Space pursuant to this Permit, removable without material damage to the Space, shall be deemed to be and remain the property of the Permittee except as otherwise provided in this Permit. All such personal property, provided the Permittee shall install suitable replacements therefor if such personal property is necessary to operate the Space in accordance with the terms and provisions hereof and in accordance with the best practices of the stevedoring

and railroad industries in the United States, may at the Permittee's option be removed by the Permittee from the Space at any time during the effective period of this Permit. Furthermore, all such property of the Permittee shall, unless otherwise agreed in writing by the parties hereto, be removed by the Permittee on or before the expiration or earlier revocation or termination of the effective period of this Permit. If the Permittee shall fail to remove its property on or before the expiration or earlier revocation or termination of the effective period of this Permit, the Port Authority may remove such property to a public warehouse for deposit or retain the same in its own possession and in either event may dispose of the same as waste material or sell the same as waste material or sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale; second to any sums owed by the Permittee to the Port Authority, with any balance remaining to be paid to the Permittee; if the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Permittee shall pay such excess to the Port Authority upon demand. Without limiting any other term or provision of this Permit, the Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, employees and contractors from all claims of third persons arising out of the Port Authority's removal and disposition of property pursuant to this Section, including claims for conversion, claims for loss of or damage to property, claims for injury to persons (including death), and claims for any other damages, consequential or otherwise, except for claims based on the sole negligence of the Port Authority.

(b) Without limiting the obligations of the Permittee stated elsewhere in this Permit, the Permittee shall be solely responsible to the Port Authority for loss or theft of or damage to any and all personal property, equipment and fixtures belonging to the Port Authority including without limitation, the Building (as such term is defined in Special Endorsement No. 2 hereto) or for which it is responsible, located or to be located in or on the Space, and shall promptly replace or repair, the same within twenty (20) days after such loss, theft or damage; and the Permittee shall yield and deliver the same or replacements thereof to the Port Authority at the expiration or earlier revocation of this Permit in the same condition as at the commencement of this Permit, reasonable wear not materially affecting the efficient use and functioning of the same, excepted.

10. The Permittee represents that it is the owner of or fully authorized to use and 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 wise limiting its obligations under Section 7 of the Terms and Conditions of this Permit, 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 wise connected with this Permit.

11. (a) The Permittee shall not install, maintain or operate, or permit the installation, maintenance or operation on the Space of any vending-machine or device designed to dispense or sell food, beverages, tobacco, tobacco products or merchandise of any kind whether or not included in the above categories, or of any restaurant, cafeteria, kitchen, stand or other establishment of any type for the preparation, dispensing or sale of food, beverages,

tobacco, tobacco products, or merchandise of any kind, whether or not included in the above categories, or of any equipment or device for the furnishing to the public of service of any kind including therein, without limitation thereto, telephone pay stations.

(b) The Port Authority, by itself or by contractors, lessees or permittees, shall have the exclusive right to install, maintain and receive the revenues from all coin-operated or other vending machines or devices installed by it and operated on the Space for the sale of merchandise of all types or for the rendering of services, provided, however, that no such machine or device shall be installed except upon the request of the Permittee. If the Port Authority does not install and maintain any such machine that the Permittee may reasonably request, the Permittee shall have the right to do so, provided, however, (i) that the Permittee shall pay or cause to be paid to the Port Authority each month for each machine upon the same basis for the preceding month as any concessionaire, permittee or licensee of the Port Authority then operating machines at the Port Authority facilities generally for the sale of similar merchandise or the rendering of similar services, and (ii) that in the event the Permittee exercises such right the Port Authority, at any time thereafter, may substitute for the Permittee's machines other machines selling similar merchandise or services operated by the Port Authority or by its licensee, permittee or concessionaire, and thereupon the Permittee shall remove its machines.

12. No signs, posters or similar devices shall be erected, displayed or maintained by the Permittee in view of the general public in or on the Space or the Facility without the written approval of the Facility Manager; and any not approved by the Facility Manager may be removed by the Port Authority at the expense of the Permittee.

13. The representative of the Permittee hereinbefore specified (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 to do any act or thing to be done hereunder, and to execute on behalf of the Permittee any amendments, or supplements to this Permit or any extension thereof and to give and receive notices hereunder.

14. (a) All notices, permissions, requests, consents and approvals given or required to be given to or by either party shall be in writing, and all such notices and requests shall be (i) personally delivered to the party or to the duly designated officer or representative of such party, or (ii) delivered to an office or residence of such party, officer or representative during regular business hours, or (iii) delivered to the residence of such party, officer or representative, (iv) or, if directed to the Permittee, delivered to the Space, or (v) forwarded to such party, officer or representative at the office or residence address by registered mail or by a nationally recognized overnight courier service. The Permittee shall designate an office within the Port of New York District and an officer or representative whose regular place of business is at such office. Until further notice, the Port Authority hereby designates its Executive Director, and the Permittee designates the person whose name appears on the first page of this Permit as their respective officers or representatives upon whom notices and requests may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Permittee designates its office, the address of which is set forth on the first page of this Permit, as their respective offices where notices and requests may be served.

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

15. The Permittee represents and warrants that no broker has been concerned in the negotiation 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 and save harmless the Port Authority of and from any claim for commission or brokerage made by any and all persons, firms or corporations whatsoever for services in connection with the negotiation and execution of this Permit.

16. This Permit, including the attached endorsements and exhibits, if any, constitutes the entire agreement of the Port Authority and the Permittee on the subject matter. It may not be changed, modified, discharged, or extended, except by written instrument duly executed on behalf of the Port Authority and the Permittee. The Permittee agrees that no representatives or warranties shall be binding upon the Port Authority unless expressed in writing herein.

The Permittee shall daily remove from the marine terminal 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 its operations 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, to be of a design safely and properly to contain whatever material may be placed therein, and to be 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 marine terminal. 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 marine terminal.

STANDARD ENDORSEMENT NO. 10.4
GARBAGE REMOVAL
Marine Terminals
10/6/75

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

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

Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof 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 thereof.

STANDARD ENDORSEMENT NO. 18.1
NO PERSONAL LIABILITY
All Facilities
06/01/50

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 National Fire Protection Association and The Fire Insurance Rating Organization of N.Y., 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 Endorsement, any fire insurance, extended coverage or rental insurance rate on the marine terminal 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.

The Permittee shall not do or permit to be done any act which,

(a) will invalidate or be in conflict with any fire insurance policies covering the marine terminal or any part thereof or upon the contents of any building thereon, or

(b) will increase the rate of any fire insurance, extended coverage or rental insurance on the marine terminal or any part thereof or upon the contents of any building thereon, or

(c) 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

(d) may cause or produce upon the marine terminal any unusual, noxious or objectionable smokes, gases, vapors or odors, or

(e) 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 marine terminal, or

(f) shall constitute a nuisance in or on the marine terminal or which may result in the creation, commission or maintenance of a nuisance in or on the marine terminal.

For the purpose of this Endorsement, "marine terminal" includes all structures located thereon.

STANDARD ENDORSEMENT NO. 22.1
PROHIBITED ACTS
NEW YORK MARINE TERMINALS
10/06/74

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.

STANDARD ENDORSEMENT NO. 28
DISTURBANCES
All Facilities
6/20/51

ExpressRail Staten Island

SPECIAL ENDORSEMENTS

1. (a) The Permittee shall collect from users of the services provided by the Permittee at the Space and remit to the Port Authority, on a monthly basis, the Intermodal Container Usage Fee then in effect and incurred by such users (without any billing-processing charge being added to this fee by the Permittee) under the Port Authority's tariff as incorporated in FMC Schedule No. PA 10, or any successor tariff, as the same may be amended from time to time (the total of such Intermodal Container Usage Fees incurred by such users for each month being hereinafter called "the Permittee's Basic Monthly Fee").

(b) In addition to the Permittee's Basic Monthly Fee, the Permittee shall pay to the Port Authority an additional monthly fee (hereinafter called "the Permittee's Additional Monthly Fee") as follows: if during any calendar month occurring after January 31, 2007 the amount of the Permittee's Basic Monthly Fee shall be less than the "Guaranteed Monthly Fee Amount", as such term is defined below in this paragraph, the Permittee shall pay to the Port Authority for such month the difference between the Guaranteed Monthly Fee Amount and the amount of the Permittee's Basic Monthly Fee payable for such month. The term "Guaranteed Monthly Fee Amount" shall mean the product obtained by multiplying (1) the Intermodal Container Usage Fee by (2) one thousand (1,000) "Container Lifts", as such term is defined below in this paragraph. The term "Container Lift" shall mean each placement of a cargo container on a railroad train which subsequently carries such cargo container from the Space and shall also mean each removal of a cargo container from the railroad train which carried a cargo container to the Space.

(c) The fees due hereunder, together with a report of the volume of Container Lifts during such calendar month and cumulatively during such Annual Period certified by a responsible officer of the Permittee, shall be due and payable on the thirtieth (30^{th}) day of the month following the calendar month in which the Space is made available to the Permittee as provided in Section 1 of the Terms and Conditions and on the thirtieth (30^{th}) day of each calendar month thereafter, provided, however, that if this Permit shall expire or be sooner terminated effective on a date other than the last day of a calendar month, the final payment of the fees and a final report is described above shall be due and payable within thirty (30) days after the effective date of expiration or sooner termination.

(d) The fee specified is a monthly fee, payable in advance on the effective date hereof and on the first day of each and every calendar month thereafter.

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 via the following wire transfer instructions:

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

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

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.

2. (a) It is understood and agreed that the full and exclusive charges for services to be rendered by the Permittee hereunder shall, except as may otherwise be approved by the Port Authority, be paid to the Permittee by the users, including the railroads and/or the shippers, of the Terminal.

