**Torres Rojas, Genara** FOI#14245

**From:** jcahill@cahilllawfirm.com
**Sent:** Friday, August 30, 2013 10:23 AM
**To:** Duffy, Daniel
**Cc:** Torres Rojas, Genara; Van Duyne, Sheree; Qureshi, Ann
**Subject:** Freedom of Information Online Request Form

Information:

First Name: John
Last Name: Cahill
Company: Cahill Partners LLP
Mailing Address 1: 70 West 40th Street
Mailing Address 2: 15th Floor
City: New York
State: NY
Zip Code: 10018
Email Address: jcahill@cahilllawfirm.com
Phone: 212-719-4400
Required copies of the records: Yes

List of specific record(s):
1Agreement with LAZ Parking, 2 Complaints againt LAZ Parking and 3any proposals submitted by LAZ Parking to provide parking services at the Port Authoritys New York bus station. Thank you.

THE PORT AUTHORITY OF NY & NJ

*FOI Administrator*

September 18, 2013

Mr. John Cahill
Cahill Partners LLP
70 West 40th Street, 15th Floor
New York, NY 10018

Re: Freedom of Information Reference No. 14245

Dear Mr. Cahill:

This is a response to your August 30, 2013 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code") for copies of the agreement with LAZ Parking, Complaints against LAZ Parking and any proposals submitted by LAZ Parking to provide parking services at the Port Authority's New York bus station.

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/14245-LPA.pdf. Paper copies of the available records are available upon request.

Certain material responsive to your request is exempt from disclosure pursuant to exemption (1) 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*

Lease No. LBT-709

# AGREEMENT

between

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

and

LAZ PARKING LTD.

Dated as of October 24, 2005

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THIS AGREEMENT made as of the twenty-fourth day of October, 2005, 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 at 225 Park Avenue South, in the Borough of Manhattan, City, County and State of New York, and LAZ PARKING LTD., a Connecticut corporation, (hereinafter called the "Lessee"), whose address is 15 Lewis Street Hartford, Connecticut, whose representative is Alan B. Lazowski.

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

**Section 1. Letting**

The Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority: (i) the space on the upper three levels of the south wing and (ii) the space on the upper level of the north wing, of the Port Authority Bus Terminal in the Borough of Manhattan, City, County and State of New York, as shown on the sketches annexed hereto, made a part hereof and marked "Exhibit A", "Exhibit A-1", "Exhibit A-2" and "Exhibit A-3", respectively, together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon, all said space, fixtures, improvements and other property of the Port Authority being hereinafter collectively referred to as the "premises" and the space on the upper level of the north wing together with such fixtures, improvements and other property being hereinafter sometimes called the "North Wing Parking Area". The Port Authority and the Lessee hereby acknowledge that the premises constitutes non-residential real property.

**Section 2. Term**

The term of the letting of the premises under this Agreement shall commence on December 1, 2005 ("the Commencement Date"), and shall, unless sooner terminated, or unless extended, expire on the day preceding the tenth ($10^{th}$) anniversary of the Commencement Date ("the Expiration Date").

**Section 3. Rights of User by the Lessee**

The Lessee shall use the premises for the following purposes only and for no other purpose whatsoever: for the operation of a first-class public vehicular parking facility for the parking of motor vehicles on a daily basis, and only with the prior approval of the Port Authority, on a monthly rate basis. The Lessee shall also provide valet service, lockout service and such other vehicle assistance services as are set forth in Schedule B attached hereto and hereby under a part hereof, which schedule may be amended from time to time and at any time by the Port Authority.

**Section 4.** **Rental**

(a) The Lessee agrees to pay to the Port Authority the basic rental and the percentage rental stated in Item I of Exhibit B, attached hereto and hereby made a part hereof

(b) The time for making payments of rental and the method of computation and abatement thereof are set forth in Item 1 of Exhibit B.

**Section 5.** **Obligations in Connection with Any Percentage Rental**

If any rental hereunder is measured by a percentage of the Lessee's gross receipts, the Lessee shall:

(a) Take all reasonable measures in every proper manner to maintain, develop and increase the business conducted by it hereunder;

(b) Not divert or cause or allow to be diverted any business from the Terminal;

(c) Maintain in accordance with accepted accounting practice during the letting and for one year thereafter and for such further period until the Lessee shall receive written permission from the Port Authority to do otherwise, records and books of account recording all transactions at, through or in anywise connected with the Terminal, which records and books of account shall be kept at all times within the Port of New York District 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 records and books of account of any company which is owned or controlled by the Lessee, if said company performs services, similar to those performed hereunder by the Lessee, anywhere in the Port of New York District;

(d) Permit in ordinary business hours the inspection by the officers, employees and representatives of the Port Authority of any equipment used by the Lessee, including but not limited to revenue control systems, cash registers and recording tapes;

(e) Furnish on or before the twentieth day of each month following the commencement date of the letting a sworn statement of gross receipts arising out of the operations of the Lessee hereunder for the preceding month;

(f) Install and use such cash registers, sales slips, invoicing machines and any other equipment of devices for recording orders taken or services rendered as may be appropriate to the Lessee's business and necessary or desirable to keep accurate records of gross receipts.

**Section 6.** **Governmental Requirements**

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

(b) The Lessee 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.

(c) 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 the operations of the Lessee on the premises or its occupancy thereof, and the Lessee shall, in accordance with and subject to the provisions of Section 15 hereof, make any and all structural and nonstructural improvements, alterations or repairs of the premises that may be required at any time hereafter by any such present or future law, rule, regulation, requirement, order or direction.

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

**Section 7.** **Rules and Regulations**

The Lessee covenants and agrees to observe and obey (and to compel its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and those doing business with it to observe and obey) the special rules and regulations of the Port Authority for the government of the conduct and operations of the Lessee, a copy of which is attached hereto, made a part hereof and marked "Exhibit R", and such further reasonable rules and regulations 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 and the Terminal.

**Section 8.** **Method of Operations**

(a) The Lessee covenants as follows:

(i) The Lessee shall provide at the Facility a fully qualified parking manager satisfactory to Port Authority who shall be in charge of and responsible for the operation at all times and shall be regularly scheduled to be on duty at the Facility, at or close to the premises, during the hours of 9:00 A.M. to 5:00 P.M. of each weekday (Monday through Friday).

(ii) The Lessee shall furnish the necessary competent and qualified labor to perform the functions and fulfill the responsibilities of parking attendant at the premises.

(b) The Lessee shall provide and its employees shall wear, carry or display photographic identification cards and its employees shall wear appropriate uniforms. Nameplates shall be affixed to the outside of the toll-booths. All badges, means of identification, uniforms and methods of display shall be subject to the prior and continuing consent of the Port Authority in writing. (None of the costs of such badges, means of identification or uniforms (or replacements thereof) shall be reimbursed to the Lessee). The Lessee shall be responsible for ensuring that its employees at all times wear their uniforms and appropriate shoes. All outerwear shall bear the Lessee's corporate logo.

(c) The Lessee shall make a daily inventory, between 2:00 A.M. and 4:00 A.M., listing all vehicles which have remained parked in the premises over the previous night. The Lessee shall provide to all staff an up-to-date record of such vehicles listing the full time each vehicle has been left in the premises, so that collection of the appropriate charge may be made when each vehicle leaves the premises. All procedures utilized by the Lessee in connection with this function shall be subject to the prior and continuing approval of the Port Authority.

(d) The Lessee shall keep the parking facilities open for business at all times except as may be otherwise directed by the Port Authority.

(e) The Lessee shall conduct all operations hereunder in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Port Authority shall have the right to object to the Lessee regarding the demeanor and conduct of the Lessee's employees, invitees and those doing business with it whereupon the Lessee will take all steps necessary to remove the cause of the objections.

(f) The Lessee shall adopt methods and procedures, and cause its employees to comply with the same, so as to keep the premises in a neat and orderly condition.

(g) The Lessee shall not do or permit to be done anything on the premises which may interfere with the effectiveness or accessibility of any sprinkler

system, alarm system, fire hydrants and hoses installed or located in the premises or which may result in the creation or maintenance of a nuisance on or at the Facility.

(h) The Lessee shall maintain all its own fixtures, equipment and personal property in the premises in first-class operating order, condition and appearance at all times, making all repairs and replacements necessary therefor, regardless of the cause or the condition necessitating any such repair or replacement.

(i) The Lessee shall promptly upon the execution of this Agreement submit to the Port Authority for its approval a snow removal plan covering the premises. The Lessee shall remove snow and ice from the premises in accordance with the procedures so approved.

(j) Neither the requirements of the Port Authority under this Agreement, nor approval of the Port Authority of the methods of furnishing services hereunder nor the failure of the Port Authority to call attention to improper or inadequate methods or to require a change in the method of furnishing services hereunder nor the failure of the Port Authority to direct the Lessee to take any particular precautions or to refrain from doing any particular thing shall relieve the Lessee of its liability for injuries to persons or damage to property arising out of its operations.

**Section 9. <u>Sales and Services by the Lessee</u>**

(a) A principal purpose of the Port Authority in entering into this Agreement is to have available for travelers and other users of the Terminal, all other members of the public, and persons employed at the Terminal, the merchandise and/or services which the Lessee is permitted to sell and/or render hereunder, all for the better accommodation, convenience and welfare of such individuals and in fulfillment of the Port Authority's obligation to operate facilities for the use and benefit of the public, and the Lessee agrees that it will conduct a first class operation and will furnish and install all necessary or proper equipment, fixtures, improvements (subject to Section 15), personnel, supplies, materials and other facilities and replacements therefor and all such fixtures and improvements (except trade fixtures removable without injury to the premises) shall on installation become the property of the Port Authority and a part of the premises, *provided, however,* that the Port Authority shall have the option, exercisable by notice delivered to the Lessee on or before a date sixty (60) days after expiration or termination hereof, to require the Lessee to remove any or all such fixtures, equipment and improvements and to restore the premises to the condition thereof prior to any installation and in the event of a failure on the part of the Lessee so to remove and restore, the Port Authority may do so, and the Lessee shall pay the cost thereof to the Port Authority on demand. All equipment, fixtures and improvements to be used in the premises and the installation thereof shall be subject to the prior written approval of the Port Authority as to type and qualify. The Port Authority may by written authorization allow the Lessee to enter and occupy the premises prior to the commencement date of the letting stated or referred to in Section 2, solely for the purpose of installing fixtures and making improvements. In the event that the Lessee receives such written authorization the

Lessee shall use and occupy the premises in accordance with and shall be subject to all the provisions of this Agreement other than those relating to the conducting of a business and the payment of rental.

(b) The Lessee shall furnish good, prompt and efficient service hereunder, adequate to meet all demands therefor at the Terminal; shall furnish said service on a fair, equal and non-discriminatory basis to all users, thereof; and shall charge fair, reasonable and non-discriminatory prices for all items and/or services which it is permitted to sell and/or render hereunder.

(c) The Lessee represents and warrants that the prices and rates for items and services sold by it at or from the premises shall not exceed the prices charged and the rates applied to such items and services by the Lessee at its other locations in the Borough of Manhattan. The Lessee shall, prior to selling any items or rendering any services hereunder, prepare schedules of prices and rates for said items and services. Such schedules shall be submitted to the Port Authority for its prior written approval as to compliance by the Lessee with its obligations under this Agreement. 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 Lessee at locations designated from time to time by the Port Authority. The Lessee agrees to adhere to the prices and rates stated in the approved schedules. In the event that the Lessee desires to provide group discounts or maintain promotional rates such discounts and rates shall also be subject to the prior written approval of the Port Authority. If the Lessee charges any price or applies any rate in excess of the approved prices or rates, the amount by which the actual price or the charge based on such actual rate deviates from the approved price or a charge based on the approved rates shall constitute an overcharge which will, upon demand of the Port Authority or the Lessee's customer, be promptly refunded to the customer. If the Lessee charges any price or applies any rate which is less than the approved prices or rates, the amount by which the actual price or the charge based on such actual rate deviates from the approved price or a charge based on the approved rates shall constitute an undercharge and an amount equivalent thereto shall be included in any gross receipts hereunder and the percentage rental, if any, shall be payable in respect thereto. Notwithstanding any repayment of overcharges to a customer by the Lessee or any inclusion of undercharges in gross receipts, any such overcharge or undercharge shall constitute a breach of the Lessee'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 Agreement.

(d) In the event that the Lessee in its operations hereunder offers for sale such a variety of items that the submission of schedules, under the preceding subdivision of this Section, is not feasible in the opinion of the Port Authority, then the Lessee shall be under no obligation to submit such schedules of prices but the Lessee shall not then sell any items hereunder at a price other than the manufacturer's or distributor's recommended retail price, provided, however, that if the price charged for the same item at any other establishment within the Port of New York District which has

any ownership, financial or management connection with the Lessee or any majority stockholder thereof is lower than the manufacturer's or distributor's recommended retail price, the Lessee shall notify the Port Authority in writing of that fact and shall charge only the lower price. If the Lessee wishes to charge a price different from the manufacturer's or distributor's recommended retail price or different from the lower price at any other establishment, as the case may be, then the Lessee shall prepare and submit to the Port Authority schedules therefor in the same manner and subject to the same conditions as set forth in the preceding subdivision of this Section. Any overcharge or undercharge resulting from a breach by the Lessee of its obligations under this subdivision shall be respectively refunded to the customer or included in gross receipts, all in the same manner and subject to the conditions as set forth in the preceding subdivision of this Section for overcharges or undercharges.

(e) The Lessee shall be open for and shall conduct business and furnish services twenty-four hours a day, seven days a week, or for such other hours and days as the Port Authority, from time to time by notice to the Lessee, may determine to properly serve the needs of the public. The determination of proper business hours days made by the Port Authority shall be controlling.

**Section 10. <u>Premises</u>**

The Lessee acknowledges that it has carefully examined the premises and all equipment located therein or thereon. It hereby accepts the same in its present "as is" condition. The Lessee has found all of the same suitable, and satisfactory for the operations to be conducted under this Agreement. The Lessee shall repair all damages to the premises, and all damage to fixtures, improvements, or personal property of the Port Authority, including, without limitation, revenue control and associated equipment, which may hereafter be located thereon, which may be caused by any acts or omissions of the Lessee, its officers, agents, employees or representatives, whether the damage occurs during the course of their employment by the Lessee or otherwise.

**Section 11. <u>Indemnity and Insurance</u>**

(a) The Lessee shall be solely responsible for the acts or omissions of itself, its officers, agents and employees and shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives against all claims arising out of such acts or omissions at the Facility or elsewhere in connection with the performance of this Agreement.

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

(c) The Lessee, in its own name as assured, shall maintain and pay the premiums on policies of insurance for coverages as hereinafter described, which shall cover its operations hereunder and shall be effective throughout the letting under this Agreement and shall afford coverage in not less than the amounts set forth below:

(1) Commercial general liability insurance for such coverage as may reasonably be stipulated from time to time by the Port Authority covering the Lessee's operations hereunder shall initially be in a combined single limit of not less than $10,000,000.00 for liability for bodily injury, for wrongful death and for property damage arising from any one occurrence; and

(2) Commercial Automobile liability insurance covering owned, non-owned and hired automobiles for such coverage as may reasonably be stipulated from time to time by the Port Authority covering the Lessee's operations hereunder which shall be effective throughout the letting under this Agreement and shall initially be in a combined single limit of not less than $5,000,000.00.

(3) Garage Keepers liability insurance for such coverage as may reasonably be stipulated from time to time by the Port Authority covering the Lessee's operations hereunder which shall be effective throughout the letting under this Agreement and shall initially be in a combined single limit of not less than $5,000,000.00.

(aa) Fire and explosion

(bb) Theft of the entire automobile

(cc) Rust and vandalism

(dd) Collision

(4) Blanket crime policy covering loss of money inside or outside the premises by reason of larceny, theft or burglary not committed by an employee of the Lessee not less than $200,000 per occurrence.

(d) The Port Authority shall be named as an additional insured in the policies as set forth in paragraph (c) of this Section. The policy of commercial general liability and automobile liability and garage keepers liability insurance 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 person 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.

(e) Such policy or policies shall contain an additional endorsement providing that the insurance carrier shall not, without obtaining the prior express

permission of the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statute respecting suits against the Port Authority. Such policies shall not exclude or except from their coverage damages arising out of injury to or destruction of property occupied or used by or rented to the Lessee, and shall include products liability and premises operations coverage and a contractual liability endorsement covering the obligations assumed by the Lessee under the this Section of the Agreement.

(f) As to insurance of any type whatsoever required or permitted by any provision of this Agreement, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, (including all required endorsements or binders shall be delivered to the Port Authority within twenty (20) days after the commencement date of the letting hereunder. 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 including said endorsements and such waiver of subrogation. Within thirty (30) days after request of the Port Authority made at any time during the term of the letting under this Agreement the Lessee shall deliver a certified copy of the policy to the Port Authority. Each such copy or certificate shall contain a valid provision or endorsement that: (1) the policy may not be canceled, terminated, changed or modified, without giving ten (10) days written advance notice thereof to the Port Authority, and (2) the Lessee shall be solely responsible for the payment of premiums therefore notwithstanding that the Port Authority is named as an additional insured. A renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of the expiration of the letting. If at any time any of the policies shall be or become unsatisfactory to the Port Authority as to form or substance, or if any of the carriers issuing such policies shall be or become unsatisfactory to the Port Authority the Lessee shall promptly obtain a new and satisfactory policy in replacement Notwithstanding anything contained in this Section, it is specifically understood and agreed that the Port Authority shall have the right upon notice to the Lessee given from time to time and at any time to require the Lessee to increase any or all of the limits set forth in this Section and the Lessee shall promptly comply therewith and shall promptly submit a certificate or certificates evidencing the same to the Port Authority.

**Section 12. <u>Prohibited Acts</u>**

The Lessee shall not do or permit to be done any act or thing upon the premises which will invalidate or be in conflict with any insurance policies covering the premises, or any part thereof, or the Facility, or any part of the Facility, or upon the contents of any building thereon, or which shall increase the rate of any insurance on any part of the Facility, or covering the contents of any building thereon, or any act or thing 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 of the Lessee contemplated by this Agreement. The Lessee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the National Fire Protection Association, and of

the New York Fire Insurance Rating Organization or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the Lessee's operations at the Facility. If by reason of the Lessee's failure to comply with the provisions of this paragraph, any fire insurance rate on the Facility or any part thereof or upon the contents of any building thereon, shall at any time be higher than it otherwise would be, then the Lessee shall, on demand, pay the Port Authority that part of all fire insurance premiums paid by or due from the Port Authority which shall have been charged because of such violation by the Lessee.

**Section 13. <u>Signs</u>**

(a) Except with the prior written approval of the Port Authority, the Lessee shall not erect, maintain or display any sighs or any advertising at or on the exterior parts of the premises or in the premises so as to be visible through the windows or exterior doors thereof.

(b) Upon the expiration or termination of the letting, the Lessee shall remove, obliterate or paint out, as the Port Authority may direct, any and all signs and advertising on the premises or elsewhere at the Facility if pertaining to the Lessee, and in connection therewith shall restore the premises and the Facility to the same condition as prior to the placement of any such signs or advertising. In the event that there is a failure by the Lessee so to remove, obliterate or paint out each and every sign or advertising and so to restore the premises and the Terminal, the Port Authority may, at its option, perform the necessary work at the expense of the Lessee, and the charge therefore shall be paid by the Lessee to the Port Authority on demand.

**Section 14. <u>Services</u>**

(a) Unless otherwise stated in Item 3 of Exhibit B, the Port Authority, shall, without-additional charge, heat the premises to an even and comfortable working temperature during the hours and days stated in said Item 3.

