Torres Rojas, Genara FOI#14303

From: john@ura-nj.com
Sent: Thursday, September 26, 2013 11:04 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: Friedland
Company: United Realty Advisors, LLC
Mailing Address 1: 230 Clay Avenue
Mailing Address 2:
City: Lyndhurst
State: NJ
Zip Code: 07071
Email Address: john@ura-nj.com
Phone: 2018048600
Required copies of the records: Yes

List of specific record(s):
The lease by and between Courier Systems and NYNJ Port Authority for property located at 180 Pulaski Street, Bayonne, NJ.

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

October 3, 2013

Mr. John Friedland
United Realty Advisors, LLC
230 Clay Avenue
Lyndhurst, NJ 07071

Re: Freedom of Information Reference No. 14303

Dear Mr. Friedland:

This is a response to your September 26, 2013 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code", copy attached) for a copy of the lease by and between Courier Systems and the Port Authority for property located at 180 Pulaski Street, Bayonne, NJ.

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/14303-LPA.pdf. Paper copies of the available records are available upon request.

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

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

Very truly yours,

Daniel D. Duffy
FOI Administrator

Attachment

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

Lease No. LPJ-007

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

AGREEMENT OF LEASE
Between

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

and

COURIER SYSTEMS INC.

Dated as of: April 1, 2012

COURIER SYSTEMS INC.

Lease No. LPJ-007

Table of Contents

Section 1.	Definitions	1
Section 2.	Letting	4
Section 3.	Term	4
Section 4.	Use	4
Section 5.	Basic Rental	5
Section 6.	Additional Rent and Charges	5
Section 7.	Late Charges	6
Section 8.	Security Deposit	7
Section 9.	Ingress and Egress	8
Section 10.	Governmental and Other Requirements	9
Section 11.	Rules and Regulations	9
Section 12.	Method of Operation	10
Section 13.	Signs	12
Section 14.	Indemnity	12
Section 15.	Construction by the Lessee	13
Section 16.	Maintenance and Repair	26
Section 17.	Services	27
Section 18.	Rights of Entry Reserved	29
Section 19.	Property Insurance.	30
Section 20.	Casualty	31

Section 21. Condemnation 33
Section 22. Assignment and Sublease 34
Section 23. Limitation of Rights and Privileges Granted 35
Section 24. Prohibited Acts 35
Section 25. Termination 37
Section 26. Effect of Termination 38
Section 27. Right of Re-entry 39
Section 28. Waiver of Redemption 39
Section 29. Survival of the Obligations of the Lessee 40
Section 30. Reletting by the Port Authority 40
Section 31. Remedies to Be Nonexclusive 41
Section 32. Surrender 41
Section 33. Acceptance of Surrender of Lease 42
Section 34. Affirmative Action 42
Section 35. Environmental Compliance 43
Section 36. Environmental Obligations 47
Section 37. Third Party Access 52
Section 38. Railroad Services 53
Section 39. Notices 53
Section 40. General 53
Section 41. Premises 55
Section 42. Force Majeure 56
Section 43. Brokerage 56
Section 44. Non-liability of Individuals 56

Section 45. [Intentionally Omitted] 57

Section 46. Waiver of Trial by Jury 57

Section 47. Effect of Use and Occupancy of Premises after Expiration or Termination 57

Section 48. Lessee's Rights Non-Exclusive 57

Section 49. OFAC Compliance 58

Section 50. Construction and Application of Terms 59

Section 51. Governing Law 59

Section 52. Entire Agreement 60

Standard Endorsement No. L27.4 Abatement

ATTACHMENTS

Exhibit A Premises

Exhibit B Basic Rental

Exhibit C Environmental Site Assessment Scope of Work

Insurance Schedule

Schedule E

Port Authority Lease No. LPJ-007

AGREEMENT OF LEASE

THIS AGREEMENT OF LEASE, made as of the 1st day of April, 2012, by and between **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** (hereinafter called the "***Port Authority***"), a body corporate and politic, created by Compact between the States of New Jersey and New York, with the consent of the Congress of the United States of America, and having an office and place of business at 225 Park Avenue South, in the Borough of Manhattan, in the City, County and State of New York, and **COURIER SYSTEMS INC.** (hereinafter called the "***Lessee***"), a corporation organized and existing under the laws of the State of New Jersey, and having an office and place of business at 30 Pulaski Street, Bayonne, New Jersey 07002, whose representative is Richard Murad.

WITNESSETH, That:

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

Section 1. Definitions

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

"***Affiliate***" shall mean any Person that directly or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Lessee and any Person in which the Lessee or a shareholder of the Lessee has an ownership, licensor/licensee or franchisor/franchisee interest or relationship, but if the Lessee shall be a corporation whose voting securities shall be registered with the Securities and Exchange Commission and publicly traded on a regular basis, then only such shareholder of the Lessee having an ownership interest greater than five percent (5%). As used in this definition, the term "***Control***" (including the terms Controlling, Controlled by and under common Control with) shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the Person, whether through the ownership of voting securities, by contract or otherwise.

"***Agreement***" shall mean this Agreement of Lease.

"***Basic Rental***" shall have the meaning set forth in the Section of this Agreement, entitled "*Basic Rental*".

"***Claims***" shall have the meaning set forth in the Section of this Agreement entitled "*Indemnity*".

"***Effective Date***" shall mean April 1, 2012.

"***Environmental Damages***" shall mean any one or more of the following: (i) the presence in, on, or under the Premises of any Hazardous Substance, whether such presence occurred prior to or during the Term or resulted from any act or omission of the Lessee or others, and/or (ii) the disposal, discharge, release or threatened release of any Hazardous Substance from the Premises or of any Hazardous Substance from under the Premises and/or (iii) the presence of any Hazardous Substance in, on or under other property at the Facility as a result of (x) the Lessee's use and occupancy of any portion of the Premises or the performance of the construction work or any other work or activities at the Premises or (y) a migration of a Hazardous Substance from the Premises or from under the Premises or (z) the Lessee's operations at the Facility, and/or (iv) any personal injury, including wrongful death, or property damage, arising out of or related to any Hazardous Substance described in (i), (ii) or (iii) above, and/or (v) the violation of any Environmental Requirement pertaining to any Hazardous Substance described in (i), (ii) or (iii) above, the Premises and/or the activities thereon.

"***Environmental Requirements***" shall mean all common law and all past, present and future laws, statutes, enactments, resolutions, regulations, rules, ordinances, codes, licenses, permits, orders, memoranda of understanding and memoranda of agreement, guidances, approvals, plans, authorizations, concessions, franchises, requirements and similar items of all governmental agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, states and political subdivisions thereof, including without limitation Port Authority rules and regulations (including management bulletins), all pollution prevention programs, 'best management practices plans', and other programs adopted and agreements made by the Port Authority (whether adopted or made with or without consideration or with or without compulsion), with any government agencies, departments, commissions, boards, bureaus or instrumentalities of the United States, states and political subdivisions thereof, and judicial, administrative, voluntary and regulatory decrees, judgments, orders and agreements relating to the protection of human health or the environment, and in the event that there shall be more than one compliance standard, the standard for any of the foregoing to be that which requires the lowest level of a Hazardous Substance, the foregoing to include without limitation:

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

(ii) All requirements pertaining to the protection from Hazardous Substances of the health and safety of employees or the public; and

"***Expiration Date***" shall mean September 30, 2027.