(b) It will be the Permittee's responsibility to collect and pay the Intermodal Container Usage Fee to the Port Authority, without any billing-processing fee being added to the Intermodal Container Usage Fee. The Permittee will not be required to remit uncollected monies for any given 30-day billing cycle with respect to any specific user; provided that, the Permittee shall have diligently pursued, and shall continue to pursue, to collect such monies and shall remit same to the Port Authority; further provided, that, commencing no later than sixty (60) days from the date of billing, the Permittee shall have denied and shall continue to deny any and all access to the Terminal to the party or parties responsible for the payment of the unpaid monies ("the Responsible Parties") until such payment is made, which amount shall be paid over to the Port Authority by the Permittee within fifteen (15) days of the Permittee's receipt thereof; and further provided, that, the amount of any such unpaid monies shall be immediately payable to the Port Authority by the Permittee in the event that the Permittee provides any services of any nature under this Permit to the Responsible Parties or any of them including, without limitation, any access to the Terminal. Notwithstanding any provision to the contrary set forth above in this Special Endorsement, and without otherwise limiting the generality thereof, the Permittee will be allowed to charge an equitable, non-discriminatory handling charge to the users, including the railroads and/or the shippers, of the Terminal. Volume discounts can be provided if the discounts are available to all users on a non-discriminatory basis.

(c) The Terminal shall be open to all railroads and outside shippers and the Permittee is required to provide service to all customers without a fee for the use of the Gate.

(d) The Permittee shall, prior to furnishing any additional services hereunder, state the same in a schedule submitted to the Port Authority for its prior written approval (except that such Port Authority approval shall not be required for additional services to be provided outside of normal operating hours). Such schedules shall be submitted to the Port Authority for its approval as to compliance by the Permittee with its obligations under this Permit. The Port Authority shall examine such schedules and make such modifications therein as may be necessary. Any changes thereafter in the schedules shall be similarly submitted to the Port Authority for its prior written approval, and, if necessary, modification. All such schedules

shall be made available to the public by the Permittee at locations designated from time to time by the Port Authority. The Permittee agrees to adhere to the rates stated in the approved schedules. If the Permittee applies any rate in excess of the approved rates, the amount by which the charge based on such actual rate deviates from a charge based on the approved rates and/or discounts shall constitute an overcharge which will, upon demand of the Port Authority or the Permittee's customer, be promptly refunded to the customer. If the Permittee applies any rate which is less than the approved rates the amount by which the charge based on such actual rate or actual discount deviates for a charge based on the approved rates shall constitute an undercharge and shall be collected from its customer by the Permittee. Notwithstanding any repayment of overcharges to a customer by the Permittee, any such overcharge shall constitute a breach of the Permittee's obligations hereunder and the Port Authority shall have all remedies consequent upon breach which would otherwise be available to it at law, in equity or by reason of this Permit.

3. (a) The Port Authority shall complete the construction of an approximately 5,700 square foot, single-story, modular building (hereinafter called the "Building") for office use on the Space on the area shown in diagonal hatching on Exhibit A hereto and an interchange gate complex to accept traffic by the users of the Terminal, including the railroad and/or shippers (hereinafter called the "Gate").

(b) The Port Authority shall furnish properly ballasted railroad tracks and switches, light stanchions and electrical wiring for such stanchions, and water pipes, sewer lines and fencing on the Space.

(c) The Permittee shall furnish all labor and equipment necessary for the efficient operation of the Terminal throughout the period of the permission granted hereunder.

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

(e) 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 or by those of its officers or employees, or of other persons on or at the Space or the Gate with the consent of the Permittee.

(f) Subject to the provisions of paragraph (g) of this Special Endorsement, throughout the period of permission under this Permit, the Permittee shall assume the entire responsibility for, and shall relieve the Port Authority from all responsibility from, all care, maintenance, repair and rebuilding whatsoever in the Space, whether such care, maintenance, repair, or rebuilding be ordinary or extraordinary, partial or entire, inside or outside, foreseen or unforeseen, structural or otherwise; and without limiting the generality of the foregoing the Permittee shall do all preventive maintenance, maintain and make repairs and replacements, structural or otherwise to all improvements located on the Space and all other fixtures, machinery, or equipment now or hereafter belonging to or connected with said Space or

the Permittee's operations being conducted thereon, including without limitation thereto all maintenance, repair and replacement of the following items: (1) paving, which shall mean maintenance paving, crack sealing, weed removal, repair of damaged or overstressed surfaces, manholes, catch basins, underground storm water pipes, and grate support systems. In addition, the Permittee shall be responsible for maintenance repairs, and damages, that are required above the structural concrete chamber of catch basins and manholes. Such repairs shall include the concrete brick collar, concrete collar, brick collar, asphalt concrete pavement, Portland cement concrete pavement, the frame and grate or manhole cover and silt bucket when and where applicable. For the purpose of manhole and catch basin repair, the top of the structural chamber shall be the top of the concrete slab that covers the vertical walls of the underground manhole structure, and for the purpose of catch basin and manhole repair, the top of the structural chamber shall be the top of the (cast-in-place or pre-cast) vertical walls of the underground catch basin and manhole structure; (2) scales; (3) rail track system including, without limitation, rail, switches, turnouts, and rail foundations; (4) all loading and unloading equipment and the infrastructure on which they operate, including concrete runways, turning pads and crossings; (5) lights, light poles and light pole foundations; (6) sprinkler systems; (7) gas and electric from the meter (utility companies are responsible up to the meter); (8) the electrical system, equipment and fixtures, including, without limitation, lighting fixtures, switches, outlets, receptacles and other electrical devices and accessories, and all relamping and fuse replacement; (9) power switch mechanism; (10) compressed air system; (11) the plumbing system, fixtures and equipment, and all finished plumbing; (12) buildings and all parts thereof; (13) gate complexes; (14) special loading devices, whether mechanical, electrical, hydraulic or otherwise; (15) fencing; (16) signs; (17) fire extinguishers; (18) all painting; and (19) "the Rail Crossing" (as such term is defined in paragraph (b) of Special Endorsement No. 22 hereto) and its associated warning systems and devices. The Permittee shall maintain all such improvements, fixtures, machinery and equipment at all times in good condition, and shall perform all necessary preventive maintenance thereto so that at the expiration or termination of the Permit and all times during the period of the permission, the same (or a reconstruction of all or any part thereof) will be in as good condition as at the commencement thereof (or, in the case of improvements made during the period of the permission hereunder, in as good condition as at the time of the installation or construction thereof), except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the Building or the Gate or other structures on the Space or adversely affect the efficient or the proper utilization of any part of the Space or the environmental condition thereof. The Permittee shall make frequent periodic inspections of the Space and shall make all repairs and replacements, and do all rebuilding, inside and outside, ordinary and extraordinary, partial and entire, foreseen and unforeseen, structural or otherwise, regardless of the cause of the condition requiring such repairs, rebuilding or replacements, which repairs, rebuilding and replacements by the Permittee shall be in quality and class not inferior to the original in materials and workmanship. With respect to anything oiginally supplied or installed by the Port Authority, the Permittee shall have the benefit of the warranty, if any, running to the Port Authority, to the extent assignment thereof does not impair or void the same. Without limiting any other provision of this Permit, the obligations of the Permittee set forth above in this paragraph apply to the Space as the same shall exist on the Commencement Date and at any time therafter during the period of the permission under this Permit including, without limitation, any additional trackage as described in paragraph (a) of Special Endorsement No. 21 hereof.

SPECIAL ENDORSEMENTS

(g) Except under circumstances as to which paragraph (e) of this Special Endorsement applies, upon receipt of notice that repair or replacement of such of the following as are located at the Space is required: (1) the water distribution system up to the closer of twenty (20) feet from the exterior building walls of the building being serviced or the valve connection thereto; or (2) the underground sanitary systems; the Port Authority will make such repairs and replacements to the extent necessary to keep such part of the Space in a reasonably good condition for the operations of the Permittee hereunder, but the Port Authority shall not be obligated to make any repairs or replacements to bring the Space to a better condition than that existing at the Commencement Date. The Port Authority's responsibilities under this paragraph shall be limited to bearing the expense of repair or replacement, and without limiting the foregoing the Port Authority shall have no responsibility with respect to any repairs or replacements which are the obligation of the Permittee under any other provision of this Permit. The Port Authority shall have no responsibility with respect to any repairs or replacements which are required because of any casualty whether or not insured or insurable. If the Port Authority shall fail, after a reasonable period of time to perform its repair and replacement obligations under this paragraph, the Permittee, as its sole remedy, shall perform the work, and the Port Authority shall on demand pay the Permittee its actual certified cash expenditures to third parties therefor, or, at the option of the Port Authority, shall extend to the Permittee a credit against its obligations to pay fees under this Permit in an amount equal to such expenditures. Furthermore, prior to the commencement by the Port Authority of any work set forth in the Permittee's notice to the Port Authority, the Permitee shall take all precautions necessary to protect persons or property at the Space, including the immediate performance by the Permittee of any work required to correct conditions which involve danger to persons or property, and the Port Authority will reimburse the Permittee for such work as provided in this paragraph. The Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents, and representatives, from and against all claims and demands, including but not limited to claims and demands for death, claims and demands for personal injuries, and claims and demands for property damages, of any third persons whatsoever, including, but not limited to, the Permittee's officers, employees, agents, and representatives which may arise from the condition of the Space or any part thereof, or from the failure of the Permittee to notify the Port Authority of conditions requiring repair or replacement, or from the failure of the Permittee to make timely corrections of dangerous or potentially dangerous conditions at the Space. Except as set forth above, the Permittee hereby releases and discharges the Port Authority, its Commissioners, officers, employees, agents, and representatives from any liability for damages to the Permittee, consequential, or otherwise, in connection with any of the provisions of this paragraph concerning repairs or replacements to any portion of the Space, including without limitation thereto any failure on the part of the Port Authority for any reason whatsoever to make any repair or replacement, and including without limitation thereto any act or omission of the Port Authority, its officers, agents, employees, contractors or their employees, connected with the performance of such repairs or replacements.