(b) The Port Authority shall also, without additional charge, furnish non-exclusive, toilet and washroom facilities for the employees of the Lessee if toilet and washroom facilities are not a part of the premises.

(c) The Port Authority agrees to sell, furnish and supply to the Lessee in the premises and the Lessee agrees to take and pay the Port Authority for the following;

(1) Unless otherwise stated in Item 3 of Exhibit B, arrangements for purchasing and securing electricity shall be made by the Lessee directly with the public utility supplying the same and the Port Authority shall have no obligation to provide bulbs, meters or any other electric service facilities.

(2) Unless otherwise stated in Item 3 of Exhibit B, cold water in reasonable quantities, of the character furnished by the municipality or utility company

supplying in the vicinity and to be paid for by the Lessee at the rates specified in said Item 3.

(3) Unless otherwise stated in Item 3 of Exhibit B, hot water in reasonable quantities at the temperature stated in said Item 3 and to be paid by the Lessee at the rates specified in said Item 3.

(4) Unless otherwise stated in Item 3 of Exhibit B, steam, in reasonable quantities, of the character specified in said Item 3 and to be paid for by the Lessee at the rates specified in said Item 3.

(5) Unless otherwise stated in said Item 3 of Exhibit B, equipment for air cooling shall be provided subject to said Item 3 and to be paid for by the Lessee at the rates specified therein.

(d) The above utilities may be charged for at a flat rate as provided in Item 3 of Exhibit B or at a metered rate as provided in Item 3 of Exhibit B. In the latter event, the quantity thereof shall be measured by a meter or meters installed in the Facility for that purpose; *provided, however,* that, if for any reason any meter fails to record the consumption thereof, the consumption during any such period that the meter is out of service will be considered to be the same as the consumption for a like period immediately before or immediately after the interruption, as selected by the Port Authority.

(e) Charges by the Port Authority for the above services shall be paid for by the Lessee on demand; and, unless otherwise specified in Item 3 of Exhibit B, the services shall be supplied through existing wires, fixtures, conduits, outlets, pipes or vents, if any.

(f) If any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, makes or increases any charge, fee or rent on the Port Authority for any service, system or utility now or in the future supplied to or available to the premises or to any occupants or users thereof or to the structure or building of which the premises form a part (including but not limited to any sewer rent or charge for the use of sewer systems), the 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 said notice, such charge, fee or rent or increase thereof (or the portion thereof allocated by the Port Authority to the premises or the Lessee's operations hereunder) either directly to the governmental body, authority or agency or to the public utility or directly to the Port Authority.

(g) Notwithstanding that the Port Authority may have agreed to supply a service hereunder to the Lessee where such service is to be metered, the Port Authority shall be under no obligation to provide or continue any such service if the Port Authority is prevented by law from submetering such service or has agreed with the supplier of such service not to submeter such service.

(h) The Port Authority shall have the right to temporarily discontinue the supply of any of the above services when necessary or desirable in the opinion of the Port Authority in order to make any repairs, alterations, changes or improvements in the premises or elsewhere in the Facility including all systems for the supply of services.

(i) No failure, delay or interruption in any of the above services 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 hereunder, or shall constitute grounds for any claim by the Lessee for damages, consequential or otherwise, unless due to the negligence of the Port Authority, its employees or agents. The Lessee shall not be entitled to receive any of the above services during any period during which the Lessee wastes any of the said services or is in default under any of the provisions of this Agreement.

**Section 15. <u>Construction by the Lessee</u>**

(a) Except as hereinafter expressly provided, the Lessee shall not erect any structures, make any improvements or do any other construction work on the premises or elsewhere at the Facility, 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 (other than trade fixtures, removable without injury to the premises) without the prior written approval of the Port Authority, and in the event any construction, improvement, alteration, modification, addition, repair or replacement is made without such approval, then, upon reasonable notice so to do, the Lessee will remove the same, or, at the option of the Port Authority cause the same to be changed to the satisfaction of the Port Authority. In case of any failure on the part of the Lessee to comply with such notice, the Port Authority may effect the removal or change, and the Lessee shall pay the cost thereof to the Port Authority on demand.

(b) In the event that Item 4 of Exhibit B provides that the Lessee is required (or is permitted to) build a structure or make repairs, alterations, improvements or additions to the premises, the structure, repairs, alterations, improvements or additions described in the said Item 4 shall be built or made strictly in accordance with the following terms and conditions:

(1) The Lessee shall, to the extent allowed under the law, be the insurer of the Port Authority, its Commissioners, officers, agents and employees, against the following distinct and several risks, whether they arise from acts or omissions of the Lessee, of the Port Authority, its Commissioners, officers, agents and employees or of third persons, or from acts of God or of the public enemy, or otherwise, excepting only risks which result solely from affirmative, wilful acts done by the Port Authority subsequent to the commencement of the work of construction, repair, alteration, improvement or addition:

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

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

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

(2) All construction work done pursuant to this Section shall be done in accordance with drawings and specifications to be submitted to and approved by the Chief Engineer of the Port Authority prior to the commencement of the work, shall be done to his satisfaction and shall be subject to his inspection during the progress of such work and after completion thereof; and the Lessee shall re-do or replace at its own expense any work not approved by the said Chief Engineer. Unless otherwise expressly provided herein, all workmanship and materials are required to be first class.

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

(4) The Lessee shall procure and maintain comprehensive public liability insurance, or, if the work is to be done by an independent contractor, the Lessee shall require such contractor to procure and maintain such insurance in the name of the contractor, in either case, in limits not lower than those set forth for such categories of insurance in Item 5 of Exhibit B.

(5) As soon as such structure, repair, alteration, improvement or addition shall have been completed to the satisfaction of the Chief Engineer of the Port Authority, then (subject to the provisions of the following subdivision (c) title thereto shall immediately and without execution of any further instrument vest in the Port Authority, and every said structure and all such repairs, alterations, improvements or additions, shall thereupon become and thereafter be part of the premises.

(c) The Port Authority shall have the option, exercisable by notice delivered on or before a date sixty (60) days after expiration, cancellation or termination hereof, to require the Lessee to remove any or all such structures, alterations, improvements or additions, and to restore the premises to the condition thereof prior to the construction or installation thereof. In the event of a failure on the part of the Lessee

so to remove and restore, the Port Authority may do so, and the Lessee shall pay the cost thereof to the Port Authority on demand.

**Section 16. Injury and Damage to Person or Property**

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 in the Terminal, including but not limited to any such injury, death or damage from falling material, water, rain, hail, snow, gas, steam, and/or electricity, whether the same may leak into, or fall, issue, or flow from any part of the Terminal, or from any other place or quarter, unless said damage, injury or death shall be due to the negligence of the Port Authority, its employees or agents.

**Section 17. Additional Rent and Charges**

(a) If the Port Authority has paid any sum or sums or has incurred any obligations or expense which the Lessee has agreed to pay or reimburse the Port Authority for, or if the Port Authority is required or elects to pay any sum or turns 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 agrees to pay the sum or sums so paid or the expense so incurred, including all interest, costs, damages and penalties, and the same may be added to any installment of rent thereafter due hereunder, and each and every part of the same shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the basic rental, or if there is no basic rental as a part of the percentage rental, all as set forth in Section 4 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 own operating and maintenance staff in making any repairs, replacements, and/or alterations and to charge the Lessee with the cost of same, any time sheet of any employee of the Port Authority showing hours of labor or work allocated to any such repair, replacement and/or alteration, or any stock requisition of the Port Authority showing the issuance of materials for use in the performance thereof, shall likewise be *prima facia* evidence against the Lessee that the amount of such charge was necessary and reasonable.

**Section 18. Rights of Entry Reserved**

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

which the Port Authority may be obligated or have the right to do under this Agreement or otherwise.

(b) Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, representatives, and contractors, shall have the right, for the benefit of the Lessee or for the benefit of others at the Terminal, to maintain existing and future utilities systems or portions thereof on the premises, including therein without limitation thereto systems for the supply of heat, water hot and cold, gas, electricity and fuel and for the furnishing of fire-alarm, fire-protection, sprinkler, sewerage, drainage, air-conditioning, telephone, telegraph, tele-register, pneumatic-tube dispatch and intercommunication services, and to maintain elevator and escalator systems, including lines, pipes, mains, wires, conduits and equipment connected with or appurtenant to all such systems, and to enter upon the premises at all reasonable times to make such repairs, alterations and replacements as may, in the opinion of the Port Authority, be deemed necessary or advisable and, from time to time, to construct or install over, in, under or through the premises new lines, pipes, mains, wires, conduits and equipment; provided, however, that such repair, alteration, replacement or construction shall not unreasonably interfere with the use of the premises by the Lessee.

(c) 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.

(d) At any time and from time to time during ordinary business hours within the six (6) months next preceding the expiration of the letting, the Port Authority, 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 six-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.

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

(f) No abatement of rental shall be claimed by or allowed to the Lessee by reason of the exercise of any or all of the foregoing rights by the Port Authority or others.

**Section 19. <u>Condemnation</u>**

(a) In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the premises, the Lessee shall not be entitled to assert any claim to any award or part thereof made or to be made therein, or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority, for or on account of any such taking, except the possible claim to an award for loss of fixtures furnished and

installed by the Lessee (and for the purpose of such possible claim alone, title to such fixtures shall revert to the Lessee), it being understood and agreed between the Port Authority and the Lessee that, except for the possible claim to an award for loss of fixtures, the Port Authority shall be entitled to all the compensation or awards made or to be made or paid for any such taking, free of any claim or right of the Lessee.

(b) In the event of a taking of the entire premises by any governmental agency or agencies, then this Agreement shall be cancelled and the letting shall, as of the date possession is taken from the Port Authority by such agency or agencies, cease and determine in the same manner and with the same effect as if the term of the letting had on that date expired.

(c) In the event of a taking by any governmental agency or agencies of a part of the premises, then the letting as to such part only shall, as of the date possession thereof is taken from the Port Authority by such agency or agencies, cease and determine, and the rentals thereafter to be paid by the Lessee to the Port Authority shall, if so provided in Item 1 of Exhibit B, be abated from and after the date of such taking.

**Section 20. <u>Assignment and Sublease</u>**

(a) The Lessee shall not assign, sell, convey, transfer, mortgage, or pledge this Agreement, or the letting, 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 Lessee, 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 shall not use, or permit any person to use, the premises or any portion thereof, except for the purposes set forth in Section 3 hereof.

**Section 21. <u>Termination</u>**

(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 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 the creditors or, if the Lessee is a corporation, by any of the stockholders of the Lessee, seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any State thereof; 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 hereunder or the interest or estate 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 written 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) The Lessee is, or the Lessees collectively are doing business as, or constitute a copartnership, and the said copartnership shall be dissolved as the result of any act or omission of its copartners 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 having jurisdiction, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of the Lessee, and such possession or control shall continue in effect for a period of fifteen (15) days; or

(8) Any type of strike or other labor activity is directed against the Lessee at the Facility 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 lessees or licensees thereat, whether or not the same is due to the fault of the Lessee, and whether caused by the employees of the Lessee or by others; or

(9) Any lien is filed against the premises because of any act or omission of the Lessee and is not removed within ten (10) days; or

(10) The Lessee shall voluntarily abandon, desert, vacate or discontinue its operations in the premises; or

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

(12) 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 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 rights of the Lessee hereunder, such termination to be effective upon the date specified in such notice. Such right of termination and the exercise thereof shall he and operate as a conditional limitation.

(b) If any of the events enumerated in subdivision (a) of this Section shall occur prior to 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 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 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.

(d) 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 he 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.

**Section 22. <u>Right of Re-entry</u>**

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

**Section 23. Waiver of Redemption**

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

**Section 24. Survival of the Obligation of the Lessee**

(a) In the event that the letting shall have been terminated in accordance with a notice of termination as provided in Section 21 hereof, or the interest of the Lessee cancelled pursuant thereto, or in the event that the Port Authority has re-entered, regained or resumed possession of the premises in accordance with the provisions of Section 22 hereof, all 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 this Agreement, and the amount or amounts of damages or deficiency shall become due and payable to the Port Authority to the same extent, at the same time or times and in the same manner as if no termination, cancellation, re-entry, regaining or resumption of possession had taken place. The Port Authority may maintain separate actions each month to recover the damage or deficiency then due or at its option and at any time may sue to recover the full deficiency less the proper discount, for the entire unexpired term.

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

(1) On account of the Lessee's basic rental obligation, the amount of the total of all annual basic rentals, less the installments thereof payable prior to the effective date of termination except that the credit to be allowed for the installment payable on the first day of the month in which the termination is effective shall be prorated for the part of the month the letting remains in effect, on the basis of a 30-day month;

(2) On account of the Lessee's percentage rental obligation in the event that a basic rental is also reserved under this Agreement, an amount equal to the percentage stated in Item I of Exhibit B applied to the amount of gross receipts which would have been received by the Lessee during the balance of the term if there had been no termination or cancellation (or re-entry, regaining or resumption of possession), and for the purpose of calculation hereunder (i) the said amount of gross receipts shall be derived by multiplying the number of days in the balance of the term originally fixed, by the Lessee's average daily gross receipts; (ii) the average daily gross receipts shall be the total actual gross receipts of the Lessee during that part of the effective period of the letting (including all annual periods falling within the effective period) in which no abatement was in effect, divided by the number of days included in such part of the effective periods.

(c) It is understood and agreed that the statement of damages under the preceding subdivision (b) shall not affect or be construed to affect the Port Authority's

right to damages in the event of termination or cancellation (or re-entry, regaining or resumption of possession) where the Lessee has not received any actual gross receipts under this Agreement.

**Section 25. Reletting by the Port Authority**

The Port Authority, upon termination or cancellation pursuant to Section 21 hereof, or upon any re-entry, regaining or resumption of possession pursuant to Section 22 hereof, may occupy the premises or may relet the premises, and shall have the right to permit any person, firm or corporation to enter upon the premises and use the same. Such reletting may be of part only of the premises or of the premises or a part thereof together with other space, and for a period of time the same as or different from the balance of the term hereunder remaining, and on terms and conditions the same as or different from those set forth in this Agreement. The Port Authority shall also, upon termination or cancellation pursuant to the said Section 21, or upon its re-entry, regaining or resumption of possession pursuant to the said Section 22, have the right to repair or to make structural or other changes in the premises, including changes which alter the character of the premises and the suitability thereof for the 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 letting as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the premises as the Port Authority may during such period actually use and occupy, all expenses, costs and disbursements incurred or paid by the Port Authority in connection therewith. No such reletting shall be or be construed to be an acceptance of surrender.

**Section 26. Thirty Day Termination**

(a) The Port Authority shall have the right to terminate this Agreement and the letting hereunder, without cause, at any time, on thirty (30) days' notice to the Lessee. In the event of termination pursuant to this Section, 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.

(b) The Lessee is obligated by this Agreement to furnish and install all fixtures and equipment and make all improvements in the premises, necessary or proper for its operations hereunder. In the event of termination by the Port Authority under this Section, the Port Authority shall pay the Lessee a pro rata share of the Lessee's cost in supplying and installing all such fixtures and equipment and making all such improvements excluding any replacements thereof. The cost and the pro rata share thereof shall be ascertained as stated in Item 6 of Exhibit B, *provided, however*, that tender of payment of said prorated cost by the Port Authority to the Lessee shall not be prerequisite to the exercise of the right of termination under this Section, but the Lessee

shall be entitled to 4% interest per annum on said prorated cost for the period between the effective date of termination and the date of tender of payment (excluding any portion of the period prior to the rendering by the Lessee to the Port Authority of a statement and other documents of cost). On the payment by the Port Authority of said prorated cost and any interest due thereon, all fixtures, equipment and improvements including replacements furnished by the Lessee in the premises 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 to any such interest, *provided, however* that the Port Authority may by notice relinquish its right to any such fixtures, equipment or improvements and the provisions of Sections 9, 15 and 28 shall apply thereto.

**Section 27. Remedies to Be Non-exclusive**

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

**Section 28. 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 good condition such reasonable wear excepted as would not adversely affect or interfere with a first-class, efficient and proper operation such as is required under this Agreement.

(b) Subject to the provision of Sections 9 and 26 the Lessee shall have the right at any time during the letting to remove its equipment, inventories, removable fixtures and other personal property from the premises. If the Lessee shall fail to remove its property on or before the termination or expiration of the letting, the Port Authority may remove such property to a public warehouse for deposit or retain the same in its own possession, and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, second to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority upon demand.

**Section 29. Acceptance of Surrender of Lease**

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

**Section 30. Requirement of Deposit or Letter of Credit**

(a) Unless Item 7 of Exhibit B indicates that no deposit is required, then, prior to the commencement of the letting, the Lessee shall deposit with the Port Authority the sum stated in the said Item 7, in negotiable bonds of the United States of America or of the Port of New York Authority securities satisfactory to the Port Authority, or in cash, as security for the full, faithful and prompt performance of and compliance with, on the part of the Lessee, all the covenants, terms and conditions of this Agreement on its part to be fulfilled, kept, performed and observed. The said cash or bonds shall remain on deposit with the Port Authority throughout the letting. If bonds are deposited, the fair market value thereof shall be equivalent at the time of the deposit to the sum stated in said Item 7; and, if at any time throughout the letting the fair market value thereof declines, the Lessee shall, upon ten (10) days' notice from the Port Authority, deposit additional bonds to the extent necessary to maintain the sum stated in the said Item 7. In addition to any and all other remedies available to it under this Agreement or otherwise, the Port Authority shall have the right at its option at any time and from time to time, to so use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Lessee. There shall be no obligation on the Port Authority to exercise such right, and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach on the part of the Lessee. In the event that the Port Authority shall at any time or times so use the deposit or a part thereof, the Lessee shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional bonds satisfactory to the Port Authority, or additional cash, so as to maintain the deposit at all times to the full amount stated in the said Item 7; all such additional deposits shall be subject to all the conditions of this Section. After the expiration of the letting and upon written request therefor by the Lessee, the Port Authority will return the deposit to the Lessee, less the amount of any and all unpaid claims and damages of the Port Authority under this Agreement. Upon a termination of the letting, the Port Authority may, at its option, retain the deposit until the date fixed in Section 2 hereof for the expiration of the letting (or until the final date of any extended term, as the case may be) and shall thereafter upon demand of the Lessee return the same to the Lessee less the amount of any and all unpaid claims and damages, including but not limited to estimated damages of the Port Authority under this Agreement. The Lessee agrees that it will not assign, mortgage or encumber the deposit. The Port Authority shall, not pay or allow interest thereon; but the Lessee may collect or receive annually any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by low to retain or to charge in connection therewith, whether as or in lieu of administrative expense or custodial charge, or otherwise, *provided, however*, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(b) Notwithstanding the provisions of paragraph (a) of this Section in lieu of the security deposit required pursuant to said paragraph, the Lessee shall deliver to the Port Authority, as security for all obligations of the Lessee under this Agreement a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port

Authority and having its main office within the Port of New York District, in favor of the Port Authority in the amount of Six Hundred Thousand Dollars and No Cents ($600,000.00). The form and terms of such letter of credit, as well as the institution issuing it, shall be subject to the prior and continuing approval of the Port Authority. Such letter of credit shall provide that it shall continue throughout the term of the letting under this Agreement and for a period of not less than six (6) months thereafter; such continuance may be by provision for automatic renewal or by substitution of a subsequent satisfactory letter. Upon notice of cancellation of a letter of credit, the Lessee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof and thereafter the Port Authority will hold the same as security under paragraph (a) of this Section. Failure to provide such letter of credit at any time during the term of the letting under this Agreement, which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit shall be deemed to be a breach of this Agreement on the part of the Lessee. Upon acceptance of such letter of credit by the Port Authority, and upon request by the Lessee made thereafter, the Port Authority will return any security deposit resulting from the drawing down of the letter of credit in accordance with the provisions of said paragraph (a). The Lessee shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such deposit upon expiration of the letting and fulfillment of the obligations of the Lessee under this Agreement. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Lessee on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to its full amount.