"***Facility***" shall mean Port Jersey-South-Port Authority Marine Terminal located at Peninsula at Bayonne Harbor, in the City of Bayonne, Hudson County, New Jersey.

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

"***Governmental Authority***" and "***Governmental Agency***" shall each mean federal, state, municipal and other governmental authorities, boards and agencies of any state, nation or government, except that they shall not be construed to include the Port Authority.

"***Hazardous Substance***" shall mean any pollutant, contaminant, toxic or hazardous waste, dangerous substance, noxious substance, toxic substance, flammable, explosive or radioactive material, urea formaldehyde foam insulation, asbestos, polychlorinated biphenyls ("***PCBs***"), chemicals known to cause cancer, endocrine disruption or reproductive toxicity, petroleum and petroleum products and other substances which have been or in the future shall be declared to be hazardous or toxic, or the removal, containment or restriction of which have been or in the future shall be required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which have or in the future shall be restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

"***Lessee***" shall have the meaning set forth in the preamble to this Agreement.

"***Person***" shall mean a natural person, a corporation or other legal entity, and also two or more natural persons, corporations or other legal entities acting jointly as a firm, partnership, unincorporated association, consortium, joint adventurers or otherwise.

"***Port Authority***" shall mean the Port Authority of New York and New Jersey, a body corporate and politic, established by Compact between the States of New Jersey and New York with the consent of the Congress of the United States of America.

"***Port of New York District***" shall have the meaning set forth in Article II of the Compact.

"***Premises***" shall have the meaning set forth in the Section of this Agreement entitled "*Letting*".

"***Remediate***" or "***Remediation***" shall mean the investigation (including any feasibility studies or reports), cleanup, removal, abatement, transportation, disposal, treatment (including in-situ treatment), management, stabilization, neutralization, collection, or containment of a Hazardous Substance or contamination, that may be required to satisfy, the Environmental Requirements, including, without limitation, any closure, restoration or monitoring, operations and maintenance activities that may be required by any Government Agency after the

completion of such investigation, cleanup, removal, transportation, disposal, treatment, neutralization, collection, or containment activities as well as the performance of any and all obligations imposed by any Governmental Agency in connection with such investigation, cleanup, removal, transportation, disposal, treatment (including in situ treatment), management, stabilization, neutralization, collection, or containment (including any such obligation that may be imposed pursuant to an environmental permit or a consent order).

"***Rent Commencement Date***" shall mean October 1, 2012.

"***Term***" shall have the meaning set forth in the Section of this Agreement entitled "*Term*".

Section 2. Letting

(a) ***Premises.*** Subject to and in accordance with the terms and conditions of this Agreement, the Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority at the Facility the following described premises:

> Building 180 (the "***Building***") as shown in diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A" (the "***Warehouse Space***") and its associated open area (the "***Open Area Space***") as shown in stipple on "Exhibit A", together with the fixtures, improvements and other property of the Port Authority, if any, located or to be located therein or thereon, the said areas, buildings, structures, fixtures, improvements and other property of the Port Authority (collectively, the Warehouse Space and the Open Area Space shall hereinafter be referred to as the "***Premises***"). The Port Authority and the Lessee hereby acknowledge that the foregoing Premises constitute non-residential property.

Section 3. Term

The term of the letting under this Agreement (as it may be terminated pursuant to the provisions of this Agreement, the "***Term***") shall commence on the Effective Date and shall expire on the Expiration Date, unless sooner terminated in accordance with the terms and provisions of this Agreement.

Section 4. Use

(a) ***Warehouse Space.*** The Lessee shall use and occupy the Warehouse Space solely for the warehousing, distribution, and trucking operation of non-hazardous general cargo, substantially by waterbourne transportation and for no other purpose or purposes whatsoever.

(b) ***Open Area Space.*** The Lessee shall use and occupy the Open Area Space for the parking of the Lessee's trucks and employee's vehicles only, and for no other purpose

whatsoever.

Section 5. Basic Rental

(a) ***Free Rental Period.***

From the Effective Date until but not including the Rent Commencement Date, no Basic Rental shall be payable by the Lessee for the Lessee's use and occupancy of the Premises.

(b) ***Basic Rental.***

The Lessee agrees to pay to the Port Authority rental for the Premises (the "*Basic Rental*") in the amounts provided on "Exhibit B" entitled "*Basic Rental*", attached hereto and hereby made a part hereof. The Basic Rental shall be payable in equal monthly installments as of the Rent Commencement Date and thereafter on the first day of each calendar month throughout the Term.

(c) ***Abatement.***

Abatement of Basic Rental, if any, to which the Lessee may be entitled shall be computed in accordance with the provisions of Standard Endorsement No. L27.4 attached hereto and hereby made a part hereof.

(d) PILOT. The Lessee shall not pay nor be responsible nor liable for any payments in lieu of taxes in connection with the Premises.

Section 6. Additional Rent and Charges

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

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

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

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

Section 7. Late Charges

If the Lessee should fail to pay any amount required under this Agreement when due to the Port Authority or if any such amount is found to be due as the result of an audit, then, in such event, the tenth (10th) day after notice of such failure has been sent to the Lessee by the Port Authority (such ten (10) day period includes the date the notice is received by the Lessee,) the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Audit Findings 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. Each late charge shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rental payable under this Agreement. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this Section with respect to such unpaid amount. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights to terminate this Agreement or (ii) any obligations of the Lessee under this Agreement. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Agreement shall be payable instead at such legal maximum.

Section 8. Security Deposit.

(a) ***Required Security Deposit.*** As of the Effective Date, the amount required as a security deposit (the "***Initial Required Security Deposit***") hereunder is One Hundred Thirty-two Thousand Five Hundred Dollars and No Cents ($132,500.00) (the "***Initial Required Security Deposit Amount***"). As of April 1, 2013, an additional One Hundred Thirty-two Thousand Five Hundred Dollars and No Cents ($132,500.00) (the "***Additional Required Security Deposit Amount***"; together with the Initial Required Security Deposit Amount, the "***Required Security Deposit Amount***") shall be required (the "***Additional Required Security Deposit***"; together with the ***Initial Required Security Deposit***, the "***Required Security Deposit***") to be deposited with the Port Authority. Each of the Initial Required Security Deposit and the Additional Required Security Deposit shall be in the form of a letter of credit, which letter of credit will be in compliance with paragraph (b) of this Section.