(h) Without limiting the obligations of the Permittee stated elsewhere in this Permit, the Permittee shall be solely responsible to the Port Authority for loss or theft of or damage to any and all personal property, equipment and fixtures belonging to the Port Authority or for which it is responsible, located or to be located in or on the Space and shall

promptly replace or repair the same within twenty (20) days after such loss, theft or damage (except that if any such repair requires activity over a period of time, then the Permittee shall commence to perform such repair within such twenty (20) day period and shall diligently proceed therewith without interruption); and the Permittee shall yield and deliver the same or replacements thereof to the Port Authority at the expiration or earlier termination of this Permit in the same condition as at the commencement of the Permit (or such later time at which the Permittee became responsible for same), reasonable wear not materially affecting the efficient use and functioning of the same excepted.

4. (a) A principal purpose of the Port Authority in granting the permission under this Permit is to have available for maritime users of The Port of New York and New Jersey the services which the Permittee is permitted to render hereunder, all for the better accommodation and convenience of such entities and in fulfillment of the Port Authority's obligation to operate facilities for the use and benefit of the public.

(b) The Permittee agrees that it will conduct a first class operation and (without limiting any provision of paragraph (c) of Special Endorsement No. 2 hereto) will furnish all fixtures, equipment (including, without limitation, computer systems and software), personnel (including, without limitation, licensed personnel as necessary), supplies, materials and other facilities necessary or proper therefor. The Permittee shall furnish all services hereunder on a fair, equal and non-discriminatory basis. Without limiting the provisions of the immediately preceding sentence, the Permittee shall operate the Gate so as to allow access to the Space on a fair, equal and non-discriminatory basis.

(c) The Permittee shall not enter into any agreement or understanding, express or implied, binding or nonbinding, with any other person who may furnish services in the Port of New York District (as such term is defined in Section 6403 of Title 17 of the Unconsolidated Laws of New York Annotated) similar to those furnished hereunder which will have the effect of (i) fixing rates and charges to be paid by users of the services; (ii) lessening or preventing competition between the Permittee and such other furnishers of services; or (iii) tending to create a monopoly in The Port of New York and New Jersey in connection with the furnishing of such services.

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

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

(c) From time to time and as often as required by the Port Authority, the Permittee shall conduct pressure, water-flow, and other appropriate tests of the fire extinguishing system and fire-fighting equipment on the Space whether such system or equipment is furnished by the Port Authority or by the Permittee. The Permittee shall keep all fire-fighting and fire extinguishing equipment well supplied with a fresh stock of chemicals and

with sand, water or other materials as the case may be for the use of which such equipment is designed, and shall train its employees in the use of all such equipment, including in such training periodic drills.

(d) The Permittee shall at all times keep the Space clean, and in an orderly condition and appearance, together with all the fixtures, equipment and personal property of the Permittee located on the Space.

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

(f) The Permittee shall accept the Space including the Building, the Gate, the railroad track and switches and all other improvements and personal property of the Port Authority thereon in their present condition and shall repair any damages thereto or to any other Port Authority property caused by its operations. The Permittee shall be responsible for snow removal. The Permittee shall not install any fixtures or make any additions or improvements in or additions to the Space except with the prior written approval of the Port Authority.

(g) The obligation of the Permittee as set forth in paragraph (h) of this Special Endorsement, in the event of damage or destruction covered by any contract of insurance under which the proceeds thereof are payable to the Port Authority, the Permittee is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that, if this release shall invalidate any such policy of insurance or reduce, limit or void the rights of the Port Authority thereunder, then the release shall be void and of no effect.

(h) Without in any wise limiting obligations of the Permittee as elsewhere stated in this Permit, the Permittee shall be liable to the Port Authority for any damage done to the Space or the Facility or to any part of either or to any property of the Port Authority thereon through any act or omission of those in charge of or operating any railroad locomotive cars or railroad equipment, any marine container equipment, any truck or other highway vehicle or any other vehicles or transportation equipment, while the same are at, coming to, or leaving the Space. Upon the payment by the Permittee to the Port Authority of all amounts due with respect to any such damage, the Port Authority shall transfer to the Permittee all rights of the Port Authority against any such third party with respect to such damages.

6. The Permittee shall have the right of ingress and egress between the Space and the city streets outside the Facility. Such right shall be exercised by means of such pedestrian or vehicular ways, to be used in common with others having rights of passage within the Facility, as may from time to time be designated by the Port Authority for the use of the public. The use of any such way shall be subject to the rules and regulations of the Port Authority which are now in effect or which may hereafter be promulgated for the safe and efficient operation of the Facility. The Port Authority may, at any time, temporarily or

permanently close, or consent to or request the closing of, any such way or any other area at, in or near the Facility presently or hereafter used as such, so long as a means of ingress and egress as provided above remains available to the Permittee. The Permittee hereby releases and discharges the Port Authority, and all municipalities and other governmental authorities, and their respective successors and assigns, of and from any and all claims, demands, or causes of action which the Permittee may now or at any time hereafter have against any of the foregoing arising or alleged to arise out of the closing of any way or other area whether within or outside the Facility. The Permittee shall not do anything which will interfere with the free access and passage of others to space adjacent to the Space or in any streets, ways and walks near the Space.

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

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

(c) The term "costs" in this Special Endorsement shall mean and include; (i) payroll costs, including contributions to pension plans or systems, insurance costs, sick leave pay, holiday, vacation, and authorized absence pay; (ii) cost of materials and supplies used; (iii) payments to contractors; (iv) any other direct costs; and (v) thirty percent (30%) of the sum of the foregoing.

8. (a) The Port Authority shall, as an additional remedy upon the giving of a notice of revocation as provided in Section 1 of the Terms and Conditions of this Permit, have the right to re-enter the Space and every part thereof upon the effective date of revocation without further notice of any kind, and may regain and resume possession either with or without the institution of summary or any other legal proceedings or otherwise. Such re-entry, or regaining or resumption of possession, however, shall not in any manner affect, alter or diminish

any of the obligations of the Permittee under this Permit and shall in no event constitute an acceptance of the surrender of the Space.

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

(c) No agreement for the mutual termination of this Permit shall be valid unless and until the same shall have been reduced to writing and signed by the duly authorized representatives of the Port Authority and of the Permittee. Except as expressly provided in this Special Endorsement, neither the doing of, nor any omission to do, any act or thing, by any of the officers, agents or employees of the Port Authority, shall be deemed an acceptance of a mutual termination of this Permit.

9. The Permittee acknowledges that it has not relied upon any representation or statement of the Port Authority or its Commissioners, officers, employees or agents as to the condition of the Space or the suitability thereof for the operations permitted on the Space by this Permit. The Permittee, prior to the execution of this Permit, has thoroughly examined the Space and has found it to be in good order and repair and determined them to be suitable for the Permittee's operations hereunder. Without limiting any obligation of the Permittee to commence operations hereunder at the time and in the manner stated elsewhere in this Permit, the Permittee agrees that no portion of the Space will be used initially or at any time during the effective period of this Permit which is in a condition unsafe or improper for the conduct of the Permittee's operations hereunder 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.

10. The Port Authority shall not be liable to the Permittee, or to any person, for injury or death to any person or persons whomsoever or damage to any property whatsoever at any time in the Space or elsewhere at the Facility, including but not limited to any such injury, death or damage from falling material, water, rain, hail, snow, gas, steam or electricity, whether the same may leak into, or fall, issue, or flow from any part of the Facility, or from any other place or quarter.

11. If the Port Authority shall not give possession of the Space on the date fixed in Section 1 of the Terms and Conditions of this Permit for the commencement of the effective period of this Permit, by reason of the fact that the Space or any part thereof is in the course of construction, repair, alteration or improvement or by reason of any cause or condition beyond the control of the Port Authority, the Port Authority shall not be subject to any liability for the failure to give possession on said date. No such failure to give possession on the date of commencement of the effective period shall in any wise affect the validity of this Permit or the obligations of the Permittee hereunder, except that: (a) the date stated in this Permit for expiration shall be extended by one day for each day that the giving of possession is so delayed; (b) the Permittee's Basic Monthly Fee shall not commence until possession of the Space is tendered by the Port Authority to the Permittee; and (c) the Permittee's Additional Monthly Fee

shall not go into effect until one hundred eighty (180) days following such tender of possession. Such tender shall be made by notice given at least five (5) days prior to the effective date of the tender and in the event that such notice of tender is not given for possession to commence on or before January 31, 2007, then this Permit shall be deemed canceled, except that each party shall and does hereby release the other party of and from any and all claims or demands based on this Permit, or a breach or alleged breach thereof.

12. (a) The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control, including without limitation thereto, strikes, boycotts, picketing, slow-downs, work stoppages or labor troubles of any other type (whether affecting the Port Authority, its contractors, or subcontractors.)

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

(c) No abatement, diminution or reduction of the fees or other charges payable by the Permittee, shall be claimed by or allowed to the Permittee for any inconvenience, interruption, cessation or loss of business or other loss caused, directly or indirectly, by any present or future laws, rules, requirements, orders, directions, ordinances or regulations of the United States of America, or of the state, county or city governments, or of any other municipal, governmental or lawful authority whatsoever, or by priorities, rationing or curtailment of labor or materials, or by war or any matter or thing resulting therefrom, or by any other cause or causes beyond the control of the Port Authority, nor shall this Permit be affected by any such causes. In the event any occurrence described in the foregoing sentence shall result in the inability of the Permittee to operate at the Space for a period in excess of thirty (30) days the fees hereunder shall be abated from and after the thirtieth (30th) day after such occurrence for so long as the Permittee shall be unable to operate at the Space.

(d) The Port Authority shall be under no obligation to supply the Permittee with any utilities, including but not limited to water, gas, electricity, sewer service, heat, steam, air-conditioning, telephone, telegraph, cable, or electrical guard or watch service.