(c) No action by the Port Authority pursuant to the terms of any letter of credit, or receipt by the Port Authority of funds from any bank issuing any such letter of credit, shall be or be deemed to be a waiver of any default by the Lessee under the terms of this Agreement and all remedies thereunder of the Port Authority consequent upon such default shall not be affected by the existence of or a recourse to any such letter of credit.

(d) For purposes of the provisions set forth in this paragraph, the Lessee certifies that its I.R.S. Employer Identification Number is (Ex. 1)

**Section 31. <u>Brokerage</u>**

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 of execution of this Agreement.

**Section 32. Limitation of Rights and Privilege Granted**

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

**Section 33. Letting Postponed**

The Lessee recognizes that, at the time of execution of this Agreement, the premises may be occupied by another or may be under construction, alteration or improvement by the Port Authority or that the Port Authority may intend to do or make such construction, alteration or improvement and that as a result the premises may not be ready for occupancy on the commencement date stated in Section 2 hereof. In the event that the premises are not ready for occupancy on said commencement date, the term of the letting under this Agreement shall commence on a date designated by the Port Authority on ten (10) days' notice to the Lessee, but not later than the date stated in Item 9 of Exhibit B. In the event that the premises are not ready for occupancy on or before the date stated in Item 9 of Exhibit B, then this Agreement shall be cancelled and each party shall release and does hereby release the other party of and from any and all claims or demands based on this Agreement or any breach or alleged breach thereof. Nothing contained in this Section shall impose or shall be construed to impose on the Port Authority any obligation to perform construction or make alterations or improvements.

**Section 34. Changes in the Facility or Premises**

(a) The Lessee recognizes that the premises or the building in which the premises are to be located may be under construction by the Port Authority at the time of execution of this Agreement and that the space exhibit(s) attached hereto show(s) premises which the Port Authority presently anticipates will be built as shown on the said exhibit(s). If the Port Authority changes the construction of the premises prior to completion thereof so that the premises as shown on the said space exhibit(s) are substantially diminished in area, the Port Authority may offer to substitute other space at least equivalent in area to the premises shown on the said space exhibit(s) and located in a portion of the said building comparable to the location where the premises shown on the said space exhibit(s) are located, by notice to the Lessee given not later than thirty (30) days prior to the commencement date of the letting. The Lessee within twenty (20) days after receipt of such notice shall have the right to reject the substitution by notice to the Port Authority. If such substitution is made and not rejected by the Lessee as hereinbefore stated, the space substituted shall from and after the effective date of such substitution be the premises hereunder, and the space shown on the said space exhibit(s) shall cease to be the premises hereunder, provided, however, that any such substitution by the Port Authority shall be effective not later than the commencement date of the letting hereunder. If the area of the premises is substantially diminished and the Port Authority does not exercise its privilege of substitution or the Lessee rejects the substitution as hereinbefore stated, the Lessee shall have the right to cancel this Agreement and the letting hereunder by five days' notice to the Port Authority given and effective not later

than the commencement date of the letting and each party shall release and does hereby release the other party of and from any and all demands based on this Agreement, or a breach or alleged breach thereof. If the area of the premises is substantially diminished and the Lessee has not exercised its right of cancellation or if the premises are diminished in area but not substantially diminished if so provided in Item 1 of Exhibit B there shall be an abatement of rental. No diminution of area of the premises shall be or be construed to be an eviction or partial eviction of the Lessee. "Substantially" shall mean a diminution of ten per cent (10%) or more.

(b) The Port Authority shall have the right at any time and from time to time prior to and during the letting, in the interest of the efficient operation of the Facility, to close, move or alter any common way at the Facility, including but not limited to entrances, exits, passages, halls, corridors, aisles, stairways, elevators, escalators or any means of ingress and egress or to restrict or change the traffic on or through any such common way and no such action by the Port Authority shall release the Lessee from any of its obligations under this Agreement.

**Section 35. <u>Relationship of the Parties</u>**

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.

**Section 36. <u>Notices</u>**

All notices (including but not limited to permissions, requests, consents, designations, notifications, reports and approvals) given or required to be given to or by either party shall be in writing and all such notices shall be telegraphed or personally delivered to the party or to the duly designated officer or representative of such party or shall be delivered to an office 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 hereby designates the person whose name appears on the first page of this Agreement as their respective officers or representatives upon whom such notices 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 such notices may be served.

**Section 37. Place of Payments**

All payments required of the Lessee by this Agreement shall be made by mail to the Port Authority of New York and New Jersey, P. O. Box 95000-1517, Philadelphia, Pennsylvania 19195-1517, or sent by wire transfer as follows: Bank: Commerce Bank; Bank ABA Number: ; Account No. (Ex. 1) or to such other office or address as may be substituted therefor.

**Section 38. Quiet Enjoyment**

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

**Section 39. Headings**

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

**Section 40. Construction and Application of Terms**

(a) Wherever in this Agreement a third person singular neuter pronoun or adjective is used, referring to the Lessee, the same shall be taken and understood to refer to the Lessee, regardless of the actual gender or number thereof.

(b) Whenever in this Agreement, the Lessee is placed under an obligation or covenants to do or to refrain from or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

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

(2) If the Lessee is an unincorporated association or a business or "Massachusetts" trust, the obligation shall be that of its members or trustees, as well as of itself, and shall be performed only by its members or trustees, and officers and employees, and the rights or privileges shall be exercised only by its members or trustees, and its officers and employees; or

(3) If the Lessee is a copartnership, the obligation shall be that of its partners and shall be performed only by its partners and employees and the rights or privileges shall be exercised only by its partners and employees; or

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

(5) None of the privileges of this subdivision (b) shall be taken to alter, amend or diminish any obligation of the Lessee assumed in relation to its invitees, customers, agents, representatives, contractors or other persons, firms or corporations doing business with it.

(c) In the event that more than one individual or other legal entity are the Lessee under this Agreement, then and in that event each and every obligation under this Agreement shall be the joint and several obligation of each such individual or other legal entity.

(d) The Lessee's representative, hereinbefore specified (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.

**Section 41. Force Majeure**

The Port Authority shall not be liable for any failure, delay or interruption performing its obligations hereunder due to causes or conditions beyond the control of the Port Authority. 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.

**Section 42. Definitions**

The following terms, when used in this Agreement shall have the respective meanings given below:

(a) "Letting' shall mean the letting under this Agreement for the original terms stated herein and shall include any extensions thereof, which may be made pursuant to the provisions of the Agreement.

(b) "Facility" or "Port Authority Bus Terminal" or "Terminal" shall mean the building bounded by 40th and 41st Streets, 8th and 9th Avenues, in the City, County and State of New York and the extension of the Port Authority Bus Terminal, contiguous thereto and lying to the north thereof; all of which now constitutes the Port Authority Bus Terminal and property, buildings, structures, ramps and extensions in the vicinity thereof which My be used for or in connection with bus station purposes.

(c) "Cost" shall mean and include: (i) payroll costs including to the retirement system or the cost of participation in other pension plans, 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) 40% of the sum of the foregoing.

(d) 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.

(e) "Causes or conditions beyond the control of the Port Authority", shall mean and include acts of God, the elements, weather conditions, tides, earthquakes, settlements, fire, acts of Governmental authority, war, shortage of labor or materials, acts of third parties for which the Port Authority is not responsible, injunctions, labor troubles or disputes of every kind (including all those affecting, the Port Authority, its contractors, suppliers or subcontractors) or any other condition or circumstance, whether similar to or different from the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances).

(f) "Gross receipts" shall include all monies paid or payable to the Lessee for sales made and for services rendered at or from the Facility, regardless of when or where the order therefore is received, and outside the Facility, if the order therefore is received at the Facility, and any other revenues of any type arising out of or in connection with the Lessee's operations at the Facility provided, however, that any taxes imposed by law which are separately stated to and paid by a customer directly payable to the taxing authority by the Lessee shall be excluded therefrom.

**Section 43** **Non-Liability of the Port Authority Representative**

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 it under any term or provisions of this Agreement, or because of its execution or attempted execution, or because of any breach hereof.

**Section 44.** **Maintenance and Repair**

(a) The Lessee shall at all times keep in a clean and orderly condition and appearance the premises and all the Lessee's fixtures, equipment and personal property.

(b) The Lessee shall repair, replace, rebuild and paint all or any part of the Facility and the premises including therein, without limitation thereto, walls, partitions, floors, ceilings, columns, windows, doors, glass of every kind, fixtures, systems for the supply of heat, water hot and cold, gas, electricity and fuel and for the furnishing of fire-alarm, fire-protection, sprinkler, sewerage, drainage, air-conditioning, telephone, tele-register, pneumatic-tube dispatch and intercommunications services,

including lines, pipes, mains, wires, conduits and equipment connected with or appurtenant to all such system, which may be damaged or destroyed by the acts or omissions of the Lessee, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees or other persons doing business with it. Additionally, all non-structural repair, replacement, rebuilding, relamping, ballasting, stripping of lanes, signage, and painting shall be made or done by the Lessee. Stripping of lanes shall be performed at least once every two (2) years.

(c) In the event the Lessee fails to commence so to make or do repairs, replacement, rebuilding or painting which it is obligated to make or do under the terms of this Agreement within a period of ten (10) days after notice from the Port Authority so to do or fails diligently to continue to completion the repair, replacement, rebuilding or painting of all the premises required to be repaired, replaced, rebuilt or painted by the Lessee under the terms of this Agreement, the Port Authority may, at its option, and in addition to any other remedies which may be available to it, repair, replace, rebuild or paint all or any part of the premises included in the said notice, the cost thereof to be paid by the Lessee on demand.

(d) In the event that, as a result of any casualty, the premises are damaged, without the fault of the Lessee, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees or other persons doing business with it, so as to render them untenantable in whole or part, then the Port Authority shall have options: (i) to proceed diligently to repair or to rebuild as necessary; or (ii) to terminate the letting as to the damaged portion of the premises only, or (iii) to cancel this Agreement and terminate the letting as to the entire premises; and the rental hereunder shall, if so provided in Item 1 of Exhibit B, be abated, either, as the case may require, for the period from the occurrence of the damage to the completion or repairs and rebuilding or for the period from the occurrence of the damage to the effective date of termination.

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

(f) In the event of a partial or total destruction of the premises, the Lessee shall immediately remove any and all of its property and/or debris from the premises or the portion thereof destroyed and if the Lessee does not promptly so remove, the Port Authority may remove such property to a public warehouse for deposit or retain the same in its own possession and sell the same to public auction, the proceeds, of which shall be applied first to the expense of removal, storage and sale, second to any sums owned 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 ale, the Lessee shall pay such excess to the Port Authority upon demand.

**Section 45. <u>No Sale of Merchandise</u>.**

Nothing in this Agreement contained shall give the Lessee the right to sell, and the Lessee shall not sell, or permit to be sold, any merchandise at or on the premises,

nor shall the Lessee have any right to install, and the Lessee shall not install or permit to be installed, any vending machines or similar devices whatsoever at or on the premises.

**Section 46. Labor Harmony**

(a) The Lessee shall use its best efforts, taking all measures and means, to insure labor harmony in its operations at the Facility, all to the end of avoiding and preventing strikes, walkouts, work stoppages, slowdowns, boycotts and other labor trouble and discord. The Lessee particularly recognizes the essential necessity of the continued and full operation of the Facility and the other portions of the Port Authority Bus Terminal. To such end, the Lessee in its operations at the Facility shall not employ and persons or use or have any equipment or materials or allow any conditions to exist if any such, in the opinion of the Port Authority, may cause or be conducive to any labor troubles, complaints, disputes or controversies anywhere at the Port Authority Bus Terminal which may interfere with the operation of the Port Authority Bus Terminal or with the operations of others thereat, or which maybe objectionable to the Port Authority in any other respect.

(b) The Lessee shall immediately give oral notice (to be followed by written notices and reports) to the Port Authority of any and all impending or existing labor complaints, troubles, disputes or controversies existing or impending at any time at the Facility involving the Lessee or the employees of the Lessee and shall continually report to the Port Authority the progress of such and the progress of the resolution thereof. The Lessee shall use its best efforts to resolve every such complaint, trouble, dispute or controversy.

**Section 47. Governmental Compliance**

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 shall give the Lessee notice that all or any such portion of the premises is so required and the Lessee shall deliver all or such portion of the premises so required on the date specified in such notice and, if the Lessee does not so deliver, the Port Authority may take the same. No such taking or delivery shall be or be construed to be an eviction of the Lessee or a breach of this Agreement. In the event that the Lessee has received a notice hereunder it shall deliver all or any such portion of the premises so required in the same condition as that required hereunder for the delivery of the premises on the cessation of the letting. In the event of the taking or delivery of all the premises, this Agreement and the letting hereunder shall on the day of such taking or delivery cease and expire as if that day were the date, originally stated therein for the expiration of this Agreement; and, in the event of the taking or delivery of any portion of the premises, then, from and after such taking or delivery, such portion of the premises shall cease to be a part of the premises hereunder. There shall be an abatement of the rental in the event of any such taking or delivery of a portion of the premises if so provided in Item 1 of Exhibit B.

**Section 48. Abandoned and Illegally Parked Vehicles**

The Lessee shall report to the Manager of the Facility or his or her designee, in writing each week, on the same day of the week, the make, model, license plate number, state of registration, and the location of the premises of all vehicles which the Lessee believes to be abandoned, setting forth the date on which the vehicle entered the premises, and the parking fees due for such vehicle. The Lessee shall not remove abandoned vehicles from the premises, or sell any such vehicles without the prior written consent of the Port Authority.

**Section 49. Operating Names**

Any name, designation or any service mark proposed to be used or displayed at the premises or at the Facility or for the Lessee's operations therein shall be approved in advance in writing by the Port Authority and the Lessee shall have the right to use and display the name, designation or mark only so long as this Agreement is in force and effect. If for any reason the Lessee ceases its operations in the premises, the Lessee's right to use such name, designation or service mark shall immediately cease and come to an end and the Port Authority or its designee shall have the sole right to use such name, designation or service mark and the Lessee hereby consents to such use thereof. Any registration or filing by the Lessee with respect of such name, designation or service mark shall indicate the Port Authority's interest therein and the form thereof shall be approved in advance by the Port Authority in writing. The Lessee agrees to assign and transfer to the Port Authority any such registration or filing and any other rights in or to the use of such name, designation or service mark promptly upon written request therefor from the Port Authority.

Nothing contained herein is intended to apply to the continuing use by the Lessee of its customary name, designation, or service mark used elsewhere in its operations prior to the making of this Agreement.

**Section 50. Late Charges**

If the Lessee should fail to pay any amount required under this Agreement when due to the Port Authority, including without limitation any payment of 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 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 a result of Port Authority audit findings shall consist of each late charge period following the date

the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this Section with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rental as set forth in Section 4 of this Agreement and Item 1 of Exhibit B annexed hereto. Nothing in this Section is intended to, or shall be deemed to affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section of this Agreement entitled "Termination" or (ii) any obligations of the Lessee under this Agreement. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Agreement shall be payable instead at such legal maximum.

**Section 51. Additional Provisions**

(a) The Lessee shall provide the Port Authority at its request with up to seventy-five (75) parking spaces at no cost to the Port Authority for such time as the Port Authority shall require. In the event the Port Authority shall require additional parking spaces for use for itself, its invitees, guests, the Port Authority shall pay to the Lessee a daily fee in the amount of Five Dollars and No Cents ($5.00) per parking space for any calendar day in which the premises shall be fully occupied by paying parking customers at any point during such calendar day.

(b) No vehicle shall be permitted at the premises having a gross weight of more than seven thousand five hundred pounds (7,500) avoirdupois.

**Section 52. Affirmative Action**

Without limiting any of the terms and conditions of this Agreement, the Lessee agrees to require its contractors to make every good faith effort, to the maximum extent feasible, to seek meaningful participation by minorities and women both as to Minority Business Enterprise (MBE) and Women-owned Business Enterprise (WBE) participation as contractors and subcontractors and as to the composition of the labor force on contracts and subcontracts entered into with respect to any construction work performed on the premises. The Port Authority has a long-standing practice of making its contracting opportunities available to MBE's and WBE's. The affirmative steps the Port Authority takes to maximize opportunities for MBE's and WBE's to participate in the performance of Port Authority construction contracts either directly or as subcontractors are hereby set forth for the Lessee's consideration in the schedule attached hereto, hereby made a part of this Agreement, and marked "Schedule E".

**Section 53. Extension of the Letting**

(a) The Port Authority shall have the right to extend this Agreement and the term of the letting thereunder, for a two (2) year period commencing at 11:59 o'clock P.M. on the expiration date of the term of the letting set forth in Section 2 of this Agreement, exercisable by written notice electing to so extend this Agreement for such extension period delivered to the Lessee not later than one hundred eighty (180) days prior to the expiration date of the term of the letting set forth in said Section 2, such extension to be upon all of the terms, conditions and provisions of this Agreement, except that the Lessee's cost and the proration period set forth in paragraph (b) of the Section of this Agreement entitled *"Thirty Day Termination"* and in Item 6 of Exhibit B attached to this Agreement shall not be increased or extended by reason of such extension of the letting or of construction performed by the Lessee during such extension period.

(b) If the letting under this Agreement shall be extended as provided in paragraph (a) of this Section, then the Port Authority shall have the right to further extend this Agreement and the term of the letting thereunder, for an additional and final two (2) year period commencing at 11:59 o'clock P.M. on the expiration date of the term of the letting under the extension period set forth in paragraph (a) of this Section, exercisable by written notice electing to so extend this Agreement for such extension period delivered to the Lessee not later than one hundred eighty (180) days prior to the expiration date of the term of the letting under the extension period set forth in said paragraph (a), such extension to be upon all of the terms, conditions and provisions of this Agreement, except that the Lessee's cost and the proration period set forth in paragraph (b) of the Section of this Agreement entitled *"Thirty Day Termination"* and in Item 6 of Exhibit B attached to this Agreement shall not be increased or extended by reason of such extension of the letting or of construction performed by the Lessee during such extension period.

**Section 54. No Gifts, Gratuities, Offers of Employment**

(a) During the term of the letting under this Agreement, the Lessee shall not offer, give or agree to give anything of value either to a Port Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority, or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing, in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority, of duties involving transactions with the Lessee on behalf of the Port Authority, whether or not such duties are related to this Agreement or any other Port Authority lease, contract or matter. Any such conduct shall be deemed a material breach of this Agreement.

(b) As used herein "anything of value" shall include but not be limited to any (1) favors, such as meals, entertainment, transportation (other than that contemplated by this Agreement or any other Port Authority lease or contract), etc. which might tend to obligate the Port Authority employee to the Lessee, and (2) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public,

offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Agreement or any other Port Authority lease or contract.

(c) In addition, during the term of the letting under this Agreement, the Lessee shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated as of July 18, 1994 (a copy of which is available upon request to the Office of the Secretary of the Port Authority).

(d) The Lessee shall include the provisions of this Section 54 in each sublease, contract or subcontract entered into under and pursuant to the provisions of this Agreement.

(e) The Lessee certifies that it has not made any offers or agreements, or given, or agreed to give anything of value (as defined in this Section 54) or taken any other action with respect to any Port Authority employee or former employee or immediate family members of either which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated as of July 18, 1994, nor does the Lessee have any knowledge of any act on the part of a Port Authority employee or former Port Authority employee relating either directly or indirectly to the Lessee which constitutes a breach of ethical standards set forth in said Code.