(b) ***Letter of Credit.*** Pursuant to paragraph (a) of this Section, the Lessee shall deliver to the Port Authority, as security for the full, faithful and prompt performance of and compliance with, on the part of the Lessee, all of the terms, provisions, covenants and conditions of the Agreement on its part to be fulfilled, kept, performed or observed, a clean irrevocable letter of credit issued by an investment grade rated bank satisfactory to the Port Authority and having its main office within the Port of New York District (an "***Approved Bank***") and acceptable to the Port Authority, in favor of the Port Authority, and payable in the Port of New York District in the Required Security Deposit Amount. Notwithstanding the foregoing, such letter of credit may be issued by a bank (the "***Alternative Bank***") that is either (i) not within the Port of New York District, (ii) is not an investment grade rated bank or (iii) is a bank unknown to the Port Authority; provided, that (i) the Alternative Bank has an advising bank relationship with an Approved Bank and (ii) such Approved Bank guarantees such letter of credit. 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, **the form of any proposed letter of credit shall be submitted to the Port Authority in advance for review and approval by its Credit, Collection and Accounts Receivable unit.** Such letter of credit shall provide that it shall continue throughout the effective term granted under the Agreement and for a period of not less than six (6) months thereafter; such continuance may be by provision for automatic renewal or by substitution of a subsequent clean and irrevocable satisfactory letter of credit. If requested by the Port Authority, said letter of credit shall be accompanied by a letter explaining the opinion of counsel for the banking institution that the issuance of said clean, irrevocable letter of credit is an appropriate and valid exercise by the banking institution of the corporate power conferred upon it by law. Upon notice of cancellation of a letter of credit, the Lessee agrees that unless the letter of credit is replaced by another letter of credit satisfactory to the Port Authority by a date not later than twenty (20) days prior to the effective date of cancellation, the Port Authority may draw down the full amount thereof and thereafter the Port Authority will hold the same as security. Failure to provide such a letter of credit at any time during the effective term granted under the Agreement valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a

breach of the Agreement on the part of the Lessee. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Lessee, upon demand by the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the Required Security Deposit Amount. No action by the Port Authority pursuant to the terms of any letter of credit, or any receipt by the Port Authority of funds from any bank issuing such letter of credit, shall be or be deemed to be a waiver of any default by the Lessee under the terms of the Agreement, and all remedies under the Agreement and of the Port Authority consequent upon such default shall not be affected by the existence of a recourse to any such letter of credit.

(c) ***Adjustment of Required Security Deposit Amount.*** The Lessee acknowledges and agrees that the Port Authority reserves the right, in its sole discretion at any time and from time to time upon sixty (60) days' notice to the Lessee, to adjust the Required Security Deposit Amount but in no event would the adjusted amount equal more than three months of fees that would be payable to the Port Authority. Not later than the effective date set forth in said notice by the Port Authority, the Lessee shall furnish additional cash or bonds, as provided for in paragraph (a) above, or an amendment to, or a replacement of, the letter of credit providing for such adjusted Required Security Deposit Amount, as the case may be, and such additional cash and/or bonds or adjusted (or replaced) letter of credit shall thereafter constitute the Required Security Deposit required under this Section.

(d) ***Obligations Under Other Agreements.*** If the Lessee is obligated by any other agreement ("***Other PA Agreement***") to maintain a security deposit with the Port Authority to insure payment and performance by the Lessee of all fees, rentals, charges and other obligations which may become due and owing to the Port Authority arising from the Lessee's operations at the Facility (or other Port Authority facility) pursuant to any such Other PA Agreement or otherwise, then all such security deposit-related obligations under such Other PA Agreement, and any deposit pursuant thereto, also shall be deemed obligations of the Lessee under the Agreement and as security hereunder, as well as under any such Other PA Agreement. All provisions of such Other PA Agreement with respect to security deposit-related obligations, and any obligations thereunder of the Port Authority as to the security deposit, are hereby incorporated herein by this reference as though fully set forth herein and hereby made a part hereof. It is understood that the term Other PA Agreement refers both to agreements entered into prior to, or as of, the effective date of the Agreement, as well as agreements hereinafter entered into.

(e) ***Federal Tax ID Number.*** The Lessee represents to the Authority that its Federal Tax Identification number is Ex.1

Section 9. Ingress and Egress

The Lessee shall have the right of ingress and egress between the Premises and the city streets outside the Facility. Such right shall be exercised by means of such pedestrian or vehicular ways to be used in common with others having rights of passage within the Facility, as may from time to time be designated by the Port Authority for the use of the public. The use of

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

Section 10. Governmental and Other Requirements

(a) The Lessee shall procure from all governmental authorities having jurisdiction of the operations of the Lessee hereunder, all licenses, certificates, permits or other authorization which may be necessary for the conduct of such operations and upon request of the Port Authority, shall provide copies of all such items to the Port Authority. Lessee covenants that it shall ensure that all such licenses, certificates, permits and other authorizations shall remain in full force and effect throughout the Term.

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

(c) The Lessee shall, for the Port Authority's information, deliver to the Port Authority promptly after receipt any notice, warning, summons or other legal process for the enforcement of any enactment, ordinance, resolution or regulation of a Governmental Authority of competent jurisdiction (collectively, a "Notice").

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

Section 11. Rules and Regulations

(a) The Lessee covenants and agrees to observe and obey (and to compel its officers, employees and others on the Premises with its consent to observe and obey) the Rules and Regulations of the Port Authority as now supplemented and now in effect, and such further reasonable rules and regulations (including amendments and supplements thereto) for the government of the conduct and operations of the Lessee as may from time to time during the

letting be promulgated by the Port Authority for reasons of safety, health, or preservation of property, or for the maintenance of the good and orderly appearance of the Premises, or for the safe or efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it will give notice to the Lessee of every such further rule or regulation at least five (5) days before the Lessee shall be required to comply therewith.

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

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

Section 12. Method of Operation

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

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

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

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

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

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

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

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

(i) The Lessee shall permit the use of the Premises (not excluding the berthing area) at any time and from time to time for the installation, maintenance and operation of such navigation lights as may be required by the United States of America or other governmental authority having jurisdiction.

(j) The Lessee shall not do or permit to be done any act or thing upon the Premises or at the Facility which (1) will invalidate or conflict with any fire insurance policies covering the Premises or any part thereof, or the Facility, or any part thereof or (2) which, in the opinion of the Port Authority, may constitute an extra-hazardous condition, so as to increase the risks normally attendant upon the operations permitted by this Agreement, or (3) which will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or on the contents of any building thereon. The Lessee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the National Fire Protection Association and, if the Premises are located in New York, of the Insurance Services Office of New York, or, if the Premises are located in New Jersey, of the Insurance Services Office of New Jersey, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Lessee on the Premises, and the Lessee shall, subject to and in accordance with the provisions of this Agreement relating to construction by the Lessee, make any and all structural and non-structural improvements, alterations or repairs of the Premises that may be required at any time hereafter by any such present or future rule, regulation, requirement, order or direction. If by any reason of any failure on the part of the Lessee to comply with the provisions of this paragraph any fire insurance, extended coverage or rental insurance rate on the Premises or any part thereof, or on the Facility or any part thereof, shall at any time be higher than it otherwise would be, then the Lessee shall pay to the Port

Authority that part of all premiums paid by the Port Authority which shall have been charged because of such violation or failure by the Lessee.