(e) The Permittee shall promptly pay all water-bills covering consumption on the Space. In the event that any such water-bill or bills shall remain unpaid for a period of six (6) months after the same becomes due and payable, or in the event that any such bill remains unpaid at the date of expiration or earlier revocation or termination of the effective period under this Permit, the Port Authority may pay the same and any interest or penalties thereon, and the total payment or payments shall constitute a portion of the fee under this Permit, payable to the Port Authority on demand.

(f) If any federal, state, municipal or other governmental body, authority or agency, or any public utility or other entity providing any service, assesses, levies, imposes, makes or increases any charge, fee, rent or assessment on the Port Authority, for any service, system or utility now or in the future supplied to or available at the Space, 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 any such notice, such charge, fee, rent or assessment or such increase thereof (or the portion thereof allocated by the Port Authority to the Space or to the operations of the Permittee under this Permit) either directly to the governmental body, authority or agency, or to the public utility or other entity, or directly to the Port Authority, as such notice may direct. All such payments shall constitute a portion of the fee payable under this Permit.

(g) No failure, delay or interruption in any service or services, whether such service or services shall be supplied by the Port Authority or by others, shall relieve or be construed to relieve the Permittee of any of its obligations hereunder, or shall be or be construed to be a revocation or termination of this Permit, or shall constitute grounds for any diminution or abatement of the fees payable under this Permit, or grounds for any claim by the Permittee for damages, consequential or otherwise.

(h) Without in any wise affecting the obligations of the Permittee elsewhere stated in this Permit, the Permittee shall, subject to the provisions of Special Endorsement No. 4 of this Permit, provide, maintain and keep in good order, condition and repair any and all meters (to be located as designated by the Port Authority, other governmental authority or utility).

13. The Permittee shall maintain in accordance with accepted accounting practice during the period of the permission under this Permit and for three years thereafter records and books of account of its operations at the Space connected with or reflecting upon the payment of any fee hereunder, which records and books of account shall be kept at all times within the Port of New York District, as defined in the Port Compact of 1921 authorized by C. 154 Laws of N.Y. 1921 and C. 151 Laws of N.J. 1921, approved by Public Resolution No. 17 of the 67th Congress, First Session. The Permittee shall provide to the Port Authority on a monthly basis on or before the twentieth (20th) day of the following calendar month a report summarizing such activity and such payments in such form as may be directed from time to time by the Port Authority. The Port Authority shall have the right from time to time during ordinary business hours by its agents, employees and representatives to audit and inspect such books, records and other data of the Permittee relating to the Space and the operations of the Permittee thereat, as the Port Authority shall deem necessary to substantiate the Permittee's reports hereunder, it being understood that the Port Authority shall not be bound by any prior audit conducted by it.

14. The Permittee shall have the right (to be exercised in common with others now or in the future having rights of passage by rail) to use such of the existing railroad tracks located on lands owned or leased by the Port Authority (and as to which others shall not have been granted the exclusive use by lease, permit or other arrangement with the Port Authority) as may be necessary for ingress and egress of railroad cars to and from Space subject to the following limitations and conditions:

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(a) The foregoing right of use shall be subject to all times to the prior right of use by or on behalf of the United States;

(b) The foregoing right of use shall be exercised in a manner which will not hamper, interfere with or prevent the reasonable use of the tracks by others for the passage of railroad cars, locomotives and tenders and for the ingress and egress of such cars and locomotives to areas adjacent to the Space made available to others by the Port Authority;

(c) The Permittee shall not cause or permit the tracks to be obstructed, (except for the portion of track adjacent to the Space, and that portion for reasonable loading and unloading periods only), and shall comply with all rules and regulations of the Port Authority relating to the use of railroad tracks which are now in effect or which may hereafter be promulgated for the safe and efficient use of the Facility, and shall comply further with the directions of the Facility Manager relating to the use of railroad tracks;

(d) The Port Authority shall have the right to remove or to relocate any track or tracks so long as means of ingress and egress for railroad cars as above described remains available;

(e) The Port Authority shall not be liable for any inconvenience, delay or loss to the Permittee by reason of interruption of use by the Permittee of any or all such railroad tracks, occasioned by causes or circumstances over which the Port Authority shall not have control;

(f) The right of user granted hereby shall be subject to any existing or future agreements between the Port Authority and the railroads serving the Facility relating to the furnishing of service by such railroads, as the said agreements may from time to time be modified or amended.

15. The existing paragraph appearing in Standard Endorsement No. 28 shall be designated as paragraph (a) thereof and the following shall be deemed inserted as paragraphs (b), (c) and (d) thereof:

"(b) The Permittee shall use its best efforts to ensure labor harmony in its operations at the Space, to the end of avoiding and preventing strikes, walkouts, work stoppage, slowdowns, boycotts and other labor trouble and discord. The Permittee particularly recognizes the essential necessity of the continued and full operations at the Space.

(c) 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 operations of the Permittee under this Permit.

(d) The Permittee shall immediately give notice to the Port Authority (to be followed by written notices and reports) to 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 complaint, trouble, dispute or controversy."

16. The Permittee will accept and deliver cargo containers at the Space in accordance with current and prevailing regional marine terminal operating hours.

17. The Permittee understands that construction of additional parts of the Facility will be ongoing during its operations and that relocation and movement in and out of operating areas will be required in order to provide for unimpeded construction at the Facility. The Permittee hereby agrees and commits to faithfully and promptly cooperate with such relocation and movement requirements. Upon 15-day prior notice from the Port Authority, the Permittee will move out of needed areas and the Permittee will move back into such areas upon 15-day prior notice from the Port Authority.

18. The Port Authority and the Permittee have established the Performance Standards for the operations of the Permittee at the Space annexed hereto and hereby made a part hereof and marked Exhibit C and the Port Authority will review the Permittee's compliance therewith in connection with any determination by the Port Authority of the eligibility of the Permittee for participation in any procurement process for the operation of the Space for the period following the expiration of this Permit.

19. 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 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 calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this 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 Special Endorsement with respect to such unpaid amount. Nothing in this Special Endorsement 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 this Special Endorsement or (ii) any obligations of the Permittee under this Permit. In the event that any late charge imposed pursuant to this Special Endorsement 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.

20. All traffic information at the Terminal shall be reported by the Permitter to the Port Authority at a minimum on a monthly basis.

21. (a). The Port Authority and the Permittee contemplate that the Terminal trackage will be constructed by the Port Authority as follows: (a) the construction of five tracks will be substantially completed on or about July 31, 2006 (which tracks are hereinafter called "Tracks 1-5"); (b) two additional tracks will be constructed if in the sole opinion of the Port Authority such additional tracks are required for the efficient utilization of the Terminal (which tracks are hereinafter called "Tracks 6-7"); and (c) four additional tracks will be constructed if in the sole opinion of the Port Authority such additional tracks are required for the efficient utilization of the Terminal (which tracks are hereinafter called "Tracks 8-11"). The Port Authority and the Permittee acknowledge and agree that the matters set forth in this Special Endorsement are included herein for purposes of information and conceptualization only and that no provision of this Permit shall be or be deemed a representation, acknowledgement or covenant by the Port Authority with respect to the state of the Terminal's completion on July 31, 2006 or the scope, nature, or time of commencement or completion of any expansion of the Terminal at any subsequent date.

(b) If in the Port Authority's sole opinion Tracks 6-7 are required for the efficient utilization of the Terminal and the Port Authority elects, acting in its sole discretion, to construct Tracks 6-7, then upon the substantial completion of the construction of Tracks 6-7 the Port Authority shall provide the Permittee with sixty (60) days' notice of the date on which the space shown in diagonal crosshatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit C-1" (hereinafter called "the First Additional Space") shall become part of the Space under this Permit, subject to and in accordance with all of the terms, covenants and conditions of this Permit, for a period expiring on July 31, 2016, unless sooner terminated. The Port Authority and the Permittee hereby acknowledge that the First Additional Space constitutes non-residential property. In addition, if in the Port Authority's sole opinion Tracks 8-11 are required for the efficient utilization of the Terminal and the Port Authority elects, acting in its sole discretion, to construct Tracks 8-11, then upon the substantial completion of the construction of Tracks 8-11 the Port Authority shall provide the Permittee with sixty (60) days' notice of the date on which the space shown in diagonal crosshatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit C-2" (hereniafter called "the Second Additional Space") shall become part of the Space under this Permit, subject to and in accordance with all of the terms, covenants and conditions of this Permit, for a period expiring on July 31, 2016, unless sooner terminated. The Port Authority and the Permittee hereby acknowledge that the Second Additional Space constitutes non-residential property. Further, the Port Authority and the Permittee acknowledge and agree that the description of the First Additional Space and the Second Additional Space shown respectively on Exhibit C-1 and Exhibit C-2 are approximations and that the actual size and configuration of the First Additional Space and the Second Additional Space may differ from that shown on said exhibits. Nothing set forth in this Special Endorsement shall create or be deemed to create any obligation on the part of the Port Authority to construct Tracks 6-7 or Tracks 8-11, or to hold or make available

the First Additional Space or the Second Additional Space for addition to the Space, or to add the First Additional Space or the Second Additional Space to the Space.