**Section 55. <u>The Lessee's Construction Work</u>**

(a) The Port Authority shall deliver the premises to the Lessee in its "as is" condition. The Lessee acknowledges that it has thoroughly inspected the premises and agrees to take the premises in its "as is" condition. Nothing contained herein shall or shall be construed to relieve the Lessee of its obligations under Section 9 to install in the premises all necessary or proper equipment or fixtures required for its operations therein. Subject to the provisions of this Section and Section 15 of this Agreement the Lessee agrees to and shall perform at its sole cost and expense all construction and installation work necessary or proper for its occupancy of the premises and its operations therein including, without limitation, if necessary, the installation of an automated revenue collection, control, and monitoring system and appropriate signage relating to the operation of the premises (the work described in this Section being sometimes hereinafter collectively referred to as the "Lessee's Construction Work"). Without in any way limiting the generality of the preceding sentence, the Lessee shall perform the Lessee's Construction Work in the premises having a cost, as defined in Item 6 of Exhibit B to this Agreement, of not less than Four Hundred Thousand Dollars and No Cents ($400,000.00). Prior to commencing the performance of any of the Lessee's Construction Work, the Lessee shall submit to the Port Authority for its approval an Alteration Application, in the form supplied by the Port Authority, and containing such terms and conditions as the Port Authority may include, setting forth in detail and by appropriate plans and specifications the work the Lessee proposes to perform in the premises and the manner of and time periods for performing such work. The data to be supplied by the Lessee shall identify separately each item of the Lessee's Construction Work the Lessee proposes to perform

and shall describe in detail the improvements, fixtures, equipment, and systems to be installed by the Lessee therein, including the design, size, and characteristics of such improvements, fixtures, equipment, and systems, and shall show the proposed method of tying in such systems to the utility lines and connections provided by the Port Authority either on the perimeter of the premises or at a location off the premises at wet columns or closets, as determined by the Port Authority. The Lessee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be directed by the Port Authority and for developing, completing and submitting detailed plans and specifications for the work. The plans and specifications to be submitted by the Lessee to the Port Authority shall bear the seal of a qualified architect or professional engineer, who shall be responsible for the administration of the work in accordance with the Port Authority's requirements, and shall be in sufficient detail for a contractor to perform the work. In connection with review by the Port Authority of the Lessee's submissions under this paragraph, the Lessee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may require for such review. The Lessee shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor has been approved by the Port Authority. The Lessee shall include in any such contract or subcontract such provisions as the Port Authority may approve or require, including, without limitation thereto, provisions regarding labor harmony. The Lessee shall cause each such contractor and subcontractor to obtain and maintain in force such insurance coverage and performance bonds as the Port Authority shall specify. All work to be performed by the Lessee hereunder shall be done in accordance with the said Alteration Application and final plans and specifications approved by the Port Authority, shall be subject to inspection by the Port Authority during the progress of the work and after the completion thereof and the Lessee shall redo or replace at its own expense any work not done in accordance therewith. Upon completion of the Lessee's Construction Work the Lessee shall supply the Port Authority with a certificate signed by the architect or engineer who sealed the Lessee's plans for the work to be performed therein pursuant to the provisions of this paragraph that all of the work performed by the Lessee has been performed in accordance with the plans and specifications for such work approved by the Port Authority and the provisions of this Agreement and the Lessee shall supply the Port Authority with as built drawings in form and number as requested by the Port Authority.

(b) The Lessee shall not commence any portion of the Lessee's Construction Work until the Alteration Application and plans and specifications covering the work to be performed in the premises, referred to in paragraph (a) of this Section, have been finally approved by the Port Authority. In the event of any inconsistency between the provisions of this Agreement and those of the Alteration Application, the provisions of this Agreement shall control.

(c) The Lessee shall be solely responsible for all plans and specifications used by it, and for the adequacy or sufficiency of such plans, specifications and all the improvements depicted thereon or covered thereby, regardless of the consent thereto or approval thereof by the Port Authority or the incorporation therein of any Port Authority requirements or recommendations. The Port Authority shall have no obligations or liabilities in connection with the performance of finishing, decorating or

installation work performed by the Lessee in any portion of the premises, or on its behalf, or the contracts for the performance thereof entered into by the Lessee. Any warranties extended or available to the Lessee in connection with the aforesaid work shall be for the benefit of the Port Authority as well as the Lessee. The Lessee recognizes that its obligation to pay basic and percentage rental for the premises hereunder shall commence on the Commencement Date established pursuant to Section 2 of this Agreement regardless of whether or not the Lessee's Construction Work is then completed.

(d) Without limiting or affecting any other term or provision of this Agreement, the Lessee shall be solely responsible for the design, adequacy and operation of all utility, mechanical, electrical, communications and other systems installed in the premises by the Lessee and shall do all preventive maintenance and make all repairs, replacements, rebuilding (ordinary or extraordinary, structural or non structural) and painting necessary to keep such systems and all other improvements, additions 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 building or adversely affect the efficient or proper utilization or appearance of any part of the premises.

**Section 56. <u>Trash Removal</u>**

(a) Subject to all of the terms, conditions and provisions of this Agreement and in implementation of the provisions of Section 8(c) hereof, the Lessee agrees to remove from the premises all garbage, debris and other waste materials (whether solid or liquid) arising out of its occupancy or use of the premises by delivering the same daily to the Port Authority compaction unit located at the Terminal, and the Port Authority hereby grants to the Lessee the privilege to use the Port Authority compaction unit during such hours and in such manner as may be specified by the Port Authority for the compaction of all such garbage, debris and waste materials. The Port Authority shall thereafter arrange, through its agents, employees or contractors, for the collection and removal of all such debris, garbage and waste material from the Terminal. The Lessee shall use extreme care when effecting removal of all such waste and in no event shall the Lessee use any facilities of the Port Authority without its prior consent in writing; the Lessee shall effect such removal only during such hours as are prescribed by Port Authority. The privilege granted hereunder to the Lessee is non-exclusive and the Port Authority and all persons, firms or corporations designated by it shall have the right to use the said compaction unit and to enter upon the space designated for the location thereof for the purposes set forth herein. Nothing contained herein shall limit or be deemed to limit any rights the Port Authority or its designees may have under this Agreement, or otherwise, to enter upon or use such space.

(b) Prior to delivery to the Port Authority compaction unit, the Lessee shall store all garbage, debris and waste materials in suitable garbage and waste receptacles, to be provided by the Lessee at its sole cost and expense. All such receptacles shall be of a design safely and properly to contain whatever may be placed therein and shall be kept closed or covered except when being filled and maintained in a

clean and sanitary condition at all times. The Lessee shall exercise extreme care in bringing all such garbage, debris and waste materials to the Port Authority compaction unit and shall pick up and clean all spillage and accumulations thereof. Without limiting the applicability thereof in any way, the Lessee's indemnity, repair and maintenance obligations under this Agreement shall extend to and include its activities under this Section.

(c) During the effective period of the permission granted pursuant to the provisions of this Section, the Lessee shall not contract for waste, rubbish or garbage removal services and shall not dispose of garbage, debris or other waste materials except in the manner specified in this Agreement. The Port Authority shall have the right to temporarily discontinue the Lessee's non-exclusive right to use the compaction unit when necessary or desirable in the opinion of the Port Authority in order to make any repairs, alterations, changes or improvements thereto. Nothing contained herein shall impose or be construed to impose on the Port Authority any obligation to make any repairs, alterations, changes or improvements or to create any liability for any failure to do so. The Port Authority shall have the right to revoke the privilege granted hereunder to use the Port Authority compaction unit on thirty (30) days' prior written notice to the Lessee, provided, however, that it may be revoked by the Port Authority upon five (5) days' notice if the Lessee shall fail to keep, perform and observe each and every condition, term and provision contained herein. Revocation shall not relieve the Lessee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation. The exercise of the foregoing rights by the Port Authority shall not release, relieve or discharge the Lessee from any of its obligations under this Agreement and upon the exercise of such rights, the Lessee shall dispose of all garbage, debris or other waste material in accordance with the provisions of Section 8(c) of this Agreement.

(d) The Lessee shall pay to the Port Authority for the right to use the Port Authority compaction unit in accordance with the provisions of paragraph (a) of this Section an annual fee (hereinafter referred to as the 'Trash Removal Fee') at the rate of One Thousand Six Hundred Nineteen Dollars and Thirty-five Cents ($1,619.35) per annum payable in monthly installment each in the amount of One Hundred Thirty-four Dollars and Ninety-five Cents ($134.95) on the Premises Availability Date, as hereinafter defined, and on the first day of each and every month thereafter occurring during the effective period of the permission granted pursuant to the provisions of this Section, provided, however, that, if the Premises Availability Date established for the premises occurs on a day which is other than the first day of a month, the Trash Removal Fee for the portion of the month during which the Premises Availability Date occurs following such date shall be the amount of the monthly installment set forth in this paragraph prorated on a daily basis. The Trash Removal Fee described in this paragraph, and the monthly installments thereof shall be payable, together with all applicable New York State and New York City taxes, at the same time and collectable with like remedies as if all such payments were payments of basic rental under this Agreement. The Trash Removal Fee set forth in this paragraph shall be adjusted during the term of the letting under this Agreement in accordance with the provisions of paragraph (g) of this Section.

(e) The Lessee understands that the Port Authority will supply trash removal services hereunder though a contractor or contractors of its choice and that the Port Authority will choose a single contractor or that combination of contractors which in the Port Authority's opinion will result in the lowest total cost for the Terminal consistent with adequate performance of the services. In the event that pursuant to such contract or contracts as the Port Authority may enter into the Port Authority's cost of supplying trash removal services to the Terminal increases, then, at the option of the Port Authority, exercised at any time and from time to time by notice to the Lessee, the amount of such increase or the portion thereof allocated by the Port Authority to the premises or the Lessee's operations therein shall be added to the monthly fee specified in paragraph (d) above.

(f) No failure, delay or interruption in the service set forth herein shall be or be construed to be an eviction of the Lessee, shall be grounds for any diminution or abatement of any rentals payable under this Agreement or shall constitute grounds for any claim by the Lessee for damages consequential, or otherwise, unless due to the negligence of the Port Authority, its employees or agents.

(g) As used in this paragraph:

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

(ii) "Base Period" shall mean the month of January in the calendar year in which the Commencement Date occurs.

(iii) "Adjustment Period" shall mean as the context requires the December of the calendar year in which the Commencement Date shall fall and the month of December in each calendar year thereafter occurring during the term of the letting under this Agreement as the same may hereafter be amended or extended.

(iv) "Anniversary Date" shall mean the January 1 of the calendar year following the calendar year in which the Commencement Date shall fall and each anniversary of such date occurring during the term of the letting under this Agreement as the same may hereafter be amended or extended.

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

Commencing on each Anniversary Date occurring during the term of the letting under this Agreement and for the period commencing with such Anniversary Date and continuing through the day preceding the following Anniversary Date, both dates

inclusive, in lieu of the Trash Removal Fee set forth in paragraph (d) of this Section the Lessee shall pay a Trash Removal Fee equal to the sum obtained by adding the Trash Removal Fee payable immediately prior to such Anniversary Date (but excluding therefrom any amount included therein as a result of prior adjustments thereof pursuant to the provisions of this subparagraph) to the product obtained by multiplying the Trash Removal Fee payable immediately prior to such Anniversary Date (but excluding therefrom any amount included therein as a result of prior adjustments thereof pursuant to the provisions of this subparagraph) by the Percentage Increase for such Anniversary Date, and such increased Trash Removal Fee shall be payable by the Lessee during the twelve month period commencing with such Anniversary Date and continuing through to the following Anniversary Date in lieu of the Trash Removal Fee set forth in paragraph (d) of this Section. There shall be no reduction in the Trash Removal Fee payable for any period in the event of any reduction in the Index.

In the event any Index to be used in computing an adjustment in the Trash Removal Fee referred to in paragraph (d) above is not available on the effective date of such adjustment, the Lessee shall continue to pay the said Fee at the annual rate then in effect subject to retroactive adjustment at such time as the specified Index becomes available, provided, however, that the Port Authority may at its option substitute for such Index the Index for the latest available twelve-month period ending during the preceding calendar year to constitute the specified Index. In the event the Index shall hereafter be converted to a different standard reference base or otherwise revised or the United States Department of Labor shall cease to publish the said Index, then for the purposes hereof there shall be substituted for the Index such other Index properly reflecting changes in the value of current United States money in a manner similar to that established in the Index used in the latest adjustment as the Port Authority may in its discretion determine.

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

**Section 58. <u>Additional Termination Right</u>**

(a) Without limiting any other right of termination under this Agreement, the Port Authority shall have the right to terminate the letting of the North Wing Parking Area under this Agreement without cause and without cost to the Port Authority at any time on ninety (90) days' prior notice to the Lessee. In the event of termination pursuant to this Section, the letting of the North Wing Parking Area under this Agreement shall cease and expire on the effective date of termination stated in the notice as if such date were the date originally fixed in Section 2 of this Agreement for the

expiration of the term of the letting of the North Wing Parking Area under this Agreement. There shall be no abatement of the Basic Rental provided for in paragraph (b) Item 1 of Exhibit B to this Agreement or adjustment of Annual Exemption Amount-A or Annual Exemption Amount-B set forth in subparagraph (2) of paragraph (a) of said Item 1 by reason of the termination of the letting of the North Wing Parking Area.

(b) The Lessee acknowledges that it has been advised by the Port Authority that any failure of the Lessee to surrender, vacate and yield up to the Port Authority the North Wing Parking Area on the effective date of termination set forth in paragraph (a) hereof, will or may cause the Port Authority injury, damage or loss or the Lessee's failure to surrender, vacate and yield up space to which the Lessee is moved on a temporary basis may result in a cancellation of a lease or loss of rental with respect to such space. The Lessee hereby assumes the risk of such injury, damage or loss and hereby agrees that it shall be responsible for the same and shall pay the Port Authority for the same whether such are foreseen or unforeseen, special, direct, consequential or otherwise and the Lessee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss. The foregoing shall not constitute or be deemed to constitute the sole and exclusive remedy of the Port Authority for such failure of the Lessee.

**Section 59.** **Entire Agreement**

This Agreement consists of the following: Pages 1 through 41 inclusive, plus Exhibits A, A-1, A-2, B and R and Schedules B and E.

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

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

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By

(Title) Francis A. DiMola
Director, Real Estate Department

(Seal)

ATTEST:

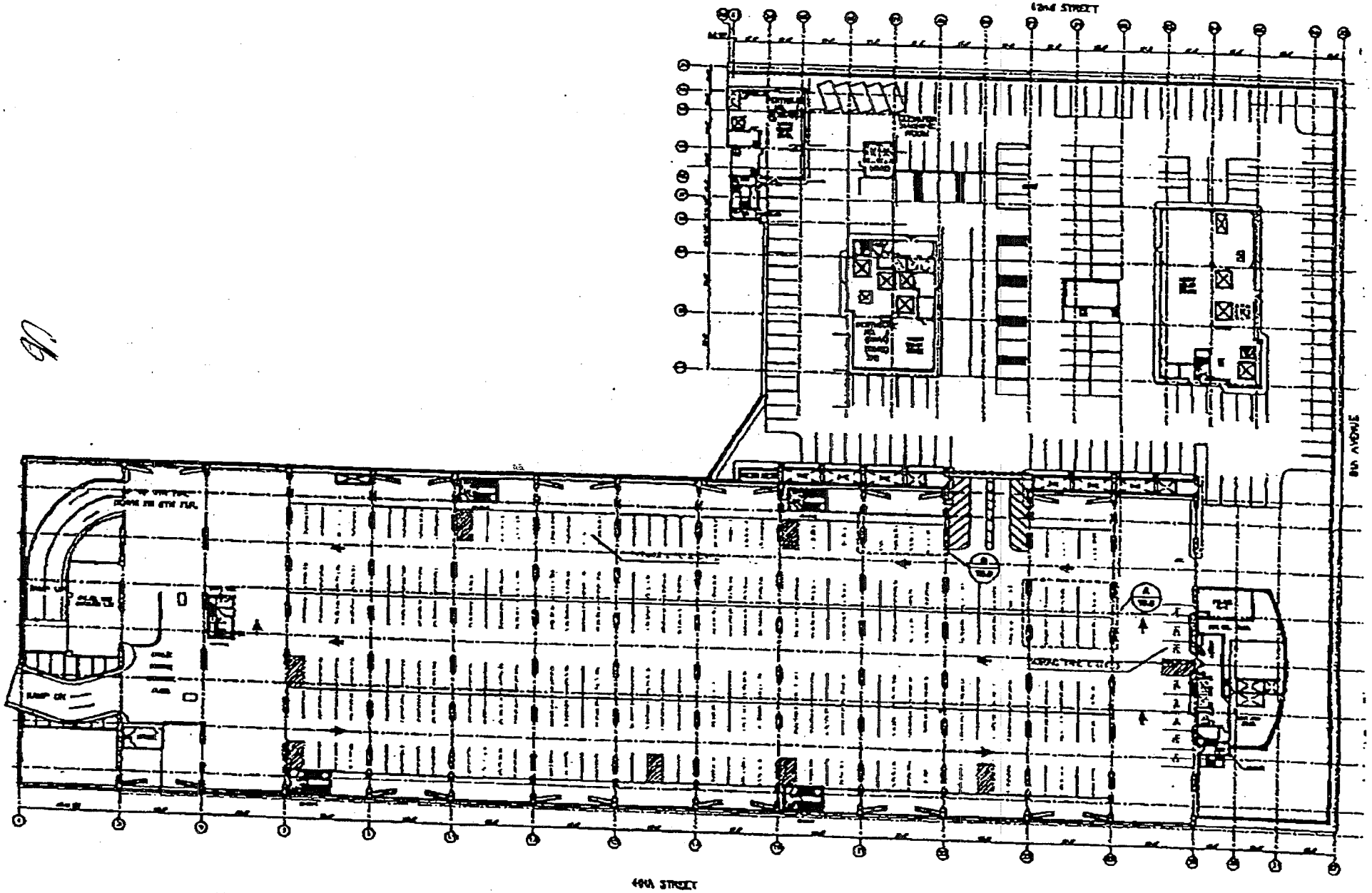
Secretary

LAZ PARKING LTD.