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

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

Section 13. Signs

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

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

Section 14. Indemnity

(a) The Lessee agrees to indemnify and hold harmless the Port Authority, each Commissioner of the Port Authority, each officer, agent, employee and representative of the Port Authority (each, an "***Indemnified Party***", and collectively, the "***Indemnified Parties***") from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal expenses, whether those of the Port Authority's Law Department or otherwise, incurred in connection with the defense of), any and all claims, lawsuits, demands, penalties, fines, settlements, damages, injuries, losses, costs, expenses and judgments ("***Claims***") of third persons, including but not limited to claims and demands for death or personal injuries, or for property damages, arising out of the use or occupancy of the Premises by the Lessee or by others with its consent, or out of any other acts or omissions of the Lessee, its officers, employees, guests, representatives, customers, contractors, invitees or business visitors on the Premises, or arising out of the acts or omissions of the Lessee, its officers and employees elsewhere at the Facility, claims and demands of the party from which the Port Authority

derives its rights in the Facility for indemnification arising by operation of law or through agreement of the Port Authority with such party.

(b) If so directed, the Lessee shall at its own expense defend any suit based on any Claim referred to in the foregoing paragraph (a) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal, the immunity of the Port Authority, its governmental nature or the provisions of any statutes respecting the Port Authority.

Section 15. Construction by the Lessee

(a) ***No Construction without Prior Written Approval.*** The Lessee shall not erect any structures, make any improvements or do any other construction work on the Premises or alter, modify, or make additions or improvements to any structure now existing or built at any time during the letting, or install any fixture (the ***"Lessee's Other Construction Work"***) (other than trade fixtures, removable without material damage to the freehold, any such damage to be immediately repaired by the Lessee) without the prior written approval of the Port Authority of a tenant alteration application to be submitted by the Lessee to the Port Authority that is pursuant to and in compliance with the Tenant Construction and Alteration Process. In the event any construction, improvement, alteration, modification or addition is made without such prior written approval of the Port Authority, then upon reasonable notice so to do, the Lessee will remove the same, or at the option of the Port Authority cause the same to be changed to the satisfaction of the Port Authority. In case of any failure on the part of the Lessee to comply with such notice, the Port Authority may effect the removal or change and the Lessee shall pay the cost thereof to the Port Authority.

(b) ***No Repairs, etc., without Prior Written Approval.*** Notwithstanding the obligation of maintenance imposed upon the Lessee by the provisions of the Section hereof entitled *"Care, Maintenance, Rebuilding and Repair by the Lessee"*, the Lessee shall not make any repairs or replacements (except emergency repairs or replacements) unless and until it has first obtained the Port Authority's written approval for such repairs or replacements, which shall then be performed in full accordance with the terms of such written approval.

(c) ***Compliance with Sustainable Design Guidelines.*** The Lessee agrees that, in the performance of all construction work, it will comply with the Port Authority's policy on sustainable design as set forth in the sustainable design guidelines promulgated by the Port Authority Engineering Department from time to time.

(d) ***Work.*** The Lessee shall perform, at its sole cost and expense, certain work involving the investment by the Lessee of approximately Two Hundred Thousand Dollars and No Cents ($200,000.00) to improve the Premises (the ***"Lessee's Initial Construction Work"***; together with the Lessee's Other Construction Work, the ***"Lessee's Construction Work"***). If the Lessee's Construction Work has been approved by the Port Authority in compliance with the conditions and terms hereof, the Lessee shall have the right and obligation to complete the Lessee's Construction Work without any further Port Authority approval under this Agreement.

All Work performed by the Lessee shall be done in accordance with the following terms and conditions:

(e) ***Indemnification.***

(i) The Lessee hereby specifically agrees to assume any and all risk of loss or damage of any kind whatsoever to property of the Port Authority, the Lessee or others (including but not limited to such property located or existing underground and the natural environment) and any and all risk of loss or damage of any kinds whatsoever to the Lessee's Construction Work or any part thereof or injury (including death) of persons or resources directly or indirectly arising out of, as a result of or in connection with any of the Lessee's Construction Work and/or use of the Premises and/or Facility permitted herein. The Lessee shall itself and shall also require its contractors to indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from and against all claims and demands, just or unjust, of third persons (including employees, officers and agents of the Port Authority) arising or alleged to arise out of or in connection with the performance of the Lessee's Construction Work or based upon any of the risks assumed by the Lessee in this Agreement or any breach of this Agreement by the Lessee and for all expenses incurred by it and by them in the defense, settlement or satisfaction thereof including, without limitation thereto, claims and demands for death, for personal injury or for property damage, direct or consequential, whether they arise from the acts or omissions of the Lessee, of any contractors of the Lessee, of the Port Authority, or of third persons, or from acts of God or of the public enemy, or otherwise. The Lessee specifically agrees to assume any and all risk including, without limitation, loss, damage, injury or death, and any and all removal, remediation, restoration or mitigation costs and expenses, fines, payments, penalties, or payments in lieu of penalties occurring as a result of the release or threat of release of Hazardous Substances, as a result of compliance or non-compliance with applicable law, or as a result of compliance or non-compliance with Port Authority requirements as set forth herein. Without limiting the generality of the foregoing, the Lessee shall specifically be responsible for all costs, including capital, operating and maintenance costs, incurred in connection with any investigation or monitoring of site conditions or any cleanup, remedial, removal or restoration work required or performed by any federal, state or local governmental agency or political subdivision or performed by a non-governmental entity or person on account of Hazardous Materials released by the Lessee as a result of an act or omission in undertaking the Lessee's Construction Work on, under or about or migrating to or from the Premises. The Port Authority for itself and its successors and assigns covenants and agrees that the Lessee does not assume responsibility for, and none of the provisions of this Section shall apply to, Hazardous Substances (a) which have been released on the site prior to the execution of this Agreement (i) except if the Lessee's Construction Work causes the release or migration of such Hazardous Substance off the Premises or except for material removed or excavated in the performance of the Lessee's Construction Work to the extent that such conditions are exacerbated by the Lessee, by the operations of the Lessee under this Agreement or the performance of the Lessee's Construction Work or (b) which have migrated or shall have migrated onto the Premises after the execution of this Agreement from other lands actually occupied by or under the actual control of the Port Authority, unless it has been determined that such migration occurred due to acts or omissions of the Lessee.