22. (a) The parties acknowledge and agree that the Port Authority is the assignee under an assignment agreement (hereinafter called "the Assignment Agreement") between the New York City Department of Transportation (hereinafter called "DOT"), as grantor, and the Port Authority, as grantee and assignee, of a revocable consent covering a rail crossing across Western Avenue (as shown in horizontal hatching within bold broken outline on the sketch attached hereto, hereby made a part hereof and marked "Exhibit D" and hereinafter called "the Rail Crossing"). The revocable consent was granted under a revocable consent agreement (hereinafter called "the Consent Agreement") between DOT, as grantor, and The Procter & Gamble Manufacturing Company ("P&G"), as grantee, dated August 9, 1996, and effective June 14, 1996, and was assigned by P&G to the Port Authority with the consent of DOT, all as more fully set forth in the Assignment Agreement and the Consent Agreement, copies of each of which are attached hereto as Exhibit E. The Permittee agrees that it will conform to, abide by and perform all of the terms and conditions set forth in the Assignment Agreement and the Consent Agreement as if the privilege granted thereunder had been granted to the Permittee by DOT including, without limitation, the obligation to maintain the Structure (as such term is defined in Section 1 of the Consent Agreement) and to pay to the Port Authority all compensation payable by the Port Authority to DOT under the Consent Agreement at the time set forth in the Consent Agreement for the payment thereof. The obligations of the Permittee under the immediately preceding sentence shall remain and continue in full force and effect as to any and every renewal, modification or extension of the Consent Agreement, whether in accordance with the terms thereof or by a separate or additional document, and notwithstanding any such renewal, modification or extension, whether or not the Permittee has specifically consented to such renewal, modification or extension. The liability of the Permittee under the two preceding sentences shall in no way be affected by the failure of the Port Authority to obtain the Permittee's consent to any such renewal, modification or extension, notwithstanding that the Port Authority may have previously obtained such consent with respect to a prior renewal, modification or extension. The Permittee acknowledges and agrees that the privilege granted under the Consent Agreement expired by its terms on June 30, 2006. Nothing in this Special Endorsement shall create or be deemed to create any obligation on the part of the Port Authority to renew or extend the privilege granted under the Consent Agreement.

(b) Without limiting any of the provisions of Section 7 of the Terms and Conditions of this Permit, the Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, representatives and contractors, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal expenses incurred in connection with the defense of) all claims and demands of third persons including but not limited to claims and demands for death or personal injuries, or for property damages, arising out of any default of the Permittee, its officers, employees, and persons who are doing business with it, in performing or observing any term or provision of this Special Endorsement, the Assignment Agreement or the Consent Agreement or out of any of the operations, acts or omissions of the Permittee, its officers, employees, and persons who are doing business with it with respect to the privilege granted under the Assignment Agreement and the Consent Agreement or the operation or use of the Structure or the Rail Crossing, including

claims and demands of the City of New York, from which the Port Authority derives its rights in the Structure, for indemnification arising by operation of law or through agreement of the Port Authority with the said City.

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

23. The Permittee recognizes the fact that a transfer of all of the securities or interests in the Permittee or of a substantial part thereof, or any other act or transaction involving or resulting in a change in the ownership or distribution of such securities or with respect to the identity of the parties in control of the Permittee, is for practical purposes a transfer or disposition of the rights obtained by the Permittee through this Permit. The Permittee further recognizes that because of the nature of the obligations of the Permittee hereunder, the qualifications and identity of the Permittee and its security holders are of particular concern to the Port Authority. The Permittee also recognizes that it is because of such qualifications and identity that the Port Authority is entering into this Permit and, in doing so, is willing to accept and rely on the Permittee for the faithful performance of all obligations and covenants hereunder. Therefore, the Permittee agrees that, without the prior written approval of the Port Authority, there shall be no transfer of any of the securities of the Permittee except as provided hereinafter; nor shall the Permittee suffer any transfer to be made; nor shall there be or be suffered to be by the Permittee, any other change in the ownership of such securities, or with respect to the identity of the entities in control of the Permittee, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of additional new securities or classification of securities or otherwise; provided, however, that the prior approval of the Port Authority shall not be required for the transfer of any securities or interest in the Permittee if such transfer is made directly in conjunction with and as a part of a transfer permitted by the provisions of Section 52 of that certain agreement of lease between the Port Authority and the Permittee as lessee dated June 30, 1995 and identified as HHT-4.

24. The parties acknowledge that the Permittee has heretofore deposited security in the amount of One Million Dollars and No Cents ($1,000,000.00) in accordance with the provisions of Section 40B of and Standard Endorsement No. L23.2C to Lease No. HHT-4 referred to in Special Endorsement No. 23 hereto (which agreement of lease, as the same has been or may be supplemented, amended or extended, is hereinafter called "Lease No. HHT-4"). The Permittee and the Port Authority hereby agree that all sums deposited by the Permittee as security under Lease No. HHT-4 shall be held and used by the Port Authority as security for the full, faithful and prompt performance of and compliance with, on the part of the Permittee, all of the terms, provisions, covenants and conditions of this Permit and no part of the security deposited under Lease No. HHT-4 shall be repaid until this Permit and Lease No. HHT-4 shall have expired and except in accordance with the provisions of the last of the said agreements to expire. The provisions of Standard Endorsement No. L23.2C annexed to Supplement No. 12 to

SPECIAL ENDORSEMENTS

Lease No. HHT-4 shall apply to the Permittee's obligations under this Permit and shall be incorporated herein as if set forth herein in haec verba.

25. If any event described in Lease No. HHT-4 as a ground for termination or event of default, including without limitation thereto the events set forth in subparagraphs (1) through (11) of paragraph (a) of Section 25 of Lease No. HHT-4 entitled "Termination", shall occur, such event shall be a ground for revocation of this Permit in the same manner and to the same extent as if it had been explicitly enumerated in paragraph (a) of Section 1 of the Terms and Conditions of this Permit.

For the Port Authority

Initialled:

For the Permittee

EXHIBIT E

THE CITY OF NEW YORK
DEPARTMENT OF TRANSPORTATION
40 Worth Street
New York, New York 10013

ASSIGNMENT AGREEMENT

WHEREAS the New York City Department of Transportation (the "Grantor") by a revocable consent agreement, dated August 9, 1996, granted consent to The Procter & Gamble Manufacturing Company (the "Assignor"), to continue to maintain and use a railroad spur track on and across Western Avenue, south of Richmond Terrace, in the Borough of Staten Island, for a term expiring on June 30, 2006 (the "Privilege"); and

WHEREAS the Assignor conveyed the property benefited by the Privilege, to The Port Authority of New York and New Jersey (hereinafter referred to as the "Assignee"), a bi-state 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 its address of business at 225 Park Avenue South, New York, NY 10003; and

WHEREAS the Assignor and the Assignee have jointly petitioned the Grantor for consent to the assignment of the Privilege from the Assignor to the Assignee;

IT IS HEREBY AGREED:

1. The consent of Grantor is hereby granted to the assignment of the Privilege from the Assignor to the Assignee.

2. Upon the assignment of the Privilege from the Assignor to the Assignee, the Assignee agrees to conform to, abide by and perform all of the terms and conditions set forth in the revocable consent agreement dated August 9, 1996, as if the Privilege had originally been granted to the Assignee.

CONFORMED COPY

In Witness Whereof, the parties hereunder have caused this revocable consent assignment agreement to be executed.

GRANTOR:
NYC DEPARTMENT OF TRANSPORTATION
DIVISION OF FRANCHISES, CONCESSIONS & CONSENTS

By: _____
David Jehn
Deputy Executive Director

Accepted and agreed to:
GRANTEE:

The Port Authority of New York and New Jersey

By: _____
(Signature)

Ernesto L. Butcher
(Print Name of Signatory)

Chief Operating Officer
(Title)

Jan. 27, 2003
(Date)

The foregoing consent is hereby approved.

MICHAEL R. BLOOMBERG, MAYOR

By: Marla G Simpson
Marla G. Simpson, Director
Mayor's Office of Contracts

Dated, New York April 23, 2003

Approved as to form

By: Sharon Cantor
Acting Corporation Counsel
OCT 11 2002
(Date)

APPROVED:
FORM SDO TERMS amc

ASSIGN.FRM

Acknowledgment by New York City Department of Transportation Deputy Executive Director

State, City and County of New York, ss.:

On this 21st day of April, 2003, before me personally came David Jehn to me known and known to me to be the Executive Director of Division of Franchises, Concessions and Consents of the Department of Transportation of the City of New York, the person described as such in and who as such executed the foregoing instrument and she acknowledged to me that she executed the foregoing instrument and she acknowledged to me that she executed the same as Executive Director for the purposes therein mentioned.

Velma Lewis
Notary Public or Commissioner of Deeds

VELMA P. LEWIS
Commissioner of Deeds
City of New York - No. 4-5169
Certificate Filed in New York County
Commission Expires Feb 6, 2005

Acknowledgement by The Port Authority of New York and New Jersey

State, City, and County of New York, ss.,

On this 31st day of January, 2003, before me personally came Ernesto L. Butcher, who being by me duly sworn, did depose and say that he/~~she~~ resides in the City of So. Orange; that he/~~she~~ is the Chief Operating Officer of The Port Authority of NY & NJ, the corporation described in and which executed the foregoing instrument; that he/~~she~~ knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order or resolution of the Board of Directors of said corporation; and that he/~~she~~ signed his/~~her~~ name thereto by like order or resolution.