By

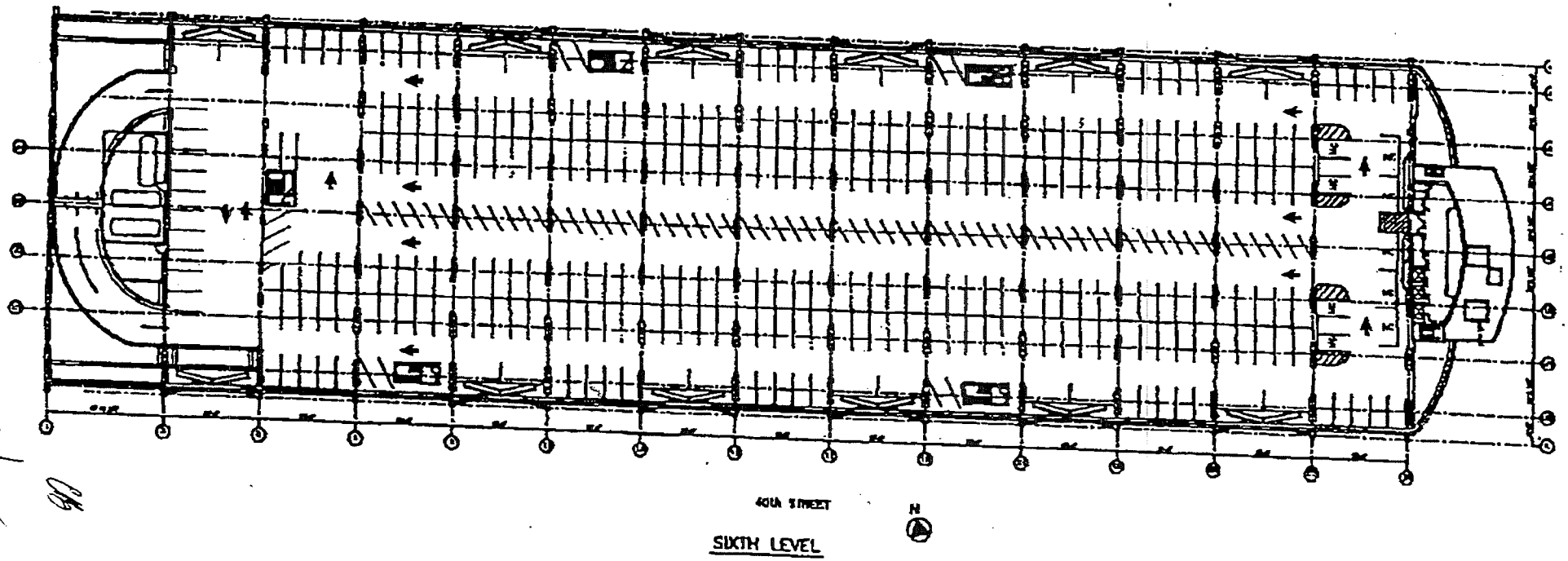
(Title) President

| APPROVED: | |
|---|---|
| FORM | TERMS |



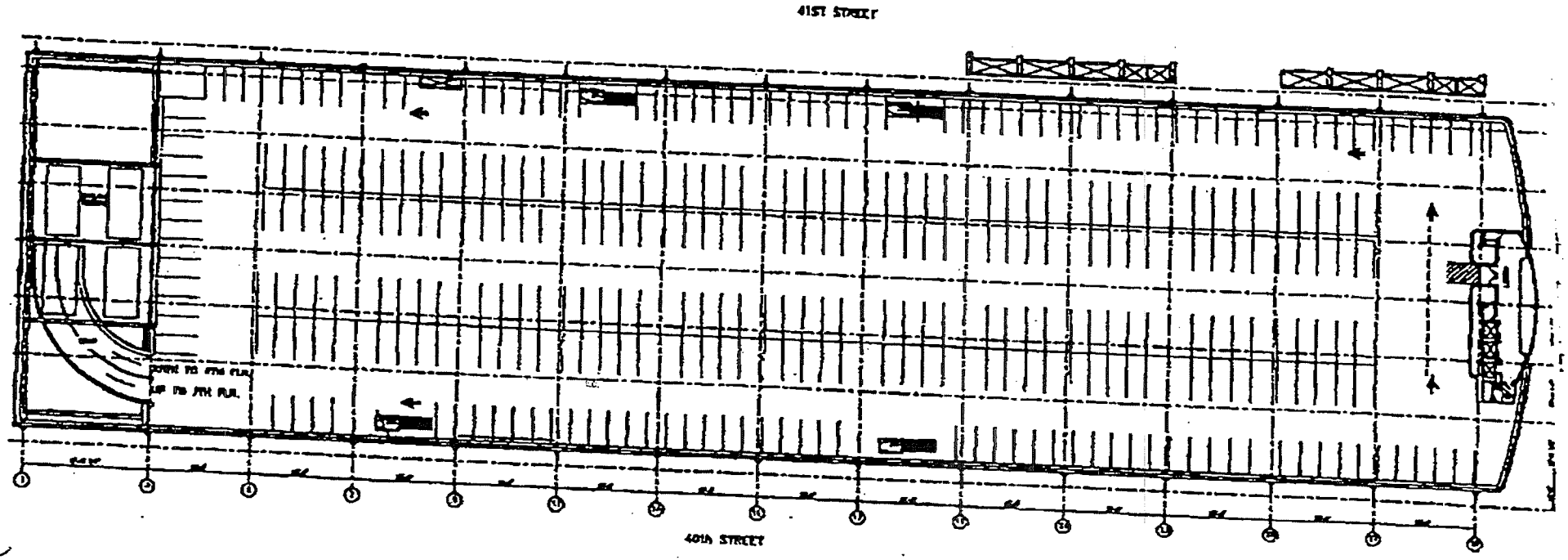

FIFTH LEVEL

EXHIBIT A




SIXTH LEVEL

EXHIBIT A-1




SEVENTH LEVEL

EXHIBIT A-2

## EXHIBIT B

Item 1: Rental Provisions

(a) Definitions

(1) "Annual period" shall mean, as the context requires, the twelve-month period commencing with the Commencement Date established pursuant to the provisions of this Agreement and each of the twelve-month periods thereafter occurring during the term of the letting, *provided, however,* that if the Commencement Date occurs on other than the first day of a calendar month, the first annual period shall include the portion of the month in which the Commencement Date falls following such date plus the succeeding twelve (12) calendar months and each subsequent annual period shall commence on the anniversaries of the first day of the first full calendar month following the month in which the Commencement Date occurs.

(2) "Annual exemption amount-I" shall mean the sum of Two Million Dollars and No Cents ($2,000,000.00).

(3) "Annual exemption amount-II" shall mean the sum of Three Million Dollars and No Cents ($3,000,000.00).

Whenever reference is made to an annual exemption amount, it shall mean such annual exemption amount reduced by operation of the abatement and/or proration provisions hereof. For the purpose of calculating the percentage rental due for any annual period which is other than 365 days each annual exemption amount shall be prorated over the actual number of days contained in such annual period.

(b) Basic Rental

The Lessee shall pay a basic rental for the premises as follows:

(1) Effective upon the Commencement Date and continuing through the balance of the term of the letting, both dates inclusive, the Lessee shall pay the Port Authority a basic rental for the premises at the rate of One Million Five Hundred Thousand Dollars and No Cents ($1,500,000.00) per annum, payable in advance in equal month installments on the Commencement Date and on the first day of each and every month thereafter occurring during such period, *provided, however,* that, if the Commencement Date occurs on a day which is other than the first day of a month, the basic rental for the portion of the month during which the Commencement Date occurs following such date shall be the amount of the monthly installment set forth in this subparagraph prorated on a daily basis.

(2) If the term of the letting hereunder is terminated (without default by the Lessee) on a date other than the last day of the month, the basic rental payable for the portion of the month in which the termination date occurs shall be the amount of the applicable monthly installment of basic rent prorated on a daily basis.

(c) Percentage Rental

The Lessee shall pay to the Port Authority an annual percentage rental equal to the sum of the following amounts of the Lessee's gross receipts arising from the Lessee's operations in the premises during each annual period:

(i) Seventy percent (70%) of all of the gross receipts of the Lessee arising from the Lessee's operations in the premises during such annual period which are in excess of annual exemption amount–I but not in excess of annual exemption amount–II, plus

(ii) Ninety-four and one thousand two hundred thirty-nine ten-thousandths percent (94.1239%) of all of the gross receipts of the Lessee arising from the Lessee's operations in the premises during each annual period which are in excess of annual exemption amount-II.

The computation of percentage rental for each annual period, or a portion of an annual period, as hereinafter provided, shall be individual to such annual period, or such portion of an annual period, and without relation to any other annual period, or any other portion of any annual period.

(d) Time of Payment of Percentage Rental. Computations of Amounts and Accounting:

(1) The Lessee shall pay the percentage rental as follows: on the 20th day of the first month following the commencement of each annual period, and on the 20th day of each and every month thereafter including the month following the end of each annual period, the Lessee shall render to the Port Authority a sworn statement showing the Lessee's gross receipts for the preceding month and the Lessee shall pay at the time of rendering the statement an amount equal to the percentages stated in paragraph (c) of this Item 1 applied to the gross receipts during that period. The Lessee's statement following the close of each annual period shall be certified, at the Lessee's expense, and shall report total gross receipts for such annual period and total percentage rental due therefor and if any adjustments are required the same shall be made at the time such report is rendered.

(2) Upon any termination of the letting hereunder (even if stated to have the same effect as expiration), the Lessee shall, within twenty (20) days after the effective date of such termination, make a payment of rental computed as follows: first, if the letting hereunder is terminated effective on a date other than the last day of a month, the basic rental for the portion of that month in which the letting remains

effective shall be the amount of the monthly installment of basic rental prorated on a daily basis, and if the monthly installment due on the first day of that month has not been paid, the Lessee shall pay the prorated part of the amount of that installment; if the monthly installment has been paid, then the excess thereof shall be credited to the Lessee's other obligations; second, the Lessee shall within twenty (20) days after the effective date of termination render to the Port Authority a sworn statement of all its gross receipts for the annual period in which the effective date of termination falls, third, the payment then due on account of all percentage rental for the annual period in which the effective date of termination falls shall be the percentage rental, stated above in paragraph (c) of this Item 1 applied to the gross receipts of the Lessee for such annual period.

(e) Abatement:

(1) For every calendar day or major fraction thereof that the Lessee shall be entitled to abatement during the period commencing on the Commencement Date and continuing through the balance of the term of the letting, both dates inclusive, the basic rental established for each such annual period shall be reduced by the product of Four Thousand One Hundred Nine Dollars and Fifty-nine Cents ($4,109.59) multiplied by a fraction of the numerator of which shall be the number of square feet of floor space as to which the abatement applies and the denominator of which shall be the total number of square feet in the premises.

(2) For the purpose of abatement, the ascertainment of the number of square feet contained in the premises to be measured shall be in accordance with the following: Areas of the premises and parts thereof will be computed by measuring from the inside plaster surface of outer building walls to the plaster surface of the corridor side of corridor partitions and to the center of partitions that separate the premises from adjoining rentable area; no deduction will be made for columns, pilasters, or projections necessary to the building or for toilets, porter's closets, and slop sinks used exclusively by the Lessee and contained within the premises. Permanent partitions enclosing elevator shafts, stairs, fire towers, vents, pipe shafts, meter closets, flues, stacks and any vertical shafts have the same relation to rentable areas as do outer building walls.

(f) Nothing contained in the foregoing shall affect the survival of the obligations of the Lessee as set forth in Section 24 of this Agreement.

Item 2: Insurance Limits:

The limits of liability insurance are referred to in Section 11(c) and shall include full contractual liability coverage.

Item 3: (a) Heat and Air-Cooling:

Not to be sold, furnished or supplied to the premises by the Port Authority.

(b) Electricity

The Lessee shall pay to the Port Authority for electricity supplied by the Port Authority to the premises pursuant to Section 14 of the Agreement at the flat rate of One Hundred Fifty Thousand Dollars and No Cents ($150,000.00) per annum payable in advance in equal monthly installments of Twelve Thousand Five Hundred Dollars and No Cents ($12,500.00) on the Commencement Date and on the first day of each calendar month thereafter during the term of the letting of the premises. The charge for electricity shall be subject to increase as provided in paragraph (f) of this Item 3.

(c) Domestic Cold Water

The Port Authority shall supply to the Lessee in the premises for sanitary purposes only, cold water in the character furnished by the municipality or utility company supplying in the vicinity in reasonable quantities at a rate equivalent to 125% of the rate that the Lessee would pay if it received such water directly from the municipality or public utility supplying such water from the municipality or public utility supplying such water. The Port Authority shall have no responsibility for the handling and distribution of domestic cold water within any portion of the premises or for the maintenance of any systems installed by the Lessee therein. The Lessee shall not use the building plumbing for the disposal of caustic or toxic chemicals or medication.

(d) Domestic Hot Water

Not to be sold, furnished or supplied to the premises by the Port Authority.

(e) Steam

Not to be sold, furnished or supplied to the premises by the Port Authority.

(e) As used in this subparagraph:

(i) "Index" shall mean the Revised Consumer Price Index for All Urban Consumers - New York-Northern New Jersey-Long Island, NY- NY-NJ-CT (All Items, U.S. City Average, Unadjusted 1982-1984=100) published by the Bureau of Labor Statistics of the Unite States Department of Labor.

(ii) "Base Period" shall mean the month of January in the calendar year in which the Commencement Date occurs.

(iii) "Adjustment Period" shall mean as the context requires the December of the calendar year in which the Commencement Date shall fall and the

month of December in each calendar year thereafter occurring during the term of the letting under this Agreement as the same may hereafter be amended or extended.

(iv) "Anniversary Date" shall mean January 1 of the calendar year following the calendar year in which the Commencement Date shall fall and each anniversary of such date occurring during the term of the letting under this Agreement as the same may hereafter be amended or extended.

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

The charge for electricity set forth in paragraph (b) of this Item 3 shall be increased on each Anniversary Date occurring during the term of the letting under this Agreement as the same may hereafter be amended or extended by an amount equal to the product obtained by multiplying such charge by the Percentage Increase for such Anniversary Date, and such increased charge shall be payable by the Lessee during the twelve month period commencing with such Anniversary Date and continuing through to the following Anniversary Date in lieu of the charge set forth in subparagraph (b) of this Item 3. There shall be no reduction in the charges for electricity payable for any period in the event of any reduction in the Index.

In the event any Index to be used in computing an adjustment in the charge for electricity referred to in paragraph (b) of this Item 3 is not available on the effective date of such adjustment, the Lessee shall continue to pay such charge at the annual rate then in effect subject to retroactive adjustment at such time as the specified Index becomes available, provided, however, that the Port Authority may at its option substitute for such Index the Index for the latest available twelve-month period ending during the preceding calendar year to constitute the specified Index. In the event the Index shall hereafter be converted to a different standard reference base or otherwise revised or the United States Department of Labor shall cease to publish the Index, then for the purposes hereof there shall be substituted for the Index such other index properly reflecting changes in the value of current United States money in a manner similar to that established in the Index used in the latest adjustment as the Port Authority may in its discretion determine.

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

Lessee with the difference between the charge as recomputed for that period and amounts actually paid-on account of said charge.

Item 4: New Construction: Per Section 55 of the Lease

Item 5: Construction Liability Insurance Limits

The limits of liability insurance shall be not less than the amounts specified in the Alteration Application referred to in Section 55 hereof.

Item 6: Cost and Proration Thereof

(a) To the extent permitted by sound accounting practice, the sum of the following items of cost incurred by the Lessee for such equipment and fixtures and the installation thereof and the making of such improvements as are necessary to initially equip and improve the premises for the Lessee's commencement of operations hereunder, all as mentioned in the Section of the Agreement entitled *"Thirty Day Termination"*, and to the extent that such sum does not exceed Six Hundred Thousand Dollars and No Cents ($600,000.00) shall constitute items of "cost" under the said Section and under subdivisions (b), (c), (d), (e), (f) and (g) hereof:

(1) Direct labor and material costs;

(2) Contract costs for purchases and installations excluding those of the types mentioned in the following subdivision (3);

(3) Engineering, architectural, planning, designing, financing, interest, insurance and other overhead or carrying charges which are due for a period ending not later than the date of completion of installation of any such initial equipment, fixtures or improvements for which they are incurred, and not to exceed 20% of the total of the amounts covered by subdivisions (1) and (2) above.

(b) A statement of the cost detailing all the foregoing including copies of invoices and contracts and certified by a responsible officer of the Lessee shall be delivered by the Lessee to the Port Authority not later than ninety (90) days after the complete supplying and installing of all such initial fixtures or equipment and the making of all such initial improvements, and the Lessee shall permit the Port Authority, by its agents, employees and representatives, at all reasonable times prior to a final settlement or determination of cost, to examine and audit the records and books of the Lessee which pertain to the cost; the Lessee agrees to keep such records and books of account within the Port of New York District during such time.

(c) If the Lessee includes in cost any item as having been incurred but which, in the opinion of the Port Authority, was not so incurred or which, in the opinion of the Port Authority, if so incurred is not an item properly chargeable to cost under sound accounting practice, then the Port Authority, within ninety (90) days after receipt

of the said statement of cost as mentioned in paragraph (b) above, shall give written notice to the Lessee stating its objection to any such item and the grounds therefor. If such notice is given and if the dispute is not settled within thirty (30) days by agreement between the parties, then such dispute shall be disposed of by arbitration in accordance with the then existing rules of the American Arbitration Association or any successor association. Costs of said arbitration shall be borne equally by the Port Authority and the Lessee.

(d) In any such arbitration as to whether any item included by the Lessee in its computation of cost has been incurred, the question to be submitted to the arbitrators for decision shall be as follows:

> "Was all or any part of such cost incurred by the Lessee; and if part but not all of such cost was incurred, what was the amount which was so incurred?"

(e) In any such arbitration as to whether any item included by the Lessee in its computation of cost is properly chargeable thereunder under sound accounting practice, the question to be submitted to the arbitrators for decision shall be as follows:

> "Can it reasonably be held that all or any part of such cost is properly chargeable under sound accounting practice; and if part but not all of such cost can reasonably be held to be so chargeable, then what amount can reasonably be held to be so chargeable?"

The arbitrators to whom such question shall be submitted shall be accountants or auditors.

(f) The proration of cost as referred to in the section of the Agreement entitled *"Thirty Day Termination"* shall be ascertained by multiplying the 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.

(g) Notwithstanding any other provision of the Section of the Agreement entitled *"Thirty Day Termination"*, in ascertaining the amount that the Port Authority shall be obligated to pay to the Lessee under said Section, the cost computed as heretofore stated in this Item shall be diminished by the amount that any part of the components of cost as stated in subparagraphs (1), (2) and (3) of paragraph (a) above are secured by liens, mortgages, other encumbrances or conditional bills of sale on such equipment, fixtures and improvements and less any other amounts whatsoever due under this Agreement from the Lessee to the Port Authority. In no event whatsoever shall cost, as defined and computed in accordance with this Item and as used in the Section of the Agreement entitled *"Thirty Day Termination"* and in this Item, include any expenses, outlays or charges whatsoever by or for the account of the Lessee for or in connection

with any equipment or fixtures or the making of any improvements mentioned in said Section or in this Item unless said equipment, fixtures and/or improvements are actually and completely installed in and/or made to the premises.

| | | |
|---|---|---|
| Item 7: | Cash Security: | Per Section 30 of the Lease |
| Item 8: | Performance Bond: | Not applicable: |
| Item 9: | Outside Date: | December 1, 2006. |

Initialed:

For The Port Authority

For the Lessee

## Schedule B

1. Regularly travel throughout the garage to eliminate the current feeling of desolateness felt by parkers, and provide a constant presence in the garage to create a friendly atmosphere.

2. Assist garage customers who are overladen with luggage, transporting it between their cars and elevators.

3. Assist garage customers who had difficulties with their cars, e.g. jump start vehicles, assist in changing flat tires, providing air to refill flat tires, etc.

4. Provide telephone numbers for emergency service providers such as the AAA, or 24-hour locksmiths, etc.

5. Assist customers who may not be able to find where they parked their cars.

6. Identify and report to the Port Authority any unauthorized people in the garage for Port Authority Police Department action.

7. Survey the garage to be sure it is clean, and that all lights are working; report any suspected abandoned cars to the Port Authority Police Department confirm whether garbage cans are too full, etc. Report findings to proper Port Authority and Lessee's personnel for appropriate action.

8. Report any unsafe conditions; broken glass, oil on floors, potholes, etc. for appropriate action by others, and or taking care of minor problems immediately.

9. During the winter months identifying areas which need snow removal or spreading of approved ice melting agents, and or taking care o f minor problems immediately.

10. Provide answers to inquiries from customers such as location of area theaters, restaurants, and other general information. Perhaps even hand out maps or other flyers giving specific, more detailed information.

11. Circulate through the garage using a Cushman-type vehicle with one yellow light, equipped with a battery boosting capability, compressed air tank, a jack iron and tire iron, etc., which is clearly marked as a Customer Service vehicle, and on foot. Personnel will be equipped with walkie talkies to report observations back to the Parking Manager's office and contact the Parking Manager if some specific matter needs immediate attention.