(ii) The Lessee agrees to indemnify and hold harmless the Indemnified Parties from and against, any and all Claims of whatever kind or nature arising out of or because of the performance of the Lessee's Construction Work or out of or as a result of the acts or omissions of the Lessee at the Premises, its officers, agents, employees, contractors, subcontractors, consultants and representatives, and for all expenses incurred by a Indemnified Party in the defense, settlement or satisfaction of any third party claims, demands, or actions, including, without limitation thereto, claims and demands for death, for personal injury or for property damage, direct or consequential (excepting only claims and demands arising from the sole negligence or willful misconduct of the Port Authority). If so directed, the Lessee shall, at no cost and expense to any Indemnified Party, defend any lawsuit or proceedings based upon such Claims, in which event the Lessee shall not, without obtaining express advance written permission from the General Counsel of the Port Authority, raise any defense involving in any way the immunity of the Port Authority, or its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, the provisions of any statutes respecting suits against the Port Authority, or the jurisdiction of the tribunal over the person of the Port Authority.

(f) ***Contractors.***

(i) Unless the Port Authority determines, in its sole discretion, that an architect is not needed for the Lessee's Construction Work to be performed, prior to engaging or retaining an architect or architects for the Lessee's Construction Work, the name or names of said architect or architects shall be submitted to the Port Authority for its approval. The Port Authority shall have the right to disapprove any architect who may be unacceptable to it. All the Lessee's Construction Work shall be done in accordance with plans and specifications to be submitted to and approved by the Port Authority prior to the commencement of such Lessee's Construction Work.

(ii) Prior to entering into a contract for any part of the Lessee's Construction Work, the Lessee shall submit to the Port Authority for its approval the names of the contractors to whom the Lessee proposes to award said contracts. The Port Authority shall have the right to disapprove any contractor who may be unacceptable to it. The Lessee shall include in all such contracts such provisions and conditions as may be reasonably required by the Port Authority. Without limiting the generality of the foregoing, all of the Lessee's construction contracts shall provide as follows: "If (i) the Contractor fails to perform any of its obligations under the Contract, including its obligation to the Lessee to pay any claims lawfully made against it by any materialman, subcontractor or workman or other third person which arises out of or in connection with the performance of the Contract or (ii) any claim (just or unjust) which arises out of or in connection with the Contract is made against the Lessee or (iii) any subcontractor under the Contract fails to pay any claims lawfully made against it by any materialman, subcontractor, workman or other third persons which arise out of or in connection with the Contract or if in the Lessee's opinion any of the aforesaid contingencies is likely to arise, then the Lessee shall have the right, in its discretion, to withhold out of any payment (final or otherwise and even though such payments have already been certified as due) such sums as the Lessee may deem amply to protect it against delay or loss or to assume the payment of just claims of third persons, and to apply such sums in such manner as the Lessee may deem proper

to secure such protection or satisfy such claims. All sums so applied shall be deducted from the Contractor's compensation. Omission by the Lessee to withhold out of any payment, final or otherwise, a sum for any of the above contingencies, even though such contingency has occurred at the time of such payment, shall not be deemed to indicate that the Lessee does not intend to exercise its right with respect to such contingency. Neither the above provisions for rights of the Lessee to withhold and apply monies nor any exercise, or attempted exercise of, or omission to exercise, such rights by the Lessee shall create any obligation of any kind to such materialmen, subcontractors, workmen or other third persons. Until actual payment is made to the Contractor, its right to any amount to be paid under the Contract (even though such amount has already been certified as due) shall be subordinate to the rights of the Lessee under this provision."

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

(iv) Without limiting any of the terms and conditions hereof, the Lessee understands and agrees that it shall put into effect prior to the commencement of the Lessee's Construction Work an affirmative action program and Minority Business Enterprise (MBE) program and Women-owned Business Enterprise (WBE) program in accordance with the provisions of Schedule E, attached hereto and hereby made a part hereof. The provisions of Schedule E shall be applicable to the Lessee's contractor or contractors and subcontractors at any tier of construction as well as to the Lessee, and the Lessee agrees to include the provisions of Schedule E in all of its construction contracts so as to make the provisions and undertakings set forth in Schedule E the direct obligation of the construction contractor or contractors and subcontractors at any tier of construction. The Lessee agrees to and shall require its contractors and subcontractors to furnish to the Port Authority such data, including but not limited to compliance reports, relating to the operation and implementation of the affirmative action, MBE, and WBE programs of the Lessee and its contractor, contractors, and subcontractors at any tier of construction called for under the provisions of this paragraph and Schedule E annexed hereto as the Port Authority may request at any time and from time to time and the Lessee agrees to and shall also require that its contractors and subcontractors at any tier of construction make and put into effect such modifications and additions thereto as may be directed by the Port Authority pursuant to the provisions of this paragraph and Schedule E annexed hereto to effectuate the goals of affirmative action, MBE, and WBE programs. The obligations imposed on the Lessee under this paragraph and Schedule E annexed hereto shall not be construed to impose any greater requirements on the Lessee than those that may be imposed on the Lessee under applicable law.

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

1. The contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and shall undertake or continue existing programs of affirmative action to ensure that minority group persons are afforded equal employment opportunity without

discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selections for training or retraining, including apprenticeships and on-the-job training;

2. At the request of either the Port Authority or the Lessee, the contractor shall request such employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding and which is involved in the performance of the contract with the Lessee to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder;

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

4. The contractor will include the provisions of subdivisions (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;

5. "Contractor" as used in this paragraph shall include each contractor and subcontractor at any tier of construction.

(g) ***Performance of the Construction Work.***

(i) The Lessee shall require certification by a licensed engineer of all pile driving data and of all controlled concrete work and such other certifications as may be requested by the Port Authority from time to time. The Lessee shall submit all such certifications and logs to the Port Authority's resident engineer.

(ii) The Lessee agrees to be solely responsible for any plans and specifications used by it and for any loss or damages resulting from the use thereof, notwithstanding the same have been approved by the Port Authority and notwithstanding the incorporation therein of the Port Authority recommendations or requirements. Notwithstanding the requirement for approval by the Port Authority of the contracts to be entered into by the Lessee or the incorporation therein of the Port Authority requirements or recommendations, and notwithstanding any rights the Port Authority may have reserved to itself hereunder, the Port Authority shall have no liabilities or obligations of any kind to any contractors engaged by the Lessee or for any other matter in connection therewith. Any warranties contained in any construction contract entered into by the Lessee for the performance of the Lessee's Construction Work hereunder shall be for the benefit of the Port Authority as well as the Lessee, and the contract shall so provide.

(iii) The Port Authority shall have the right, through its duly designated representatives, to inspect the Lessee's Construction Work and the plans and specifications thereof, at any and all reasonable times during the progress thereof and from time to time, in its discretion, to take samples and perform testing in any part of the Lessee's Construction Work.

(iv) Upon final completion of all of the Construction Work the Lessee shall deliver to the Port Authority a certificate to such effect signed by a responsible officer of the Lessee and by the architect or engineer who sealed the Lessee's plans pursuant to the provisions of this paragraph certifying that all of the work has been performed in accordance with the approved plans and specifications and the provisions of this Agreement, and the Lessee shall supply the Port Authority with one (1) set of as-built drawings of the Construction Work in such form as the Port Authority shall determine. The Lessee shall keep said drawings current during the term of the letting under this Agreement. No changes or modifications to such work shall be made without prior Port Authority consent. Following its receipt of the Lessee's certificate, the Port Authority shall inspect the work and, unless such certification is not correct, a certificate of final completion shall be delivered to the Lessee by the Port Authority.