Marie M. Edwards
Notary Public or Commissioner of Deeds
Marie M. Edwards
Notary Public, State of New York
No. 01ED4959693
Qualified in Kings County
Commission Expires 2/6/2006

NEW YORK CITY
DEPARTMENT OF TRANSPORTATION
DIVISION OF FRANCHISES, CONCESSIONS AND CONSENTS

PETITION FORM FOR ASSIGNMENT OF A REVOCABLE CONSENT

In the Matter of the Joint Petition of

The Procter & Gamble Manufacturing Company
(Name of Grantee/Assignor)
and
The Port Authority of New York and New Jersey
(Name of Assignee)

for permission to the assignment of a revocable consent to maintain and use
and operate a second standard gauge railroad track across Western Avenue, at a point about 2,606 feet south of the southerly line of Richmond Terrace, Borough of Staten Island, that was constructed and installed pursuant to a consent granted by resolution adopted by the Board of Estimate and Apportionment June 29, 1917 which resolution was approved by the Mayor of The City of New York, dated July 3, 1917.
(Fill in type of Structure(s) and location(s)

TO THE NEW YORK CITY DEPARTMENT OF TRANSPORTATION

The joint petition of The Procter & Gamble Manufacturing Company
(Name of Grantee/Assignor)

and The Port Authority of New York and New Jersey **shown as follows:**
(Name of Assignee)

(NOTE: USE ATTACHMENTS IF ADDITIONAL SPACE IS NEEDED)

1. The Procter & Gamble Manufacturing Company **was granted a revocable**
(Name of Grantee/Assignor)

consent to (check applicable box)

☐ **construct, maintain and use** _____
_____
_____
(fill in type of structure(s) and location(s)

☐ **continue to maintain and use** and operate a second standard gauge railroad track across Western Avenue, at a point about 2,606 feet south of the southerly line of Richmond Terrace, Borough of Staten Island, that was constructed and installed pursuant to a consent granted by resolution

CONFORMED COPY

adopted by the Board of Estimate and Apportionment June 29, 1917 which resolution was approved by the Mayor of The City of New York, dated July 3, 1917.
(fill in type of structure(s) and location(s)

2. The above consent was granted by (check one of the boxes below)

☐ a resolution adopted by the Board of Estimate on _____,(Cal. No. /Approved Resolution No. ____)
(fill in date) (fill in the cal./approved resolution number)

☐ the New York City Department of Transportation on August 9, 1996

3. Said consent will expire on June 30, 2006.
(fill in date)

4. The Procter & Gamble Manufacturing Company represents and warrants
(Name of Grantee/Assignor)

a. that all the terms and conditions of said revocable consent have been fully complied with except

_____

_____

_____

(enumerate the terms and conditions, if any, that have not been fully complied with and state the reason for such non-compliance; if all the terms and conditions have been fully complied with, leave the space blank)

b. that all taxes due to the City of New York have been fully paid.

5. The Port Authority of New York and New Jersey is
(Name of Assignee)

(check one of the boxes below; if the second box is checked, fill in the blank space)

☐ a domestic corporation
☐ a corporation organized under the laws of the State of _____ and duly authorized to do business in the State of New York
☐ a general partnership
☐ a limited partnership
☐ an individual
☐ a bi-state 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.
(If the first five boxes are not applicable, check this box and fill in the type of entity)

6. The address of The Port Authority of New York and New Jersey (Name of Assignee) is 225 Park Avenue South, New York, New York 10003; (fill in complete address, including zip code)

the telephone number of The Port Authority of New York and New Jersey (Name of Assignee) is (212) 435-7000 (fill in area code and telephone number).

7. The Procter & Gamble Manufacturing Company (Name of Grantee/Assignor) wishes to assign said revocable consent to The Port Authority of New York and New Jersey (Name of Assignee) because The Procter & Gamble Manufacturing Company sold the real property benefited by the consent to The Port Authority of New York and New Jersey as of December 27, 2000. (state reason(s) for the assignment)

8. The Port Authority of New York and New Jersey, (Name of Assignee) upon assignment of said revocable consent, agrees to accept the terms and conditions of said consent and covenants to conform to, abide by and perform all of said terms and conditions as if the said consent had been originally granted to The Port Authority of New York and New Jersey (Name of Assignee).

9. Upon assignment of said revocable consent, The Procter & Gamble Manufacturing Company (Name of Grantee/Assignor) (check applicable box)

☐ will assign the security maintained on deposit with the Comptroller of the City of New York pursuant to the terms and conditions of said consent to _____ (Name of Assignee)

☒ Upon deposit by The Port Authority of New York and New Jersey (Name of Assignee) with the Comptroller of the City of New York of the security required pursuant to the terms and conditions of said consent, The Port Authority of New York and New Jersey (Name of Assignee) requested that the security deposited by The Procter & Gamble Manufacturing Company (Name of Grantee/Assignor) be returned.

10. _____

(Use this space if the petitioner wishes to submit additional information)

WHEREFORE,

Petitioners, The Procter & Gamble Manufacturing Company and
(Name or Assignor)
The Port Authority of New York and New Jersey respectfully request
(Name of Assignee)
that permission be granted to the assignment of said revocable consent from

The Procter & Gamble Manufacturing Company to
(Name of Assignor)
The Port Authority of New York and New Jersey.
(Name of Assignee)

The Procter & Gamble Manufacturing Company
(Name of Assignor)

By: _____
(Signature)

Lydia Jacobs-Horton
Manager, Real Estate Department
(Print Name of Signatory)

_____
(Print Title of Signatory)

Subscribed and sworn to before me
this 14th day of May, 2002
Notary Public

NOTARIAL SEAL STATE OF OHIO

MARGARET W. DEWAN, Attorney at La
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration
date. Section 147.03 O.R.C.

The Port Authority of New York and New Jersey
(Name of Assignee)

By: _____
(Signature)

Ernesto L. Butcher
(Print Name of Signatory)

Chief Operating Officer
(Print Title of Signatory)

Subscribed and sworn to before me
this 15th day of August, 2002.
Notary Public

LINDA C HANDEL
My Commission Expires
January 3 2006
No. 01HA6035589

APPROVED
TERMS | FORM

RC-4

THE CITY OF NEW YORK
DEPARTMENT OF TRANSPORTATION
40 Worth Street
New York, New York 10013

REVOCABLE CONSENT AGREEMENT

WHEREAS The Procter & Gamble Manufacturing Company (the "Grantee") has petitioned for consent to continue to maintain and use a railroad spur track on and across Western Avenue, south of Richmond Terrace, Borough of Staten Island.

WHEREAS Grantee is the owner of the real property which is benefitted by this consent, or if not the owner, Grantee is the tenant of such real property and has obtained the consent of the owner of such property to use the adjacent inalienable property for the purposes set forth herein, and such owner's consent, if applicable, is attached hereto as Schedule A; and

WHEREAS the New York City Department of Transportation (the "Grantor"), acting through the Commissioner of Transportation, has determined that it is appropriate that such consent be granted, subject to the conditions stated herein;

IT IS HEREBY AGREED:

1. Consent granted. The consent of Grantor is hereby granted to the Grantee, a corporation organized and existing under the laws of the State of Ohio and duly authorized to do business in the State of New York, having its address of business at P. O. Box 599 Cincinnati, OH 45201, to continue to maintain and operate an existing standard gauge railroad track across and on the surface of Western Avenue in the Borough of Staten Island, at a point 2606-feet south of southerly line of Richmond Terrace, the said track (hereinafter referred to as the "Structure") to be used to provide direct railroad connection between the properties of the Grantee on opposite sides of the avenue and to be as shown upon a plan entitled:

> "Railroad Crossing Western Avenue and Richmond Terrace, Borough of Richmond to accompany application dated April 27, 1917, of the Procter & Gamble Manufacturing Company to the Board of Estimate and Apportionment City of New York"

--and signed The Procter & Gamble Manufacturing Company by Jno. J. Burchenal, Vice President, Applicant, a copy of which was attached to and made a part of the consent of 1917 which was granted by a resolution adopted by the Board of Estimate and Apportionment on June 29, 1917 and approved by the Mayor on July 3, 1917. This consent is granted upon the following terms and conditions:

2. Term. This consent shall take effect as of June 14, 1996, shall continue only during the pleasure of the Grantor and shall be revocable at any time by the Grantor, and shall expire on June 30, 2006 (the "Expiration Date"). The Grantee agrees that not later than six months prior to the aforesaid expiration of the term of this consent, it will petition the Grantor in writing for either a renewal or discontinuance thereof.

3. Annual compensation. (a) The Grantee shall pay into the treasury of the City of New York (the "City") as compensation for the privilege hereby granted the sum of $500.00 per annum.

(b) Annual payments shall be made in advance on or before July 1 of each year, provided, however, that the first payment shall be made within thirty (30) days after the date of the final approval of this consent by the Mayor (the "Approval Date") and shall be the sum due for the period June 14, 1996 to June 30, 1997, less any payments already made pertaining to the aforesaid period. Grantor hereby acknowledges receipt of $23.00 in payment of this charge.

(c) In the event the Grantee continues the maintenance and operation of the Structure after and in spite of the termination or expiration of this consent, the Grantee agrees to pay to the City the compensation as set forth herein at the rate in effect at the time of such termination or expiration and in the manner set forth herein, together with all taxes with respect to this structure it would have been required to pay had its maintenance and operation been duly authorized. Such payments shall not be deemed to constitute an extension of this consent and all of the City's rights shall remain in full force and effect notwithstanding such payments. Such rate of compensation shall continue up to the date of the restoration of the street after the removal, or deactivation at the discretion of the grantor, of the Structure.

(d) In the event that a future agreement for this Structure becomes effective subsequent to the expiration of this agreement, it is understood and agreed that as a condition of such future grant of consent the fees charged under such grant may be at the rate in effect during the period following the expiration date of this agreement.

(e) In the event any payment is not made on or before the date such payment is due, interest on such payment shall apply from the date such payment is due at the rate of one and one-half percent (1 1/2%) per month. If the Grantee shall fail to pay such compensation or taxes, or the interest thereon, if any, the Comptroller may withdraw the amounts thereof from the security fund hereinafter provided for. If the compensation or taxes owed exceeds the amount available in the security fund the Grantee shall be liable for the shortfall, and shall pay such to the City upon demand.

(f) The compensation provided herein shall not be considered in any manner in the nature of a tax, but shall be in addition to any and all taxes of whatsoever kind or description now or hereafter required to be paid under any local law of the City or by any law of the State of New York.

4. Removal or deactivation of structure. Within ten (10) days after the revocation or termination of this consent, the Grantee shall cause the Structure to be removed, or deactivated at the discretion of the Grantor, and all of the street affected thereby to be restored to its proper condition to the satisfaction of the Grantor. The entire cost of such work shall be borne by the Grantee.