## SCHEDULE E

For purposes hereof, Minority Business Enterprise (MBE) shall mean any business enterprise which is at least fifty-one percentum owned by one or more citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. As used herein minority shall mean an individual member of any of the following racial 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, Dominican, Cuban, Central or South American origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asian, the Indian Subcontinent, or the Pacific Islands) which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, the Northern Marianas, India, Pakistan, Bangladesh, and Sri Lanka; and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification) which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.

For the purposes hereof, Women-owned Business Enterprise (WBE) shall mean any business enterprise which is at least fifty-one percentum owned by one or more women and such ownership is real, substantial and continuing, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by one or more women and such ownership is real, substantial and continuing. "Meaningful participation" shall mean that at least twelve percent (12%) of the total dollar value of the contracts (including subcontracts) are for the participation of Minority Business Enterprises, and that at least five percent (5%) of the total dollar value of the contracts (including subcontracts) are for the participation of Women-owned Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

(1) Dividing work into smaller portions where feasible.

(2) Actively and affirmatively soliciting bids and proposals for contracts or subcontracts to provide commodities and services from MBEs and WBEs including circulation of solicitations to minority and female contractor associations. The Lessee shall maintain records detailing the efforts it and its contractors have made to provide for meaningful MBE and WBE participation, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected, the reason for such decision. The Lessee shall supply to the Port Authority such information, data, and documentation with respect to the efforts the Lessee has made to provide for meaningful MBE and WBE participation in contracts and subcontracts as the Port Authority may from time to time and at any time request.

(3) Providing prospective MBEs and WBEs with plans, specifications, and other necessary background materials with regard to prospective work available to MBEs and WBEs in sufficient time for review.

(4) Meeting regularly with representatives of the Port Authority to identify forthcoming business opportunities and suitable MBEs and WBEs, following up on specific recommendations made by such representatives, and utilizing the list of eligible MBEs and WBEs hereinafter described in this Schedule, maintained by the Port Authority, or seeking minorities and women from other sources for the purpose of soliciting contractors, subcontractors, and suppliers.

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

(6) Insuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis, where appropriate.

(7) Not requiring bonds from and/or providing bonds and insurance for MBEs and WBEs, where appropriate.

The Port Authority has compiled a list, which may be supplemented and revised from time to time by the Port Authority, of the firms the Port Authority has determined satisfy the criteria for MBE and WBE certification. Such list shall be made available to the Lessee and its contractors upon request. The Port Authority makes no representation as to the financial responsibility of such firms, their technical competence to perform, or any other performance-related qualifications. Only listed MBEs and WBEs and such firms as are not so listed but as are certified by the Port Authority as MBEs and WBEs hereunder will count toward the MBE and WBE goals.

Certification of MBE's and WBEs hereunder shall be made by the Office of Business and Job Opportunity of the Port Authority. If the Contractor wishes to utilize a firm not so listed but which the Contractor believes should be certified because it is an MBE or WBE the Contractor shall submit to the Port Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be required by the Port Authority from time to time. All such requests shall be in writing addressed to Mr. John Alexander or other designee of the Office of Business and Job Opportunity, the Port Authority of New York and New Jersey, One World Trade Center, 37 South, New York, N.Y. 10048. If any such firm is determined eligible for certification it shall only be by a writing over the name of the Director in charge of such Office. The determination of the Port Authority shall be final and binding on the Contractor. For inquiries or assistance, please contact Mr. John Alexander at (212) 432-4188.

The following organizations may be able to refer the Contractor to firms which the referring organization has a reasonable basis to believe may meet the Port Authority's criteria for certification as an MBE or WBE. Any referrals which are not listed shall be submitted to the Port Authority for a determination as to eligibility as provided above.

1. National Minority Bus. Council, Inc.
   235 East 42nd Street
   New York, N.Y. 10017
   (212) 573-2385

2. N.Y./N.J. Minority Purchasing Council
   1412 Broadway - 11th floor
   New York, N.Y. 10018
   (212) 944-2442

3. Newark, Paterson, Jersey City Business Development Center
   60 Park Place, Suite 1307
   Newark, N.J. 01702
   (201) 623-7712

4. The Council For Airport Opportunity
   2 World Trade Center
   Suite 2228
   New York, N.Y. 10048
   (212) 466-1091

5. Assoc. of Minority Enterprises of N.Y. (AMENY)
   165-40A Baisley Blvd.
   Suite #3
   Jamaica, N.Y., 11434

6. Air Services Development Office
   90-04 161st Street
   Jamaica, N.Y. 11432
   (718) 262-9012

In the event that the participation of any MBE or WBE selected by the Lessee or any of its contractors to participate in any contracts or subcontracts entered into with respect to any construction work performed on the premises, is cancelled or terminated for any reason, the Lessee agrees and agrees to require its contractors to make every good faith effort, to the

maximum extent feasible, and consistent with the Lessee's exercise of good business judgment, including, without limitation, the consideration of cost competitiveness, to utilize other MBEs and WBEs so as to maintain appropriate participation by MBEs and WBEs in such contracts.

Labor Force Utilization

Without limiting the the provisions of paragraphs (a) and (b) of this Section, and without limiting any of the other terms and conditions of this Agreement, the Lessee agrees and agrees to require its construction and maintenance contractors and subcontractors at each tier of any construction undertaken pursuant to the provisions of this Agreement to make good faith efforts to achieve a supervisory and non-supervisory work force on each contract that is representative of the local community labor force with respect to minority and female participation and will work with the Port Authority's Office of Business and Job Opportunity to identify referral sources when needed. The Lessee will cooperate with the Port Authority to develop on the job training programs and will participate in apprenticeship and other training programs that expressly include minority and female workers. The Lessee agrees to require its contractors and subcontractors to participate in such programs and to make a good faith effort to utilize apprentices or other trainees in the work as appropriate. The Lessee agrees to and shall require its contractors and subcontractors to appoint an executive of their respective companies to assume the responsibility for the implementation of the contractors' good faith efforts to achieve minority and female participation in the work force under the contract.

The goals for minority and female participation, expressed in percentage terms for the aggregate workforce in each trade on all construction work are as follows:

Journey level trade workers

Minority participation: 30%

Female participation: 6.9%

Laborers and other unskilled workers

Minority participation: 40%

Female participation: 6.9%

These goals are applicable to all construction work performed in and for the premises. Compliance with the goals will be measured against the total work hours performed.

(d) The Lessee agrees to require its contractors and subcontractors to provide written notification to the Lessee and the Lessee agrees to provide written notification to the Office of Business and Job Opportunity of the Port Authority within 10 working days of award of any construction contract or subcontract in excess of $10,000.00 at any tier for construction work. The notification shall list the name, address, telephone number and employer identification number of the contractor or subcontractor; and the estimated starting and completion dates of the contract or subcontract. As used herein, "Employer identification number" shall mean the Federal Social Security Number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941. The term monority shall mean an individual member of any of the racial groups described in this Schedule.

(e) The Lessee agrees to require its contractors and subcontractors, at any tier, whenever they subcontract a portion of the construction work involving any construction trade, to physically include in each subcontract in excess of $10,000 those provisions which include the applicable goals for minority and female participation.

(f) The Lessee agrees to require its contractors and subcontractors to implement the specific affirmative action standards provided in subparagraphs (1) through (16) of paragraph (i) hereof. The goals set forth above are expressed as percentages of the total hours of employment and training of minority and female utilization the Lessee's contractors and subcontractors should reasonably be able to achieve in each construction trade in which it has employees on the premises. The Lessee agrees and agrees to require its contractors and subcontractors to use good faith efforts to make substantially uniform progress toward its goals in each craft during the period specified.

(g) The Lessee agrees to provide in its construction contracts that neither the provisions of any collective bargaining agreement, nor the failure by a union with which the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor's obligations thereunder.

(h) The Lessee further agrees to provide in its agreements with its contractors that in order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the contractor during the training period, and the contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U. S. Department of Labor.

(i) The Lessee agrees to require its contractors and subcontractors to take specific affirmative actions to ensure equal employment opportunity ("EEO"). The Lessee's evaluation of the contractor's compliance with these provisions shall be based upon the contractor's good faith effort to achieve maximum results from its actions. The Lessee agrees to require its contractors and subcontractors to document these efforts fully, and to implement affirmative action steps at least as extensive as the following:

(1) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all portions of the premises at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each phase of the construction project. The contractor shall specifically ensure that all foremen, superintendents, and other supervisory personnel at the premises are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at the premises.

(2) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

(3) Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefor, along with whatever additional action the contractor may have taken.

(4) Provide immediate written notification to the Lessee when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

(5) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee

programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under subparagraph (2) above.

(6) Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the contractor's newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the contractor's EEO policy on bulletin boards accessible to all employees at each location where the construction work is performed.

(7) Review, at least every six months, the contractor's EEO policy and affirmative action obligations hereunder with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-area supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at the premises. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

(8) Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and Subcontractors with whom the contractor does or anticipates doing business.

(9) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students, to minority and female recruitment and training organizations and to State certified minority referral agencies serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

(10) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the premises and in other areas of a contractor's workforce.

(11) Tests and other selection requirements shall comply with 41 CFR Part 60-3.

(12) Conduct, at least every six months, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

(13) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations hereunder are being carried out.

(14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

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

(16) Conduct a review, at least every six months, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.

(j) The Lessee shall encourage its contractors to participate in voluntary associations which assist in fulfilling one or more of the affirmative action obligations set forth in subparagraphs (1)-(16) of paragraph (i) of this Section. The efforts of a contractor association, joint contractor-union, contractor- community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under paragraph (i) hereof provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation,

makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The requirement for good faith efforts to comply, however, shall remain with the contractor and the Lessee shall provide in its agreements with the contractor that failure of such a group to fulfill an obligation shall not be a defense for the contractor's non-compliance.

(k) Goals for minorities and a separate single goal for women have been established. The Lessee, however, agrees to require its contractors and subcontractors to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority, and to provide that consequently, the contractor may be in violation of its agreement with the Lessee if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation if a specific minority group of women is under-utilized).

(l) The Lessee agrees to provide that the contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

(m) The Lessee agrees that it will not enter into any contract with any person or firm debarred from Government contracts pursuant to Executive Order 11246, and agrees to require that its contractors and subcontractors not enter into any subcontract with any such person or firm.

(n) The Lessee agrees to carry out such sanctions and penalties for violation of these provisions including suspension, termination and cancellation of existing contracts and subcontracts as may be required and the Lessee further agrees to require its contractors and subcontractors to agree to carry out such sanctions and penalties for violation of these provisions including suspension, termination and cancellation of existing contracts and subcontracts as may be imposed or ordered by the Lessee.

(o) The Lessee agrees to require its contractors and subcontractors, in fulfilling their obligations to the Lessee, to implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph (i) hereof so as to achieve maximum results from their efforts to ensure equal employment opportunity. If the contractor fails to comply with such requirements, the Lessee shall proceed accordingly.

(p) The Lessee agrees to require its contractors and subcontractors to designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the

contractor's EEO obligations as may be required, and to keep records. The Lessee agrees to provide that records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanic, apprentice, trainee, helper, or laborer), date of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work was performed. The Lesse further agrees to provide that records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors need not be required to maintain separate records.

(q) Nothing herein provided shall be construed as a limitation upon the application of any laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(r) Without limiting any other term or provision of this Agreement, the Lessee agrees and agrees to require its contractors and subcontractors to cooperate with all federal, state, or local agencies established for the purpose of implementing affirmative action compliance programs and the Lessee agrees and agrees to require its contractors and subcontractors to comply with all procedures which may be agreed to by and between the Port Authority and the Lessee.

(s) In addition to and without limiting any of the terms and provisions of this Agreement, the Lessee agrees to provide in its contracts and all subcontracts covering construction work, or any portion thereof, that:

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

(ii) At the request of either the Port Authority or the Lessee, the contractor shall request such employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding and which is involved in the performance of the contract with the Lessee to furnish a written statement that such employment agency, labor union or representative shall not

discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder;

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

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

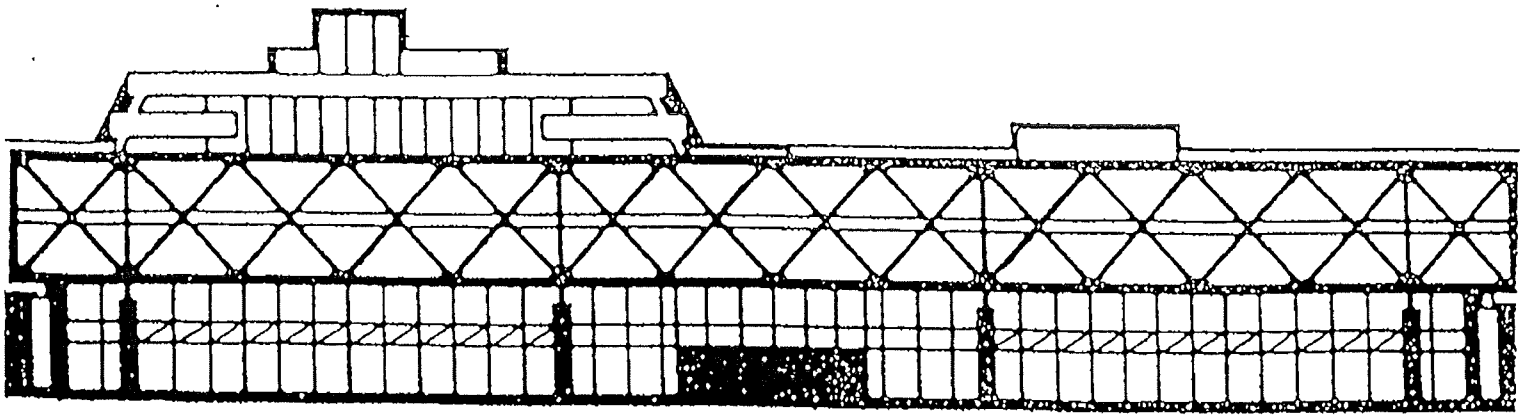
(v) "Contractor" as used in subdivisions (i) through (iv) of this paragraph shall include each contractor and subcontractor at any tier of construction.

EXHIBIT R

# Port Authority Bus Terminal

# Rules & Regulations

*Effective January 14, 1988*



# REVISED RULES AND REGULATIONS FOR PORT AUTHORITY BUS TERMINAL

## PURPOSE

1. Purpose. These rules are established by the Port Authority of New York and New Jersey to facilitate the proper use of the Port Authority Bus Terminal and to protect the terminal and its patrons.

## DEFINITIONS

2. Definitions. As used herein:

(a) Bus shall mean a self-propelled highway vehicle designed and constructed for the carriage of passengers for hire, employing as a source of motive power (either directly or by electrical transmission) a reciprocating internal-combustion or a turbine engine (not including a jet-propulsion engine) utilizing as fuel gasoline, diesel oil, or any other substance utilized by highway vehicles for fuel and permitted both by the laws of New York and by those of New Jersey then in effect and also under the then existing rules and regulations governing the use of the Lincoln Tunnel (and then only in strict compliance with the requirements of such laws, rules and regulations), and having overall dimensions not in excess of the following: length, 60 feet; width, 102 inches; height, 11 feet six inches and having a maximum gross loaded weight not in excess of 42,000 (unladen weight) pounds avoirdupois, distributed to provide not more than

20,000 pounds per axle. Articulated buses up to 65 feet overall length shall, for the purposes of these regulations, be included in the definition.

(b) Carrier shall mean an operator of one or more vehicles for the transportation of passengers for hire.

(c) Driver shall mean the person who is in actual physical control of a vehicle.

(d) Express shall mean and include property other than baggage, mail, manifest baggage and newspapers, transported or to be transported by a carrier in accordance with its published tariffs, and shall be defined as defined in the published tariffs of any carrier, except that it shall not include acid, animals, articles packed in wet ice or water, dangerous articles, explosives, gases, inflammable materials, intoxicating beverages, jewelry, lottery tickets, materials having or capable of producing strong, offensive odors, meat, meat products, money, securities, watches, or wet batteries; provided, however, that by notice given within 60 days after the effective date of any reissue, revision or supplement of a tariff of any carrier, the Port Authority may exclude therefrom any article, material or thing listed therein for the first time; and provided, further,

that express shall not include any parcel or piece the overall dimensions of which are greater than 24 inches by 24 inches by 45 inches.

(e) Highway vehicle shall mean and include an automobile, a bus, a truck, a tractor equipped with rubber tires, a trailer, or a semi-trailer.

(f) I.C.C. regulations shall mean regulations of the Interstate Commerce Commission in effect on the effective date hereof issued under the authority of the Interstate Commerce Commission.

(g) Manifest baggage shall mean and include property checked through on the line of any carrier (or of a carrier connecting with any carrier) on a ticket or tickets for passenger transportation, in accordance with and as defined by local and joint baggage tariff 500-G of the Interstate Commerce Commission, issued June 15, 1949 and effective July 20, 1949, as the same may be hereafter supplemented or amended; provided, however, that by notice given to the carrier within 60 days of any supplement, revision or reissue of the tariff of such carrier, the Port Authority may exclude any article, material or thing therein listed for the first time.

(h) Parking shall mean the halting of a vehicle on a roadway or other area while not actually engaged in receiving or discharging passengers, except when halted in obedience to

traffic regulations, signs or signals, and without regard to the presence or absence of the driver.

(i) Permission shall mean permission granted by the manager except where otherwise specifically provided.

(j) Person shall mean any individual, firm, partnership, corporation, or incorporated or unincorporated association, and shall include any assignee, receiver, trustee, executor, administrator or similar representative appointed by a court, and shall mean the United States of America or any department of the government thereof, any state or political subdivision thereof, or any foreign government or political subdivision thereof, or the United Nations.

(k) Port Authority shall mean The Port Authority of New York and New Jersey.

(l) Port Authority rules and regulations shall mean the rules and regulations set forth in this Part and all amendments and supplements thereto.

(m) Published tariff; see tariff.

(n) Stand shall mean to halt a bus for the purpose of loading or unloading or for waiting in position for loading or unloading.

(o) Manager of the terminal 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 by these rules and regulations, and shall mean the manager or acting manager of the terminal for the time being or his duly designated representative or representatives.

(p) Tariff or published tariff shall mean the schedule of rates, terms and conditions of transportation under which a carrier conducts its operation and which has been approved by the Interstate Commerce Commission or by other governmental regulatory body having jurisdiction over the operations of the carrier.

(q) Terminal shall mean the two buildings that represent the North and South Wing of the bus facility which are connected above and below West 41st Street. The South Wing shall mean the building on the block bounded by West 40th Street, Ninth Avenue, West 41st Street and Eighth Avenue in the borough of Manhattan, in the City, County and State of New York. The North Wing shall mean the building on a portion of the block bounded by West 42nd Street, Eighth Avenue, West 41st Street and the east face of the building at 330 West 42nd Street in the borough of Manhattan, in the City, County and State of New York. The terminal also includes the overhead viaducts from the South Wing to the west side of 9th Avenue as well as the tunnel leading from the North Wing to Dyer Avenue.

(r) Vehicle shall mean and include automobiles, trucks, buses, tractors, trailers, semi-trailers, horse-drawn carts or

wagons and any other devices in or upon or by means of which any person or property is or may be transported, carried or drawn upon land only, except railroad rolling equipment or other devices designed to operate on stationary rails or tracks.

(s) Vehicular level shall mean and include any floor or story at the terminal designed for use by highway vehicles.