(v) The Lessee agrees that it shall deliver to the Port Authority all engineering reports, engineering analysis, boring logs, survey information and engineering design calculations and operation and maintenance manuals in a comprehensive, coordinated package. (No changes or modifications shall be made without prior written consent from the Port Authority.)

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

(vii) (A) Without limiting the generality of any other term or condition of this Agreement, title to any soil, dirt or sand excavated by the Lessee during the course of the Lessee's Construction Work and not used at the Premises shall vest in the Lessee upon the removal thereof from the Premises, it being understood that unless the Lessee's Construction Work, expressly or otherwise, requires the removal of soil, dirt or sand, the Lessee shall have no obligation hereunder to remove such soil, dirt or sand from the Premises (all the soil, dirt and sand which is so excavated by the Lessee and removed from the Premises being hereinafter called the *"Removed Soil"*) and title to any other material exclusive of soil, dirt or sand on the Premises or the Facility excavated or removed by the Lessee during the course of the Lessee's Construction Work and not used at the Premises shall vest in the Lessee upon the excavation or removal thereof (all the foregoing and the Removed Soil being hereinafter called the *"Removed Material"*) and shall be transported and delivered off of the Facility by the Lessee. The transportation and disposal of all Removed Material shall be at the Lessee's sole cost and expense and in accordance with the terms and conditions of this Agreement including, without limitation, this paragraph 4(c), and all Environmental Requirements. The entire proceeds, if any, of the sale or other disposition of the Removed Material shall belong to the Lessee.

(B) In addition, in its performance of the Lessee's Construction Work that involves the removal, disposal or disturbance of any Hazardous Substances on the Premises, the Lessee shall perform at its cost and expense all appropriate, required and necessary work for the removal of all such Hazardous Substances, including without limitation asbestos, lead, petroleum contamination and other Hazardous Substances from the Premises including, without limitation, the groundwater thereunder, the foregoing to include, without limitation, the handling, transporting and off-Facility disposal thereof in accordance with applicable law, including without limitation, all Environmental Requirements (including, if required, disposal of asbestos in a long-term disposal facility at the Lessee's sole cost and expense) and all in a manner satisfactory to the Port Authority.

(C) Promptly upon any final disposition of any Hazardous Substance from the Premises or the Facility in the performance of the Lessee's Construction Work, the Lessee shall submit to the Port Authority a "Certification of Final Disposal" stating the type and amount of material disposed, the method of disposal and the owner and location of the disposal facility. The format of such certification shall follow the requirements, if any, of governmental agencies having jurisdiction as if the Port Authority were a private organization and the name of the Port Authority shall not appear on any certificate or other document as a generator or owner of such material.

(viii) The Lessee shall pay or cause to be paid all claims lawfully made against it by its contractors, subcontractors, materialmen and workmen, and all claims lawfully made against it by other third persons arising out of or in connection with or because of the performance of the Lessee's Construction Work, and shall cause its contractors and subcontractors to pay all such claims lawfully made against them; *provided, however*, that nothing herein contained shall be construed to limit the right of the Lessee to contest any claim of a contractor, subcontractor, materialman, workman and/or other person and no such claim shall be considered to be an obligation of the Lessee within the meaning of this subparagraph (vii) unless and until the same shall have been finally adjudicated. The Lessee shall use its best efforts to resolve any such claims and shall keep the Port Authority fully informed of its actions with respect thereto. Nothing herein contained shall be deemed to constitute consent to the creation of any liens or claims against the Premises or any other area of the Facility, nor to create any rights in said third persons against the Port Authority.

(h) ***Insurance.***

(i) The Lessee in its own name as insured and including the Port Authority as an additional insured, including without limitation for both premises-operations and completed operations, shall procure and maintain Commercial General Liability Insurance including, but not limited to, premises-operations, products liability, broad form property damage, completed operations for a minimum of three years after the completion of the Lessee's Construction Work, explosion, collapse and underground property damages, personal injury (including death), and independent contractors in not less than the minimum limit set forth below, and with a

contractual liability endorsement covering the obligations assumed by the Lessee and the obligations required of the Lessee's contractors, and Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles in not less than the minimum limit set forth below, and a policy of Environmental Impairment Liability Insurance, on a claims-made basis, for the Lessee's Construction Work including, without limitation, asbestos abatement, lead abatement, site specific to the Lessee's Construction Work, third party claims for both on-site and off-site bodily injury (including death) and property damage, on site and off-site clean-up of new conditions arising after the commencement of the Lessee's Construction Work (on land, in air, and on water), gradual and sudden occurrences, defense costs and completed operations for a minimum of three years after the completion of the Lessee's Construction Work and with a contractual liability endorsement covering the obligations assumed by the Lessee and its contractors pursuant to paragraph 4(a) hereof with respect to Hazardous Substances, and such other insurance as the Port Authority may require in connection with the performance of the Lessee's Construction Work. Notwithstanding the foregoing obligation of the Lessee to procure and maintain such insurance, the Lessee may provide such insurance by requiring each contractor engaged by it for the Lessee's Construction Work to procure and maintain such insurance including such contractual liability endorsement, said insurance, whether procured by the Lessee or by a contractor engaged by it as aforesaid, not to contain any care, custody or control exclusions, and not to contain any exclusion for bodily injury to or sickness, disease or death of any employee of the Lessee or of any of its contractors which would conflict with or in any way impair coverage under the contractual liability endorsement. Each of the said policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority, and shall also provide or contain an endorsement providing that the protections afforded the Port Authority thereunder with respect to any claim or action against the Port Authority by the Lessee shall be the same as the protections afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third person as if the Port Authority were the named insured thereunder; but such provision or endorsement shall not limit, vary or affect the protections afforded the Port Authority thereunder as an additional insured. In addition, each of the said policy or policies of insurance shall be endorsed to state they are primary in relation to any insurance carried or maintained by the Port Authority, including without limitation, any self-insurance, regardless of type. All the foregoing insurance requirements shall be in addition to all policies of insurance otherwise required by the Lease.

Minimum Limits:

<u>Commercial General Liability</u>
Combined single limit per occurrence for death, bodily injury and property damage liability: $2,000,000.00

<u>Commercial Automobile Liability</u>
(covering owned, non-owned and

hired vehicles)
Combined single limit per occurrence
for death, bodily injury and property
damage liability: $2,000,000.00

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

(iii) The Lessee shall also procure and maintain in effect, or cause to be procured and maintained in effect, Workers' Compensation Insurance in accordance with and as required by law and including coverage for asbestos exposure, and Employer's Liability Insurance in limits of not less than $1,000,000 per occurrence.