If Grantee fails to so remove or deactivate the Structure, or so restore such street, within the time period stated above, Grantor shall have the right to cause the Structure to be removed or deactivated and such street to be restored. The cost to Grantor of causing such removal or deactivation and/or restoration shall be recovered from the security fund as provided for in this consent. If the cost of removal or deactivation and/or restoration exceeds the amount available in the security fund, the Grantee shall be liable for the shortfall, and shall pay such to the City upon demand.

5. Restrictions against transfer. This consent is for the exclusive use of the Grantee and solely for the purpose hereinabove mentioned and shall not, either in whole or in part, be sold, assigned, leased or sublet in any manner, nor shall title thereto, or right, interest or property therein pass to or vest in any other person, firm or corporation whatsoever, either by the acts of the Grantee or by operation of law, without the express written consent of the Grantor, which consent may be withheld by the Grantor in its sole discretion.

6. Grantee responsible for all costs. The Grantee shall pay the entire cost of all work, labor and material in connection with the Structure, and particularly,

(a) construction, maintenance and removal or deactivation of the Structure;
(b) the protection of all structures which shall in any way be disturbed by the construction, deactivation or removal of the Structure;
(c) any and all changes in sewers or other subsurface structures necessitated by the construction, deactivation or removal of the Structure, including the laying or relaying of pipes, conduits, sewers or other structures;
(d) the replacing or restoring of the pavement in the affected street which may be disturbed during the construction, deactivation or removal of the Structure;

(e) each and every item of the increased cost of the installation of any future structures or repairs or alterations to any existing or future structures caused by the presence in the street of the Structure; and

(f) the inspection of all work during the construction, deactivation or removal of the Structure as herein provided which may be required by the Grantor, or any other City agency having jurisdiction.

7. Construction requirements. Prior to the commencement of any construction, alteration, deactivation or removal of the Structure, the Grantee shall obtain, at its sole cost and expense, any and all licenses, permits or other forms of approval or authorization which may be required by Grantor, or any other City agency having jurisdiction. The Grantee shall perform all the duties which may be imposed by those agencies as conditions of such forms of approval or authorization, provided such conditions are not inconsistent with the provisions of this consent. The Grantee shall submit to the Grantor working plans which shall include and show in detail the method of construction of the Structure and the mode of protection or changes in all structures required by the construction, alteration, deactivation or removal of the same.

Upon the completion of the work the Grantee shall furnish to the Grantor, and to any other City agency having jurisdiction, plans of such character as may be directed, showing accurately and distinctly the location, size and type of construction, and complete dimensions of the Structure erected or installed under this consent; also the location and dimensions of all substructures encountered during the progress of the work.

If so ordered by the Grantor, all work in connection with the installation, repair, deactivation or removal of the Structure shall be carried on only at night or continuously for twenty-four (24) hours each day.

8. City's access paramount. The Grantee shall allow to the City a right of way under or above any part of the Structure for any and all structures which are now or may be hereafter placed in the affected street by the City.

If, in the exercise of the sole discretion of the Grantor, the Grantor at any time decides to replace, alter or otherwise gain access to any structure located in or on the street that is affected by the Structure, the Grantor shall have the right to break through or remove all or any portion of the Structure. The cost to the Grantor of breaking through or removing the Structure shall be recovered from the security fund as provided for in this consent. If the cost of breaking through or removal exceeds the amount available in the security fund, the Grantee shall be liable for the shortfall, and shall pay such to the City upon demand.

9. Structure subject to City's supervision. The Structure and any fixtures laid therein shall be constructed, maintained and operated subject to the supervision and control of the proper authorities of the City. The Structure shall be open at all times to the inspection of all the authorities having jurisdiction.

10. Consent subject to rights of abutting property owners. This consent is subject to whatever right, title or interest the owners of abutting property or others may have in and to the affected street.

11. No rights conveyed. The Grantee acquires no right, title or interest in the space permitted to be occupied herein and it is expressly understood that said occupancy is considered temporary.

12. Maintenance of structure. The Grantee agrees to maintain the Structure in good, clean condition and shall not allow it to deteriorate, become unsightly, or develop into a dangerous condition or a condition which is not in the best interests of the general public.

13. No alienation of City's rights. It is expressly understood that the grant of this consent will not alienate or diminish the absolute right of the City to reenter into full possession of the street space described herein for any reason whatsoever, free of any encumbrance or obligation, upon the expiration of this consent or upon its revocation and cancellation.

14. Unconditional right of revocation. The Grantee expressly agrees that the Grantor may unconditionally revoke this consent and terminate the period thereof at any time without liability, at will, any provision herein to the contrary notwithstanding. In the event of such revocation and termination, the Grantee shall remain liable for the due and full performance of all the terms, covenants and conditions contained herein to be performed up to the time of said termination, and the Grantee's obligation to pay compensation shall continue up to the date of the removal of the Structure, or its deactivation at the discretion of the Grantor, and the restoration of the street affected thereby to the satisfaction of the Grantor.

15. Security fund. This agreement is contingent upon the express condition that the security deposit of Two Thousand Dollars ($2,000) heretofore deposited with the Comptroller of the City of New York for the faithful performance of all the terms and conditions of the consent under which the structure was heretofore maintained, shall be continued on deposit with said official for (a) the performance of all the terms and conditions of this consent and (b) the payment of all sums of money (including taxes) which may be due the City because of the construction, maintenance, operation, use, abandonment, deactivation or removal of the Structure.

In case of default in the performance by Grantee of any of such terms and conditions, the Grantor shall have the right to cause the work to be done and the materials to be furnished for making the necessary changes or repairs, after ten (10) days' notice to the Grantee, and shall collect the cost thereof from the security fund, or in case of default in the payment of the annual charge or in the payment of any other sum of money (including taxes) which may become due to the City because of the construction, maintenance, operation, use, abandonment, deactivation or removal of the Structure, the Grantor shall collect the same, with interest, from the security fund after ten (10) days' notice in writing to the Grantee.

In case of any drafts so made upon the security fund, the Grantee shall, upon ten (10) days' notice in writing, pay to the Comptroller of the City a sum of money sufficient to restore the fund to the original amount and in default of the payment thereof, this consent may be cancelled and annulled, at the option of the Grantor.

If the amount deposited in the security fund is insufficient to cover any costs to the Grantor or any sum of money due to the Grantor, the Grantee shall be liable for the shortfall and shall pay such to the City upon demand.

Upon the termination or revocation of this consent, and at such time as the Structure has been removed, or deactivated at the discretion of the Grantor, and the street affected thereby has been restored to its proper condition to the satisfaction of the Grantor, in accordance with the terms of this consent, any amount remaining in the security fund shall be repaid to Grantee without interest.

No action or proceeding or rights under the provisions of this section shall affect any other legal rights, remedies or causes of action belonging to the City.

16. Notice required before work commences. Grantee shall give notice, in writing, to the Grantor, the Department of Environmental Protection, and any other City agency having jurisdiction of its intention to begin the work hereby authorized at least forty-eight (48) hours before such work commences.

17. Discrimination prohibited. Pursuant to applicable laws prohibiting discrimination in employment, the Grantee agrees that it will not engage in any unlawful discrimination against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, marital status or sexual orientation with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment.

18. Compliance with applicable laws. This consent is granted on the further and express condition that Grantee shall strictly comply with all applicable laws now in force or which may hereafter be adopted.

19. Indemnification and insurance. To the extent permitted by law, the Grantee shall be liable for, and shall hold the City, its officers, agents, servants or employees (the "Indemnitees") harmless from, all liabilities, obligations, fines, damages, penalties, claims, charges and expenses (including, without limitation, attorneys' fees and disbursements)("Damages") that may be imposed upon or incurred by or asserted against any of the Indemnitees arising out of the construction, operation, maintenance, use, abandonment, deactivation or removal of the Structure, or otherwise in connection with this consent, whether or not the Damages are due to the negligence or otherwise of the City, its officers, agents, servants or employees. It is a condition of this consent that the City assumes no liability for Damages to either persons or property on account of this consent. The Grantee shall, within thirty (30) days after the Approval Date and before anything is done in exercise of the privilege conferred hereby, furnish and maintain on file with the Grantor, throughout the term of this consent, a certificate of liability insurance policy, issued by a company authorized to do business in the State of New York, insuring the Grantee, the City and the Grantor for any injuries or Damages occurring on, or in proximity to, the Structure, or arising out of or as a result of the construction, operation, maintenance, use, abandonment, deactivation or removal thereof, in the following minimum amounts: (1) for bodily injury, including death, (a) $500,000 for any one person and (b) $2,000,000 for any one accident, and (2) for property damage in the minimum amount of $200,000. Such certificate and insurance policy shall each contain the following endorsement: "It is hereby understood and agreed that this policy may not be cancelled, terminated or modified, nor may the insurer's intention not to renew be stated, until ninety (90) days after receipt by the New York City Department of Transportation of a written notice delivered by the insurer via registered mail of such intent to so cancel, terminate, modify or not to renew." Failure to maintain insurance coverage in the foregoing amounts shall be a default under this consent.

20. INVESTIGATION CLAUSE

20.01 The parties to this agreement agree to cooperate fully and faithfully with any investigation, audit or inquiry relative to this agreement conducted by a State of New York (State) or City of New York (City) governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to this agreement or when it is the subject of the investigation, audit or inquiry.

20.02 A hearing shall be convened in accordance with section 20.03 below if (a) any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding, refuses to testify concerning the award of, or performance under, this agreement, before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath; or (b) any person refuses to testify concerning the award of, or performance under, this agreement, for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony.

20.03 (a) The commissioner or agency head whose agency is a party in interest to this agreement shall convene a hearing, upon not less than five (5) days' written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.

(b) If any non-governmental party to the hearing requests an adjournment, the commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend this agreement pending the final determination pursuant to section 20.05 below without the City incurring any penalty or damages for delay or otherwise.