GENERAL

3. Permission to use terminal conditional. Any permission granted by the Port Authority directly or indirectly, expressly or by implication, to any person or persons to enter upon or use the terminal or any part thereof, is conditioned upon acceptance of and compliance with the Port Authority rules and regulations, as from time to time may be changed, and entry upon or into the terminal by any person shall be deemed to constitute an agreement by such person to comply with the said rules and regulations; provided, however, that such rules and regulations will not apply to premises or space occupied or used under the provisions of a written agreement made with the Port Authority unless provision is made therein for the application of the said rules and regulations.

4. Use of terminal may be denied persons violating law or rules. The manager of the terminal shall have authority to deny the use of the terminal to any individual violating Port Authority rules and regulations or laws, ordinances or

regulations of the United States government, the State of New York, or the City of New York.

5. Permission to enter certain areas of the building.

(a) Closed Areas - No person except person assigned to duty therein shall enter without permission any area of the terminal posted as being closed to public.

(b) Restricted Areas - No person shall enter without authorization any area of the terminal posted as restricted unless such person complies with such restriction.

(c) Persons entering the terminal when not fully open for business - During such days and hours as the terminal is partially closed such as late hours of the night and early hours of the morning, any person shall, when entering, remaining, or leaving the terminal, if requested by a Port Authority representative, exhibit such authorization as prescribed by the manager.

6. Abandonment of property prohibited. No person shall abandon any property at the terminal.

7. Permission required to carry on commercial activity. No person shall carry on any commercial activity at the terminal without permission.

8. Gambling prohibited. No person shall gamble or conduct or engage in any game of chance at the terminal unless such game of chance is permitted by local state and federal law and has been approved by the manager.

9. Permission required to solicit funds or contributions. No person shall solicit funds or contributions for any purpose at the terminal without permission.

10. Permission required to post or distribute commercial signs, advertisements, etc. No person shall post, distribute or display commercial signs, advertisements, circulars or printed or written material within the terminal without permission. The manager of the terminal reserves the right to set standards for the location, appearance, size and content of all signs, posters, notices, displays and advertisements and may prohibit installation of such or subsequent removal, if necessary.

11. Lost Articles. All persons finding lost articles at the terminal shall deliver them to the Parcel Check Room. Articles unclaimed by the owner or owners within three months after the finding thereof will be turned over to the finders, except when found by Port Authority employees on duty.

12. Trash, garbage, waste, etc. to be deposited in receptacles provided therefor. No persons shall throw, discharge or deposit trash, garbage, waste, oil or other petroleum products

or any other waste material into or upon any portion of the terminal except by depositing such material in receptacles provided therefor. All such receptacles shall be subject to the approval of the manager.

13. Defacing, damaging, etc. terminal or property therein prohibited. No person shall deface, mark, break, or otherwise damage any part of the terminal, or any property thereat.

14. Non-commercial distribution of leaflets, carrying of placards and holding of discussions restricted.

(a) The non-commercial distribution of leaflets, the setting up of card tables to aid in that distribution, the carrying of placards and the holding of discussions with terminal patrons shall be permitted in the following manner at the locations on the subway mezzanine passageway, main floor, second floor and fourth floor and not within 10 feet of an escalator or elevator as designated on a diagram of the terminal on display in the manager's office and on file in the secretary's office. All areas shall be unavailable during major holiday periods, i.e., the periods commencing on the day preceding major holidays (e.g. Friday before Labor Day, day before Thanksgiving, the day

before three-day weekends) through and including the concluding day of the holiday period. The manager may grant exception to this rule for holidays which do not give rise to three-day weekends and for which traffic forecasts indicate that traffic in the terminal shall not substantially exceed that which occurs on a normal day.

(1) Subway mezzanine passageway between North and South Wings. Five persons shall be permitted to distribute leaflets and/or carry placards and hold discussions in this area.

(2) Main Floor

(i) Area A. Six persons shall be permitted to distribute leaflets, carry placards and hold discussions. Additionally, these persons may set up two card tables at the location in this area designated on the diagram of the terminal on display in the manager's office and on file in the secretary's office.

(ii) Area B. This area shall be available to eight persons for the distribution of leaflets, the carrying of placards and the holding of discussions. Additionally, these

persons may set up two card tables in the location in this area designated on the diagram of the terminal displayed in the manager's office and on file in the secretary's office.

(3) Second Floor

(i) Area A. This area shall be available to six persons for the distribution of leaflets, the carrying of placards and the holding of discussions with patrons of the terminal at all times when the area is open to the general public, except when this area is being used as a passenger holding area.

(ii) Area B. Two persons may distribute leaflets and set up one card table to aid in this distribution in the location designated as area B on the diagram of the terminal displayed in the manager's office and on file in the secretary's office. Because of the small size of this area and its proximity to escalators, the area shall be unavailable to these persons for discussions with terminal patrons.

(iii) Area C

(a) This area shall be available to three persons for the distribution of leaflets, the carrying of placards and the holding of discussions with terminal patrons. Additionally, one card table may be set up for the distribution of leaflets at the specified location within area C shown on the diagram displayed in the manager's office and on filed in the secretary's office.

(b) This area will be unavailable for these activities when being used as a passenger holding area.

4. Fourth Floor

(i) Area A. This area shall be available at all times to three persons for the distribution of leaflets, carrying of placards and the holding of discussions with terminal patrons. Additionally, one card table may be set up for the distribution of leaflets by these persons in the location designated on area A of the upper bus level shown on the

diagram of the terminal displayed in the manager's office and on file in the secretary's office.

(ii) Area B. This area shall be available at all times to two persons for the distribution of leaflets, the carrying of placards and the holding of discussions with terminal patrons.

(b) In addition to the above, a total of 10 persons shall be permitted to walk on the concourses and walkways within the terminal which are open to the public, for the purpose of distributing non-commercial leaflets at all times, provided that such activities shall be subject to the limitations described above.

(c) (1) Any person or group who wishes to conduct any of the above activities at the locations specified shall apply to the manager on forms provided by him for this purpose. Application shall be made not less than 36 hours nor more than one week before commencement of the activities. The application shall set forth the type of activities to be conducted, the time, location and duration of the activities, and the name, address and telephone number of the person making the application (in

case of a group it shall be sufficient to supply the name, address and telephone number of one person who can be contacted if problems arise concerning the grant of the application).

(2) The manager shall grant all such applications on a first come, first served basis so long as the number of persons, the activities and the time, duration and location applied for are in compliance with the provisions set forth in subdivision (a).

(3) The grant of the application by the manager shall be in the form of a permit which shall set forth the number of persons covered by the permit, the activities which are permitted, the permitted time and duration of those activities, and the location at which the activities may be conducted.

(4) The duration of each permit issued shall not be in excess of two weeks. Any person or group may renew a permit for successive two-week periods. Renewal applications shall be made on the same form as new applications and shall be processed as if they were new applications.

(d) No signs, placards or other material shall be affixed to the bus terminal. No leaflets or other

material shall be distributed by leaving them unattended throughout the terminal.

(e) The manager may refuse the grant of any permit or suspend any permit already granted in the event of emergencies, such as snowstorms, traffic accidents, power failures, transportation strikes or other conditions which render the traffic flow in any of the areas covered by the permit such that conduct of the activities would create a dangerous condition or substantially interfere with traffic in the terminal.

15. Creation of obnoxious odors, noxious gases, smoke or fumes prohibited. No person shall create, or permit any vehicle or machine of which he is in charge to create, obnoxious odors, noxious gases, smoke or fumes in the terminal. The creation of internal-combustion engine exhaust-fumes by vehicles in the terminal, so long as such vehicles are maintained and are being operated in a proper manner, shall not be an infraction of this section. No person shall spit, urinate or defecate on any part of the terminal other than in a urinal or toilet intended for that purpose.

16. Vehicular use of terminal restricted. No person shall travel, or remain on, or shall permit any vehicle of which

he has charge to travel, or remain on, any portion of the terminal except upon the roadways, walks or other places or areas provided for the particular class of traffic. No person shall occupy or shall permit any vehicle of which he has charge to occupy the walks, roadways, entrances, exits, waiting rooms or other areas of the terminal in such a manner as to hinder or obstruct their use by others. Only parties authorized by the manager are permitted to operate vehicles on terminal premises; unauthorized vehicular operation on terminal premises may be considered trespass.

17. Loitering in or about terminal prohibited. No person shall loiter in or about the terminal or any part thereof.

18. Authorization required for sale of merchandise, solicitation of trade, entertainment of persons or solicitation of alms. No person, unless duly authorized by the Port Authority, shall, in or upon any area, platform, stairway, station, waiting room or any other appurtenance of the terminal:

a) sell, offer for sale any article of merchandise; or

b) solicit any business or trade, including the carrying of baggage for hire; the shining of shoes or bootblacking; or

c) entertain any persons by singing, dancing or playing any musical instrument; or

d) solicit alms

19. Persons unable to give satisfactory explanation of presence prohibited from loitering in terminal. No person, who is unable to give satisfactory explanation of his presence, shall loiter in or about any toilet, area, station, station platform, waiting room or any other appurtenance of the terminal. No person shall bathe, shower, shave, launder or change clothes or remain undressed in any public restroom, sink, washroom or any other area within the terminal.

20. Animals barred from terminal. No person except a police officer or another person authorized by the manager shall enter in the terminal with any animal except a "seeing eye" dog or an animal properly confined for shipment.

21. Passage through loading gates restricted. No person shall pass through the loading gates on any vehicular level except:

a) persons employed by or doing business with a carrier whose duties require such passage;

b) authorized representatives of the Port Authority;

c) persons having permission; and

d) passengers immediately prior to boarding buses or immediately after leaving buses

22. Photography and filming in the terminal. No person may make drawings or take still photographs or motion pictures for commercial use within the terminal without permission from the manager.

23. Alcoholic beverages. No person shall drink or carry any open alcoholic beverage in any public part of the terminal.

## SAFETY

24. Permission required to bring into or carry firearms or other weapons in terminal; exceptions. No persons, except authorized law-enforcement officers, post-office, customs and express employees, licensed armed guards, employees of a carrier, and members of the armed services of the United States or of any State thereof on official duty, shall bring into or carry in the terminal any firearms or other weapons, without permission.

25. Permission required to bring into or carry explosives, acids, inflammables, compressed gases, etc. in terminal; exceptions. No person shall bring into or carry in the terminal any explosives, acids, inflammables, compressed gases or articles or materials having or capable of producing strong offensive odors, or articles or materials likely to endanger persons or property, except with permission. No person shall

bring or cause to be brought into or kept in the terminal any signal flare or any container filled with or which has been emptied or partially emptied of oil, gas petroleum products, paint or varnish, except with permission. When permission is given to bring into or keep at the terminal any such articles or materials it shall be conditioned upon the use of appropriate receptacles in rooms or areas approved therefor by the manager. Bringing in or keeping at the terminal without special permission gasoline or other motor fuel contained in tanks permanently

attached to vehicles and not contained under pressure shall not be an infraction of this regulation. Bringing into and keeping in the terminal without special permission kerosene signal flares in good condition, of the type required or permitted by Interstate Commerce Commission regulations and properly stowed in buses, shall not be an infraction of this regulation.

26. Permission required to use inflammable liquids for cleaning at terminal. No person shall use inflammable liquids for cleaning at the terminal without permission.

27. Smoking or carrying lighted cigars, cigarettes, pipes, etc. in certain areas of terminal prohibited. No person

shall smoke or carry lighted cigars, cigarettes, pipes, matches or any naked flame in areas of the terminal where smoking is prohibited by the Port Authority.

28. Unauthorized interference with or use of terminal systems or equipment prohibited. No person shall do or permit to be done anything which may interfere with the effectiveness or accessibility of the fire protection system, sprinkler system, drainage system, alarm system, telephone system, public announcement and intercommunication system, plumbing system, air-conditioning system, ventilation system, fire hydrants, hoses, fire extinguishers, Port Authority towing equipment or other mechanical system, facility or equipment installed or located at the terminal including closed circuit television cameras and monitors, signs and notices; nor shall any person operate, adjust or otherwise handle or manipulate, without permission, any of the aforesaid systems or portions thereof, or any machinery, equipment or other devices installed or located at the terminal. Tags showing date of last inspection attached to units of fire extinguishing and fire fighting equipment shall not be removed therefrom. Nor shall any person plug a TV, radio or other electrical device into any outlet or connect any device to any utility at or in the terminal.

29. All persons required to exercise care to avoid or prevent injury to persons or damage to property. All persons at

the terminal shall exercise the utmost care to avoid or prevent injury to persons or damage to property. Neither any inclusion in nor any omission from these rules and regulations set forth in this Part shall be construed to relieve any person from exercising the utmost care to avoid or prevent injury to persons or damage to property.

30. Permission and accompaniment by Port Authority employee required for entry into all designated Port Authority areas. No person shall enter any Port Authority area at the terminal except with permission and then only when accompanied by an employee of the Port Authority. This includes emergency stairwells except when an emergency conditions exists.

31. No sleeping in terminal. No person on or in the facility shall sleep, doze, lie, or sit down on the floors, hallways, platforms, stairs, landings or other places where such activity may be hazardous to such person or to others, or may interfere with the operation of the terminal's transportation system, pedestrian flow or comfort of its users or tenants.

32. No skateboarding, rollerskating, or bicycle riding. No person shall skateboard, roller skate or ride a bicycle, scooter or any other self-propelled vehicle or device on or through any part of the terminal.

33. Noise. No person shall make, continue, cause or permit to be made or continued any unauthorized noise in the terminal.

34. Fire. No person shall cook, light a fire or otherwise create a fire in any part of the terminal.

35. Storage. No person shall store bundles, paper, cloth, cardboard or any other material in solid, liquid or gas form that could in any way pose a fire or life safety hazard or obstruct or hinder passage without the approval of the manager.

36. No sound reproduction devices. Except with prior permission, no person shall operate or use any personal radio, television, phonograph, tape recorder or other sound reproduction device in the terminal in such a manner that the sound emanating from such sound reproduction device is audible to another person.

37. Use of lighting or sound reproduction equipment. No person shall without specific authorization from the manager operate or use or cause to be operated or use any lighting or sound reproduction device for commercial or business advertising purposes or for the purpose of attracting attention to any performance, show, sale or display of merchandise, or any commercial or business enterprise, in front or outside of any building, place or premises in the terminal.

38. Inspection of freight, articles and packages. The manager reserves the right to inspect all freight and other

articles including hand-carried packages brought into or out of the Bus Terminal and to exclude therefrom all articles which violate any of these rules and regulations, and to require the occupants of space and others regularly doing business at the terminal to issue package passes (in such form as may be approved by the manager) for packages being carried to or from, or from one location to another within the terminal.

BAGGAGE AND EXPRESS

39. Leaking, loose, improperly packaged and marked baggage or express not accepted for handling. No piece of baggage or express will be accepted for handling at the terminal, if in a leaking or loose condition. No piece of express will be accepted for handling if it is not properly packaged and marked.

40. Express, baggage or manifest baggage producing or capable of producing offensive odor or likely to cause damage or injury to persons or property not accepted for handling and subject to removal from terminal. No piece of express, baggage or manifest baggage will be accepted for handling at the terminal if it has or is capable of producing an offensive odor or is likely to damage other express or baggage or to endanger persons or property or to make any portion of the terminal untenantable; and the same shall be subject to immediate removal by the Port

Authority from the terminal or to another location or locations within the terminal, such removal to be at the risk and expense of the carrier involved.

41. Express, baggage and manifest baggage subject to I.C.C. regulations not handled unless in compliance with applicable provisions of such regulations. Express, baggage, and manifest baggage, subject to I.C.C. regulations, will not be handled at the terminal, unless it complies with the said regulations in every respect including without limiting the generality of such regulations proper condition for transportation, containers of adequate strength, packing, marking, labeling, description, certification, and quantity and loading limitations.

VEHICLES

42. Vehicles not maintained, operated and registered in accordance with Port Authority rules and applicable laws, ordinances or regulations may be denied access to or removed from terminal. The manager of the terminal shall have authority to deny access to the terminal for any bus or other vehicle not maintained, operated and registered in accordance with these regulations, or which is otherwise in violation of the Port Authority Bus Terminal rules and regulations or the laws, ordinances or regulations of the United States government, the State of New York, or City of New York; and shall have authority

to require removal of any such vehicle from the terminal on five minutes' notice. In the event the vehicle is not so removed, the Port Authority may remove it under the provisions of section 59 herein.

43. Vehicles so loaded, constructed, operated, equipped or maintained as to endanger persons or property or obstruct traffic barred from terminal. No vehicle which is loaded in such a manner, or with such materials, or which is so constructed, operated, equipped or maintained as to endanger or to be likely to endanger persons or property, or to obstruct traffic, shall be permitted in or upon the terminal.

44. Vehicles having weights or dimensions in excess of described maxima or using prohibited fuels barred from terminal. No vehicle will be permitted in or upon the terminal which has a weight or dimensions larger than the maxima described herein for buses or which utilizes any fuel not permitted as a source of motive power for buses under the provisions of section 2 herein.

45. Vehicles lacking valid registration plate barred; exceptions. Except for vehicles owned by the government of the United States, and horse-drawn vehicles, no highway vehicle shall be permitted in the terminal unless a currently effective registration plate duly issued by appropriate governmental authority is attached thereto.

46. Persons driving highway vehicles within terminal required to be duly licensed to operate such vehicles. No person shall drive any highway vehicle (except a horse-drawn vehicle) in the terminal without a motor vehicle operator's or chauffeur's license issued by appropriate governmental authority permitting the driving by such person of the particular type of vehicle driven and valid within the State of New York.

47. Passenger boarding and discharge areas to be used so as to avoid blocking bus traffic. Except when standing a bus in space, the use of which has been licensed specifically to the operator of such bus by written agreement with the Port Authority, drivers shall stand vehicles in the terminal only at space designated for such vehicles by the manager or other Port Authority representative. Where space is used in common by the buses of more than one carrier, such as on the unloading platforms, the drivers will cause their buses to stand in the most forward portion of such space available upon arrival and will continually move their buses forward, toward, and to the most forward vacant portion of the space. No buses shall discharge passengers on any active roadways including the viaducts leading to and from the terminal unless specifically directed by a terminal representative.

48. Procedure to be followed by driver in event of accident involving his vehicle. The driver of any vehicle

involved in an accident resulting in injury or death to any person or damage to any property shall immediately stop such vehicle at the scene of the accident, render such assistance as may be needed, and give his name, address and driver's license, and the registration number of the vehicle to the person injured or to a Port Authority officer or representative. The driver, operator, or owner of such vehicle shall make a report of such accident in accordance with the law of the State of New York.

49. Unauthorized tampering, starting, movement or interference with vehicles prohibited. No unauthorized person shall tamper with any vehicle, start the motor thereof, move the vehicle, or otherwise interfere with the operation thereof at the terminal.

50. Permission required to fuel, defuel, lubricate, clean or repair vehicles within terminal. No person shall fuel, defuel, lubricate, clean or repair a vehicle or any part thereof, at the terminal, without permission.

51. Vehicles entering terminal required to extinguish headlights. Every driver of a vehicle entering the terminal shall extinguish the headlights thereof and shall not relight them until leaving the terminal.

52. Prolonged sounding of vehicle horns prohibited. Prolonged sounding of the horns of vehicles in the terminal is forbidden.

53. Leaving vehicles unattended without turning off motor, locking vehicle and setting brakes prohibited. No person shall leave a vehicle unattended in the terminal without having first turned off its motor, locked all doors, and set its parking brakes.