(iv) The insurance required hereunder in this subparagraph (iv) shall be maintained in effect during the performance of the Lessee's Construction Work and a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority at least thirty (30) days prior to the commencement of the Lessee's Construction Work or any portion thereof. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy, certificate and binder shall bear the endorsement of or be accompanied by evidence of payment of the premium thereof and, also, each such copy or certificate shall be specifically endorsed to state that the policy may not be cancelled, terminated, changed or modified, without giving thirty (30) days' written notice thereof to the Port Authority. Each such copy and each such certificate with respect to the insurance required under this subparagraph (iv) shall contain an additional endorsement providing that the insurance carrier shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, directors, officers, agents, representatives or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority. Any renewal policy or certificate shall be delivered to the Port Authority prior to the expiration of each expiring policy. The aforesaid policies of insurance shall be written by a company or companies approved by the Port Authority. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance, or if any of the carriers issuing such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

(i) ***Engineering and Environmental Monitoring.*** Prior to the commencement of construction of the Lessee's Construction Work and at all times during such construction, the Lessee shall submit to the Port Authority all engineering studies and environmental test results with respect to the Lessee's Construction Work and samples of construction materials as may be required at any time and from time to time by the Port Authority.

(j) ***Agreement Controls.*** The Work shall be performed strictly in accordance with and subject to all the terms, conditions and provisions of this Agreement and the approved Tenant Alteration Applications. In the event any of the terms, conditions and provisions of any Tenant Alteration Application are contrary to or conflict or are inconsistent with any of the terms, conditions and provisions of this Agreement, the terms, conditions and provisions of this Agreement shall be controlling, effective and determinative. The Lessee, if it elects to perform the Lessee's Construction Work under this Agreement, shall perform the Lessee's Construction Work at the Lessee's sole cost and expense. The Lessee shall remove, re-do, replace or reconstruct at its own cost and expense any and all portions of the Lessee's Construction Work not done in accordance with the Tenant Alteration Application covering such portion of the Lessee's Construction Work, the provisions of this Agreement including, without limitation, the Section of this Agreement entitled *"Construction by the Lessee"*, and any further requirements of the Port Authority. The Lessee agrees that the Lessee's Construction Work, including workmanship and materials, shall be of first-class quality. Notwithstanding the generality of any other term or provision hereof, the Lessee understands and agrees that it shall cease the Lessee's Construction Work or any portion thereof at any time and from time to time immediately upon notice from the General Manager of the Facility in accordance with the Section of this Agreement entitled *"Construction by the Lessee"*.

(k) ***Performance.***

(i) The Lessee shall not commence the Lessee's Construction Work to be performed under each Tenant Alteration Application unless and until it has met with the General Manager of the Facility or his designated representative and has given him at least 72 hours advance notice of its intention to perform such Work. Scheduling of the Lessee's Construction Work shall be coordinated with the General Manager of the Facility or his duly authorized representative.

(ii) The performance by the Lessee of the Lessee's Construction Work will be at its sole risk and if for any reason the plans and specifications for any Tenant Alteration Application is not approved by the Port Authority or if the approval thereof calls for modifications or changes in the Lessee's Construction Work undertaken by the Lessee, the Lessee will, at its sole cost and expense, make such modifications and changes in any such Work as may be required by the Port Authority. No work performed under any Tenant Alteration Application shall affect or limit the obligations of the Lessee under all prior Tenant Alteration Applications.

(iii) Without limiting any other term or provision of this Agreement including, without limitation, paragraph (f), above, in the event that the Lessee shall at any time during the construction of any portion of the Lessee's Construction Work fail, in the opinion of the General Manager of the Facility, to comply with all of the provisions of this Agreement or the approved Tenant Alteration Application covering said portion of the Lessee's Construction Work or be, in the opinion of the said General Manager of the Facility, in breach of any of the provisions of this Agreement or the approved Tenant Alteration Application covering such portion of the Lessee's Construction Work, the Port Authority shall have the right, acting through said General Manager of the Facility, to cause the Lessee to cease all or such part of the Lessee's Construction Work as

is being performed in violation of this Agreement or the approved Tenant Alteration Application. Upon such written direction from the General Manager of the Facility, the Lessee shall promptly cease construction of the portion of the Lessee's Construction Work specified. The Lessee shall thereupon submit to the Port Authority for its written approval the Lessee's proposal for making modifications, corrections or changes in or to the Lessee's Construction Work that has been or is to be performed so that the same will comply with the provisions of this Agreement and the approved Tenant Alteration Application. The Lessee shall not commence construction of the portion of the Lessee's Construction Work that has been halted until such written approval has been received.

(iv) It is hereby expressly understood and agreed that the Port Authority's resident engineer does not have any authority to approve any plans and specifications of the Lessee with respect to the Lessee's Construction Work, to approve the construction by the Lessee of any portion of the Lessee's Construction Work or the Proposed Work or to agree to any variation by the Lessee from compliance with the terms of this Agreement and the approved Tenant Alteration Application. Notwithstanding the foregoing, should the Port Authority's resident engineer give any directions or approvals with respect to the Lessee's performance of any portion of the Lessee's Construction Work which are contrary to the provisions of this Agreement or the approved Tenant Alteration Application covering said portion of the Lessee's Construction Work, said directions or approvals shall not affect the obligations of the Lessee as set forth herein nor release or relieve the Lessee from strict compliance with this Agreement.

(v) It is hereby further understood and agreed that the Port Authority has no duty or obligation of any kind whatsoever to inspect or police the performance of the Lessee's Construction Work by the Lessee and the rights granted to the Port Authority under this Agreement shall not create or be deemed to create such a duty or obligation. Accordingly, the fact that the General Manager of the Facility has not exercised the Port Authority's right to require the Lessee to cease its construction of all or any part of the Lessee's Construction Work shall not be or be deemed to be an agreement or acknowledgment on the part of the Port Authority that the Lessee has in fact performed such portion of the Lessee's Construction Work in accordance with the terms of this Agreement and the approved Tenant Alteration Application covering such portion of the Lessee's Construction Work, nor shall such fact be or be deemed to be a waiver by the Port Authority from the requirement of strict compliance by the Lessee with the provisions of this Agreement and the approved Tenant Alteration Application with respect to such Work.

(vi) The Lessee hereby acknowledges that if it commences the Lessee's Construction Work pursuant to this Agreement it shall do so with full knowledge that it may not be permitted to perform additional portions of the Lessee's Construction Work and/or that there may not be continuity by it in the performance of other portions of the Lessee's Construction Work under the procedures of this Agreement or otherwise.

(vii) No approval of any Tenant Alteration Application shall create or be deemed to create any obligation on the part of the Port Authority to permit subsequent work to be performed in connection with the Lessee's Construction Work. It is understood that no such

approval shall release or relieve the Lessee from its obligation to submit complete plans and specifications for the Lessee's Construction Work and to obtain the Port Authority's approval of the same as required by the Lease and as set forth this Agreement.

(viii) In connection with the performance of the Lessee's Construction Work, the Lessee shall be responsible for identifying the location of all utilities and shall prior to the commencement of any of the Lessee's Construction Work ascertain the location of underground utilities, if any, at the Premises.