20.04 The penalties which may attach after a final determination by the commissioner or agency head may include but shall not exceed:

(a) The disqualification for a period not to exceed five (5) years from the date of an adverse determination of any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or

(b) The cancellation or termination of any and all such existing City contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City

incurring any penalty or damages on account of such cancellation of termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

20.05 The commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in paragraphs (a) and (b) below. He or she may also consider, if relevant and appropriate, the criteria established in paragraphs (c) and (d) below in addition to any other information which may be relevant and appropriate.

(a) The parties' good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

(b) The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

(c) The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.

(d) The effect a penalty may have on an unaffiliated and unrelated party or entity that has significant interest in an entity subject to penalties under section 20.04 above, provided that the party or entity has given actual notice to the commissioner or agency head upon the acquisition of the interest, or at the hearing called for in section 20.03(a) above gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

20.06 (a) The term "license" or "permit" as used herein shall be defined as a license, permit, revocable consent, franchise or concession not granted as a matter of right.

(b) The term "person" as used herein shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

(c) The term "entity" as used herein shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases, or permits from or through the City or otherwise transacts business with the City.

(d) The term "member" as used herein shall be defined as any person associated with another person or entity as a partner, director, officer, principal or employee.

21. Special construction requirements The Grantee shall perform such other special construction requirements as are contained in Schedule B attached hereto and made a part hereof, if any.

22. Severability and Headings The clauses and provisions of this Revocable Consent Agreement are intended to be severable. The unconstitutionality or unconscionability of any term, clause or provision shall in no way defeat the effect of any other term, clause or provision.

Section and other headings are inserted for convenience only and shall not be used in any way to construe the terms of this Agreement.

Schedules A and B

Schedule A

Grantee is the property owner. Deed on file.

Schedule B

The track shall be constructed and operated in the latest improved manner of railroad construction and operation and solely upon the terms and according to the lines and surveys to be approved by the Bureau of Highway Operations. The rails shall be laid with the tops thereof flush with the surface of the roadway and sidewalk, and grading and drainage of both roadway and sidewalk shall be provided, as shall be directed by the Bureau of Highway Operations, and under the supervision and to the satisfaction of said Bureau. The character of the rails and other parts of the construction shall also be approved by the said Bureau and the track shall be maintained in good condition by the said Grantee throughout the term of this consent.

The Grantee shall, when so directed, alter the position of, or move or protect the track hereby authorized, entirely at its own expense, whenever it may become necessary for the City to repair or replace any existing structure or install any new structure within the lines of the said street. If the Grantee shall fail or neglect to do so, when directed, the City shall have the right to break through or remove all or any portion of the track hereby authorized, and the Grantee shall pay to the City the expense of such work.

The track shall be constructed, maintained and operated subject to the supervision and control of the proper authorities of The City of New York who have jurisdiction over such matters under the Charter of The City of New York.

The Grantee shall:

(a) Erect, maintain and operate gates for the protection of the public, as may be directed by the Bureau of Highway Operations, and at such location as the said Bureau may determine.

(b) If so directed by the Bureau of Highway Operations, maintain and operate gongs in connection with the said track, similar to the gongs maintenance at ordinary railroad crossings, warning of the approach of a train.

The Grantee shall at all times keep the entire street between the tracks, the rails of the track and for a distance of two (2) feet beyond the rails on either side thereof free and clear from ice and snow.

The said Grantee shall pave and keep in permanent repair the portion of the surface of the roadway and sidewalk between the tracks, the rails of the track and for a distance of two (2) feet on either side thereof, under the supervision of the proper local authorities, and whenever required by them to do so, and in such manner as they may prescribe, The City of New York shall have the right to change the material or character of the pavement of the street, and in that event the Grantee shall be bound to replace the existing pavement between the tracks, the rails of the track and for a distance of two (2) feet on either side thereof with such changed or altered pavement and in the manner directed by the proper City officials, at its own expense, and the provisions as to repairs herein contained shall apply to such changed or altered pavement.

revocable consent to be executed.

GRANTOR:
NYC DEPARTMENT OF TRANSPORTATION
DIV. OF FRANCHISES, CONCESSIONS
& CONSENTS

By: _____
Wendy Goldman
Executive Director

Accepted and agreed to:
GRANTEE:

The Procter & Gamble Manufacturing Company

By: _____
(Signature)

EUGENE E. CURRY
(Print Name of Signatory)

CORPORATE REAL ESTATE MANAGER
(Title)

JULY 25, 1996
(Date)

The foregoing consent is hereby approved.

RUDOLPH W. GIULIANI, MAYOR

By: _____
Richard Bonamarte
Director, Mayor's Office of Contracts

Dated, New York 8/9/96, 19___

Approved as to form
Certified as to legal authority

By: _____
Acting Corporation Counsel

JUL 15 1996
(Date)

RENEWAL FRM.
Acknowl. Page
Revised January 1994

Acknowledgement by Executive Director

State, City and County of New York, ss.:

On this 2 day of August, 1996, before me personally came Wendy Goldman to me known and known to be the Executive Director of the Department of Transportation, Division of Franchises, Concessions and Consents of the City of New York; the person described as such in and who as such executed the foregoing instrument and she acknowledged to me that she executed the foregoing instrument and she acknowledged to me that she executed the same as Executive Director for the purposes therein mentioned.

Roxanne Williams

Notary Public or Commissioner of Deeds

ROXANNE WILLIAMS
Commissioner of Deeds
City of New York No.2-10225
Commission Expires Feb 1, 1998

Acknowledgement by Corporation

State OF OHIO and County of HAMILTON , ss.,

On this 25TH day of JULY, 1996, before me personally came EUGENE E. CURRY, who being by me duly sworn, did depose and say that he IS EMPLOYEED in the City of CINCINNATI; that he is the CORPORATE REAL ESTATE MANAGER OF THE PROCER AND GAMBLE MANUFACTURING COMPANY the corporation described in and which executed the foregoing instrument; that he/she knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order or resolution of the Board of Directors of said corporation; and that he/she signed his/her name thereto by like order or resolution.

NOTARIAL SEAL STATE OF OHIO

Kurt J. Kloesz

Notary Public or Commissioner of Deeds

KURT J. KLOESZ
Notary Public, State of Ohio
My Commission Expires April 11, 1999

RENEWAL FRM.
Acknowl. Page
Revised January 1994

Form - All-Purpose Ack. N.Y. (rev 9/1/99)

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

On the day of in the year 2006, before me, the undersigned, a Notary Public in and for said state, personally appeared ,
personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

STATE OF)
) ss.
COUNTY OF)

On the day of in the year 2006, before me, the undersigned, a Notary Public in and for said state, personally appeared ,
personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

Port Authority Permit No. PHH-12, dated August 1, 2006
Supplement No. 1
Port Authority Facility - Howland Hook Marine Terminal/Port Ivory

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

SUPPLEMENT TO PERMIT

THIS AGREEMENT, made by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and NEW YORK CONTAINER TERMINAL, INC. (hereinafter called "the Permittee"),

WITNESSETH, that the Port Authority and the Permittee hereby agree to amend, effective as of January 30, 2007, that certain Permit (identified above by Port Authority Permit Number and by date and covering space at the above-mentioned Port Authority Facility) issued by the Port Authority to the Permittee, and hereinafter, as the same may have been previously supplemented and amended, called "the Permit", as follows:

1. The date "January 31, 2007" appearing in the third from last line of Special Endorsement No. 11 to the Permit shall be and be deemed deleted therefrom and the date "July 31, 2007" shall be and be deemed inserted in lieu thereof.

2. As hereby amended, all the provisions of the Permit shall be and remain in full force and effect.

3. Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Permittee with any liability,

CONFORMED COPY

or held liable to the Permittee, under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach thereof.

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

Dated as of: January 30, 2007

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By _____

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

NEW YORK CONTAINER TERMINAL, INC.

By _____

(Title) President

_____
[Print Name]

APPROVED:
FORM | TERMS

Port Authority Permit No. PHH-12, dated August 1, 2006
Supplement No. 2
Port Authority Facility - Howland Hook Marine Terminal/Port Ivory

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

SUPPLEMENT TO PERMIT

THIS AGREEMENT, made by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and NEW YORK CONTAINER TERMINAL, INC. (hereinafter called "the Permittee"),

WITNESSETH, that the Port Authority and the Permittee hereby agree to amend, effective as of June 1, 2007, that certain Permit (identified above by Port Authority Permit Number and by date and covering space at the above-mentioned Port Authority Facility) issued by the Port Authority to the Permittee, and hereinafter, as the same may have been previously supplemented and amended, called "the Permit", as follows:

1. The Permittee acknowledges and agrees that the security deposited under that certain agreement of lease between the Port Authority, as lessor, and the Permittee, as lessee, dated as of June 30, 1995 and bearing Port Authority lease number HHT-4 (hereinafter called "Lease No. HHT-4") was increased to Nine Million Dollars and No Cents ($9,000,000.00) pursuant to that certain supplemental agreement of lease between the Port Authority, as lessor, and the Permittee, as lessee, dated as of June 1, 2007, and designated as Supplement No. 9 to Lease No. HHT-4. The Permittee further acknowledges and agrees that the Nine Million Dollars and No Cents ($9,000,000.00) so deposited (and any amount or amounts of security which shall hereafter be deposited by the Lessee as security under Lease No. HHT-4, as it may be supplemented, extended or amended) shall be the security deposit referred to in Special Endorsement No. 24 to the Permit for all purposes of the provisions of said Special Endorsement No. 24.

2. As hereby amended, all the provisions of the Permit shall be and remain in full force and effect.

CONFORMED COPY

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

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

Dated as of: June 1, 2007

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By _____

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

NEW YORK CONTAINER TERMINAL, INC.

By _____

(Title) President

_____
[Print Name]

APPROVED:
FORM | TERMS
and