54. Vehicles prohibited from remaining in terminal for more than 15 minutes. No vehicle shall remain in the terminal for longer than the time necessary for permitted operations in connection therewith, and, unless a shorter time limitation is elsewhere imposed, no vehicle shall remain in the terminal for longer than 15 minutes unless at a designated gate or parking space and so as not to obstruct the operation of the terminal. The manager shall have authority to require, by five minutes' notice, which may be given orally to the driver, the removal from the terminal of any vehicle which shall have been standing or parked at the terminal for so long as 15 minutes; in the event the vehicle is not so removed, the Port Authority may remove it under the provisions of section 59 herein.

55. Operation of vehicles within terminal regulated. No person shall operate a vehicle in the terminal in a careless and negligent manner or in disregard of the right or safety of others, or without due caution, or at a speed in excess of speed limits posted in the area where the vehicle is being operated, or in any event at a speed in excess of 5 miles per hour, or at any

speed or in any manner which endangers or is likely to endanger persons or property, or while under the influence of intoxicating liquor or any narcotic or habit-forming drug.

56. Compliance with authorized traffic orders, signals, signs or directions required. Drivers of vehicles in the terminal must at all times comply with any traffic order, signal or direction, given by voice or by hand, of an authorized representative of the Port Authority. When traffic is controlled by traffic lights or signs or by mechanical or electrical signals, such lights, signs and signals shall be obeyed unless an authorized representative of the Port Authority directs otherwise.

57. Drivers required to report arrival and departure and pay fees. Unless other applicable provision for reports is made in an agreement with a carrier, each driver of a bus of any carrier shall report to the Port Authority representative immediately upon arrival at the terminal, shall pay all fees required shall give information of the expected time of departure, and shall, immediately before departure, check out as directed by the Port Authority representative.

58. Disabled vehicles subject to removal. Unless other provisions for the removal of disabled vehicles has been made by agreement, the Port Authority shall have the right to require, by five minutes' notice which may be given orally to the driver, the

removal from the terminal (or to a different location in the terminal), of any vehicle which has become disabled in the terminal. In the event such vehicle is not so removed, the Port Authority may remove it under the provisions of section 59 herein.

59. Removal of vehicles from terminal to be at owner's or operator's risk and expense. In the event the Port Authority is empowered to remove any bus or other vehicle from the terminal by any provision of the rules and regulations set forth in this Part, such removal shall be at the risk of the owner or operator of such vehicle, and the cost thereof shall be for the account of such owner or operator and payable to the Port Authority on demand.

60. Time limit for engine idling. Every driver who causes a vehicle to park or stand in the terminal for three (3) or more minutes shall turn off its motor.

PARCEL CHECK ROOM

61. The Port Authority parcel check room will be operated as a public check room at which services will be provided to the public subject to regulations and fees established by the Executive Director or his representative.

## PORTER SERVICE

62. The Port Authority of New York and New Jersey will furnish porter service to the public free of charge at the Port Authority bus terminal.

## CHARTER BUS OPERATIONS

63. Use of terminal by charter buses permitted; restrictions; fees. Operators of charter bus transportation service between the City of New York and points outside the city who have not entered into agreements for space and services at the Port Authority bus terminal will be permitted to use the enclosed vehicular levels of the terminal, such use to be limited to one-way and through operations originating at points outside New York City, and to round-trip operations, the initial portions of which originate at points outside New York City, the charge for each bus arrival or departure with passengers to be $12.50.

## PUBLIC VEHICULAR PARKING

64. The Port Authority public vehicular parking area. The public vehicular parking area is operated and charges fees as established by the Executive Director of the Port Authority of New York and New Jersey or his designated representative.

## ELEVATORS, ESCALATORS, AND LOADING DOCKS

65. Elevator Schedule. Elevators for passengers and freight handling service will be operated in accordance with a

schedule established by the manager, unless the arrangements are made with the manager for operation at other times.

66. Prohibition. Passenger elevators and escalators may not be used to carry freight.

67. Controls. The use of any escalator, elevator, private right-of-way or truck loading dock at the terminal will be subject to the direct control of the manager.

68. Causing an elevator or escalator to stop. No unauthorized person shall cause an elevator or escalator to stop by means of any emergency stopping device unless continued operation would appear to result in probable injury to a person or persons. Any such stopping should be reported immediately to a terminal representative.

69. Truck loading docks. Truck loading docks located in the terminal are designed to accomplish the immediate transfer of merchandise between the freight elevators and trucks. All person will confine their use of docks to such purpose as directed by the manager. No storage or holding of merchandise on the truck loading docks awaiting the arrival of trucks or awaiting transfer to premises or space at the terminal will be permitted.

(Port Authority Acknowledgment)

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

On the 18th day of November in the year 2005, before me, the undersigned, a Notary Public in and for said state, personally appeared Francis A. DiMola, 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)

MICHAEL F. SCHMIDT
Notary Public, State of New York
No. 01SC6118149
Qualified in New York County
Commission Expires November 1, 2008

(Lessee Acknowledgment)

STATE OF Connecticut )
) : ss.
COUNTY OF Hartford )

On the 25th day of October in the year 2005, before me, the undersigned, a Notary Public in and for said state, personally appeared Alan Lazowski, 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)

My Commission Expires April 30, 2008

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

Port Authority Bus Terminal
Port Authority Lease No. LBT-709
Supplemental Agreement No. 1

SUPPLEMENTAL AGREEMENT

**THIS AGREEMENT**, made as of September 19, 2011 by and between **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** (hereinafter called the "Port Authority") and **LAZ PARKING NEW YORK/NEW JERSEY, LLC.** (hereinafter called the "Lessee");

WITNESSETH, That:

WHEREAS, by an agreement of lease made as of October 24, 2005 (which lease, as the same may have been heretofore amended, extended and supplemented is hereinafter called the "Lease") the Port Authority let to the Laz Parking LTD., LLC which hired and took from the Port Authority certain premises at the Port Authority Bus Terminal, all as more particularly described in the Lease; and

WHEREAS, by agreement dated as of September 1, 2010, the Port Authority, Laz Parking LTD., LLC (the "Assignor") and Laz Parking New York/New Jersey, LLC. (the "Assignee") entered into an Assignment with Assumption and Consent Agreement in which the Assignor assigned the Lease to the Lessee; and

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

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

1. Pursuant to the terms of paragraph (e) appearing in Section 9 of the Lease, the Port Authority heretofore notified the Lessee that the Lessee shall conduct its operations at the premises from 6: o'clock a.m. through 1:00 o'clock a.m., seven days a week (hereinafter the "Original Hours"). Effective from and after the date hereof, the Lessee shall be open for, and conduct business and furnish services at the premises, twenty-four hours a day, seven days a week. The additional

hours of operation from 1:00 o'clock a.m. through 6:00 o'clock a.m. shall sometimes hereinafter be referred to as the "Additional Hours".

2. Effective from and after September 19, 2011, and continuing throughout the balance of the term of the letting, the Lessee shall continue to submit to the Port Authority a sworn statement showing the gross receipts arising from its operations during the preceding month, as required in Item I (d) of Exhibit B attached to the Lease, and the Lessee shall continue to pay the percentage rental stated in paragraph (c) of Item I, *provided, however, that* the statement of gross receipts submitted by the Lessee to the Port Authority shall separately state the amount of gross receipts arising from the Lessee's operations at the premises during the Additional Hours.

3. (a) Effective from and after the date hereof, and continuing throughout the balance of the term of the letting, *provided, that,* the Lessee is operating at the premises during the Additional Hours, the Port Authority shall credit to the Lessee an amount equivalent to Twenty-two Thousand Dollars and No Cents ($22,000.00) during each Annual Period (the "Annual Credit Amount") in equal monthly installments equivalent to One Thousand Eight Hundred Thirty-three Dollars and Thirty-three Cents ($1, 833.33) (the "Monthly Credit Amount").

(b) As used herein, "Annual Period" shall mean, the period commencing on September 19, 2011 and continuing through November 30, 2011, both dates inclusive, and the twelve-month periods thereafter occurring through the balance of the term of the letting. For the purpose of calculating the Annual Credit Amount for any annual period which is other than 365 days, each Annual Credit Amount shall be prorated over the actual number of days contained in such annual period.

4. Without limiting any other right of termination under the Lease, as herein amended, effective from and after March 19, 2012, the Port Authority shall have the right to terminate the Lessee's right to operate at the premises during the Additional Hours, and without cost to the Port Authority, upon thirty (30) days' prior written notice to the Lessee, if, during the six-month period from the Effective Date hereof though and including March 18, 2012, the total percentage rental payable by the Lessee to the Port Authority, arising from the Lessee's operations at the premises during the Additional Hours, shall be less than Eleven Thousand Dollars and No Cents ($11,000.00) for the entire period. From and after the date stated in such notice of termination, the Lessee shall continue to operate at the premises during the Original Hours.

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

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

firms or corporations whatsoever for services in connection with the negotiation and execution of this Supplemental Agreement.

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

8. This Supplemental Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of both the Port Authority and the Lessee. The Lessee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in the Lease or this Supplemental Agreement.

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

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By

(Title) Michael B. Francois, PP, AICP
~~Chief, Real Estate & Development~~

(Seal)

ATTEST:

Secretary

**LAZ PARKING NEWYORK/NEWJERSEY, LLC.**

By

(Name) Alan B. Lazowski

(Title) Chairman and CEO

(Corporate Seal)

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

LLF/MMW

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

**For the Port Authority of NY & NJ**

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

On the 26th day of SEPTEMBER in the year 2011, before me, the undersigned, a Notary Public in and for said state, personally appeared MICHAEL B. FRANCOIS, 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.

JOHN R. GOMEZ
Notary Public, State of New York
No. 01GO6245199
Qualified in Queens County
Commission Expires 7/18/2015

(notarial seal and stamp)

For LAZ Parking NewYork/New Jersey, LLC

STATE OF Connecticut )
) ss.
COUNTY OF Hartford )

On the 16th day of SEPTEMBER in the year 2011, before me, the undersigned, a Notary Public in and for said state, personally appeared ALAN B. LAZOWSKI, 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)

STEPHANIE L. PELLETIER
NOTARY PUBLIC
MY COMMISSION EXPIRES SEP. 30, 2013

THIS ASSIGNMENT WITH ASSUMPTION AND CONSENT AGREEMENT SHALL NOT BE BINDING UPON THE PORT AUTHORITY UNTIL DULY EXECUTED BY AN EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE ASSIGNOR AND ASSIGNEE BY AN AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Port Authority Bus Terminal
Port Authority Lease No. LBT-709

ASSIGNMENT WITH ASSUMPTION AND CONSENT AGREEMENT

***THIS AGREEMENT***, dated as of the 1st day of September 2010, by and among **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**, a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States of America, having an office for the transaction of business at 225 Park Avenue South, New York, New York 10003 (hereinafter called the "Port Authority"), **LAZ PARKING LTD., LLC**, a Connecticut limited liability company (hereinafter called the "Assignor"), and **LAZ PARKING NEW YORK/NEW JERSEY, LLC**, a Connecticut limited liability company, having an office and place of business at 15 Lewis Street, Hartford, Connecticut 06103 ( hereinafter called the "Assignee"), whose representative is Michael Barelli.

***WITNESSETH, That:***

***WHEREAS***, heretofore and as of October 24, 2005, the Port Authority and the Assignor entered into a lease identified by Port Authority Lease Number LBT-709 (hereinafter, as the same may have been heretofore amended, extended and supplemented, called the "Lease"), covering certain premises at the Port Authority Bus Terminal, in the Borough of Manhattan, City and State of New York, all as more particularly described in the Lease; and

***WHEREAS***, the Assignor desires to assign the Lease to the Assignee and the Assignee is desirous of acquiring the Lease and becoming the Lessee of the Port Authority thereunder; and

***WHEREAS***, the Port Authority is willing to consent to such assignment of the Lease from the Assignor to the Assignee on certain terms, provisions, covenants and conditions as hereinafter set forth;

***NOW, THEREFORE,*** for and 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 September 1, 2010, for and during all the rest, residue and remainder of the term under the Lease, subject nevertheless to all the terms, provisions, covenants and conditions therein contained.

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 requirements 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 and conditions of the Lease by reason of this consent of the Port Authority of one or more other consents to one or more other assignments thereof.

3. (a) Upon the execution of this Assignment with Assumption and Consent Agreement by the Assignee and delivery thereof to the Port Authority, the Assignee shall deliver to the Port Authority, as security for the full, faithful and prompt performance of and compliance with, on the part of the Assignee, all of the terms, provisions, covenants and conditions of the Lease on its part to be fulfilled, kept, performed or observed, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York District and acceptable to the Port Authority, in favor of the Port Authority, and payable in the Port of New York District in the amount of Seven Hundred Thousand Dollars and No Cents ($700,000.00). The form and terms of such letter of credit, as well as the institution issuing it, shall be subject to the prior and continuing approval of the Port Authority. Such letter of credit shall provide that it shall continue throughout the effective term under the Lease and for a period of not less than six (6) months thereafter; such continuance may be by provision for automatic renewal or by substitution of a subsequent clean and irrevocable satisfactory letter of credit. If requested by the Port Authority, said letter of credit shall be accompanied by a letter explaining the opinion of counsel for the banking institution that the issuance of said clean, irrevocable letter of credit is a appropriate and valid exercise by the banking institution of the corporate power conferred upon it by law. Upon notice of cancellation of a letter of credit, the Assignee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof and thereafter the Port Authority will hold the same as security. Failure to provide such a letter of credit at any time during the effective term, under the Lease, valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit shall be deemed to be a breach of the Lease on the part of the Assignee. Upon acceptance of such letter of credit by the Port Authority, and upon request by the Assignee made thereafter, the Port Authority will return the security deposit, if any, theretofore made. The Assignee shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the term under the Lease and fulfillment of the obligations of the Assignee hereunder. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Assignee on demand of the Port Authority and within two (2) days

thereafter, shall bring the letter of credit back up to its full amount. No action by the Port Authority pursuant to the terms of any letter of credit, or any receipt by the Port Authority of funds from any bank issuing such letter of credit, shall be or be deemed to waiver of any default by the Assignee under the terms of the Lease and all remedies of the Lease and of the Port Authority consequent upon such default shall not be affected by the existence of a recourse to any such letter of credit.

(b) The Assignee hereby certifies that its Federal Tax Identification Number is (Ex. 1) for the purposes of this paragraph.

(c) The Assignee acknowledges and agrees that the Port Authority reserves the right, at its sole discretion, to adjust the security deposit amount as set forth in paragraph (a) hereof, upon fifteen (15) days notice to the Assignee, when any of the following shall occur: (i) the prior written consent of the Port Authority is required to effectuate an assignment, sublease, license or any other sale, conveyance, transfer, mortgage, or pledge of the Lease in which anybody other than the Assignee occupies the premises; (ii) at any time that the Lease is further amended or; (iii) at any time that the term of the letting under the Lease is further extended. Not later than the effective date set forth in said notice the Assignee shall deposit with the Port Authority the new security deposit amount as set forth in and in such form as requested by said notice which new amount (including without limitation an amendment to or a replacement of the letter of credit) shall thereafter constitute the security deposit subject to this paragraph.

4. 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 and conditions, including without limitation thereto the obligation to pay rent, of the Lease on the part of the Lessee 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 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 has previously obtained such consent with respect to a prior renewal, modification or extension.

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

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

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

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

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

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

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

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

9. (a) The Assignee shall comply with all laws and ordinances and governmental rules, regulations and orders now or at any time during the term of the Lease which as a matter of law are applicable to or which affect the operations of the Assignee at the leased premises, and the Assignee shall, in accordance with and subject to the provisions of the Section of the Lease entitled "Construction by the Lessee", make any and all non-structural improvements, alterations or repairs of the premises that may be required at any time hereafter by any such present or future law, rule, regulation, requirement, order or direction.

(b) The Assignee shall procure from all governmental authorities having jurisdiction over the operations of the Assignee hereunder all licenses, certificates, permits or other authorization which may be necessary for the conduct of such operations. "Governmental authority" shall not be construed as intending to include The Port Authority of New York and New Jersey, the lessor under the Lease.

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

(d) Since the Port Authority has agreed in the Basic Lease to conform to the enactments, ordinances, resolutions and regulations of the City of New York and its various departments, boards and bureaus in regard to the construction and maintenance of buildings and structures and in regard to health and fire protection which would be applicable if the Port Authority were a private corporation to the extent that the Port Authority finds it practicable so to do, the Assignee shall comply with all such enactments, ordinances, resolutions and regulations which would be applicable to its operations hereunder if the Port Authority were a private corporation, except in cases where the Port Authority either notifies the Assignee that it need not comply with or directs it not to comply with any such enactments, ordinances, resolutions or regulations which are applicable only because of the Port Authority's agreement in the Basic Lease. The Assignee shall, for the Port Authority's information, deliver to the Port Authority promptly after receipt of any notice, warning, summons, or other legal process for the enforcement of any such enactment, ordinance, resolution or regulation a true copy of the same. Any direction by the Port Authority to the Assignee not to comply with any such enactment, ordinance, resolution or regulation shall be given only pursuant to a resolution duly adopted by the Board of Commissioners of the Port Authority or by an authorized committee of its Board and if any such direction is given by the Port Authority to the Assignee, the Port Authority, to the extent that it may lawfully do so, shall indemnify and hold the Assignee harmless from and against all claims, actions, damages, liabilities, fines, penalties, costs and expenses suffered or incurred by the Assignee as a result of non-compliance with such enactment, ordinance, resolution or regulation.

In the event of compliance with any such enactment, ordinance, resolution or regulation on the part of the Assignee, acting in good faith, commenced after such delivery to the Port Authority but prior to the receipt by the Assignee of a written direction from the Port Authority not to comply (and thereafter discontinued) such compliance shall not constitute a breach of the Lease, although the Port Authority thereafter directs the Assignee not to comply. Nothing herein contained shall release or discharge the Assignee from compliance with any other provision hereof respecting governmental requirements.

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

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

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

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

ATTEST:

Secretary

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

By

Print **Michael B. Francois, PP, AICP**
Title) **Chief, Real Estate & Development**

(Seal)

ATTEST:

Secretary

**ASSIGNOR:**
**LAZ PARKING LTD., LLC**

By

Print Alan B. Lazowski
(Title) Chairman & CEO
(Corporate Seal)

ATTEST:

Secretary

**ASSIGNEE:**
**LAZ PARKING NEW YORK/NEW JERSEY, LLC**

By

Print Alan B. Lazowski
(Title) Chairman & CEO
(Corporate Seal)

| Port Authority Use Only | |
|---|---|
| Approval as to Terms: | Approval as to Form: |
| JRV | LLF |

(Port Authority Acknowledgment)

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

On the day of , 2011 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 whose name is subscribed to the within instrument and acknowledged that he executed the same in his capacity as for the Port Authority of New York and New Jersey, and that by his signature on the instrument, the individual, or the corporation upon behalf of which the individual acted, executed the instrument.

(Signature of Notary Public)

(Assignor Acknowledgment)

STATE OF Connecticut )
)ss.:
COUNTY OF Hartford )

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

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 that he executed the same in his capacity as a Chairman & CEO, and that by his signature on the instrument, the individual, or the corporation upon behalf of which the individual acted, executed the instrument.

Stephanie L Pelletier
(Signature of Notary Public)

**STEPHANIE L. PELLETIER**
***NOTARY PUBLIC***
MY COMMISSION EXPIRES SEP. 30, 2013

(Assignee Acknowledgment)

STATE OF Connecticut )
)ss.:
COUNTY OF Hartford )

On the 13 day of May, 2011 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 whose name is subscribed to the within instrument and acknowledged that he executed the same in his capacity as Chairman + CEO, and that by his signature on the instrument, the individual, or the corporation upon behalf of which the individual acted, executed the instrument.

Stephanie L Pelletier
(Signature of Notary Public)

STEPHANIE L. PELLETIER
*NOTARY PUBLIC*
MY COMMISSION EXPIRES SEP. 30, 2013