(ix) In the performance of the Lessee's Construction Work, the Lessee shall not employ any contractor nor shall the Lessee or any of its contractors employ any persons or use or have any equipment or materials or allow any condition to exist if any such shall or, in the opinion of the Port Authority, may cause or be conducive to any labor troubles at the Facility which interfere, or in the opinion of the Port Authority are likely to interfere, with the operations of others at the Facility or with the progress of other construction work thereat. The determinations of the Port Authority shall be conclusive to the Lessee. Upon notice from the Port Authority, the Lessee shall immediately remove such contractor or withdraw or cause its contractors to withdraw from the Facility, the persons, equipment or materials specified in the notice and replace them with unobjectionable contractors, persons, equipment and materials and the Lessee shall or shall cause its contractor to immediately rectify any condition specified in the notice. In the event of failure by the Lessee or any of its contractors to immediately comply with the requirements of this paragraph (whether or not such failure is due to the Lessee's fault), the Port Authority shall have the right to suspend the Lessee's right to perform the Lessee's Construction Work without prior notice; when the labor troubles shall be so settled that such interferences or the danger thereof no longer exists, the Port Authority, by notice to the Lessee, shall reinstate said right on all the same terms and conditions as before the suspension. *"Labor troubles"* shall mean and include strikes, boycotts, picketing, work-stoppages, slowdowns, complaints, disputes, controversies or any other type of labor trouble, regardless of the employer of the person involved or their employment status, if any.

(x) In the performance of the Lessee's Construction Work, the Lessee shall not exacerbate the environmental condition of the Premises or the Facility or interfere with any environmental clean-up or remediation work being performed at the Premises whether by the Port Authority of others.

(l) ***Reports.*** Without limiting any other term, provision or condition hereof, the Lessee agrees to provide the General Manager of the Facility, at the Lessee's cost and expense, with such information, documentation, records, correspondence, notices, reports, test results, certifications and any other information necessary to carry out the terms, provisions and conditions of this Agreement and to allow the Port Authority to determine whether the Lessee is in compliance therewith. In addition, the Lessee shall provide to the Port Authority copies of all information, documentation, records, correspondence, requests, approvals, notices, certifications, reports, test results, submittals and all other written communication between a Governmental Authority and the Lessee with respect to the Lessee's Construction Work at the same time the same are provided by the Lessee to a Governmental Authority and within two (2) business days of when the same are provided to the Lessee by a Governmental Authority.

(m) ***Review Fee***

(i) The Lessee shall be under no obligation to reimburse the Port Authority for expenses incurred by the Port Authority in connection with its normal review and approval of the plans and specifications for the improvement of the trailer doors, submitted by the Lessee pursuant to this Agreement.

(ii) The Lessee, however, agrees to pay to the Port Authority upon its demand the expenses incurred by the Port Authority in connection with (x) any additional review for approval of any changes, modifications or revisions of the original plans and specifications for the improvement of the trailer doors or (y) any other plans and specifications, which may be proposed by the Lessee for the Port Authority's approval. The Lessee shall pay to the Port Authority a fee as compensation for such review and oversight of the Lessee's Construction Work and any other work performed by the Lessee, including, but not limited to, the Port Authority's cost of administration with regard to the Port Authority's review of any Tenant Alteration Applications (the "***Review Fee***"). The Review Fee shall be an amount equal to the greater of the following: (1) one percent (1%) of the actual cost of the Lessee's Construction Work, or (2) the rate of the fee, if any, payable to the Port Authority for review of tenant work at the Facility under the Port Authority's Tenant Construction and Alteration Process at the time the Lessee submits any Tenant Alteration Application required under this Section. Upon final completion of all of the work under each specific contract to be performed by the Lessee as set forth in the Lessee's approved plans and specifications, the Lessee shall submit to the Port Authority a certification signed by a responsible officer thereof certifying that all such work has been completed and the final cost of such work. The Lessee shall also supply to the Port Authority such supporting documents and records as the Port Authority shall deem necessary to substantiate the matters set forth in the Lessee's certificate. The Port Authority shall have the right (but shall not be obligated) to conduct an interim inspection and audit in connection with the work performed under the specific contract certified as completed and shall have the rights in the conduct of such interim inspection and audit as are set forth below in this paragraph with regard to the final inspection and audit. Upon receipt of the Lessee's certification, or following the aforesaid audit by the Port Authority, the Port Authority shall render a bill to the Lessee setting forth the Review Fee for the specific contract, and the Lessee shall pay the Review Fee to the Port Authority within fifteen (15) days of receipt of said bill. No payment made by the Lessee on account of the cost under a specific contract as set forth in the immediately preceding sentence shall be considered final until the final determination of the cost of the Lessee's Construction Work, as set forth below in this paragraph, has occurred. Upon final completion of all of the Lessee's Construction Work, the Lessee shall submit to the Port Authority a certification signed by a responsible officer thereof certifying that all such work has been completed and the final cost of such work. The Lessee shall also supply to the Port Authority such supporting documents and records as the Port Authority shall deem necessary to substantiate the matters set forth in the Lessee's certificate. Upon receipt of the Lessee's certification, the Port Authority shall render a bill to the Lessee setting forth the Review Fee for each specific contract for which the Lessee has not previously made payment under the provisions of this paragraph, and the Lessee shall pay the Review Fee for each such specific contract to the Port Authority within fifteen (15) days of receipt of said bill. No payment made

by the Lessee on account of the cost of the Lessee's Construction Work pursuant to the provisions of this paragraph, including, without limitation, any payment made by the Lessee following the Port Authority's receipt of the Lessee's final certification of cost, shall be considered final until the final determination of the cost of the Lessee's Construction Work as set forth below in this paragraph. Such final determination shall occur only after the Port Authority has examined and approved the Lessee's final certificate of cost and such records and other documentation of the Lessee as the Port Authority shall deem necessary to substantiate such cost. The Lessee shall permit the Port Authority by its agents, employees and representatives at all reasonable times prior to a final determination of the cost of the Lessee's Construction Work to examine and audit the records and other documentation of the Lessee that pertain to and will substantiate such cost.

Section 16. Maintenance and Repair

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

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

(c) ***Repairs and Replacements.*** The Lessee shall assume the entire responsibility, be liable for and shall indemnify the Port Authority from any Claims arising from or in connection with, all care, maintenance, repair and rebuilding whatsoever in the Premises, whether ordinary or extraordinary, partial or entire, inside or outside, foreseen or unforeseen, structural or otherwise, with respect to all parts of the Premises, all utilities related to the Premises, all other fixtures, machinery or equipment now or hereafter belonging to or connection with the Premises or operations being conducted thereon, including without limitation such of the following as are or may be during the term of the letting located in or on the Premises: (1) electrical system, equipment and fixtures, (2) plumbing (3) lighting, (4) signs, (5) fire extinguishers, (6) security measures (including cameras, fencing, guard booths and Jersey barriers) implemented on the Premises, (7) all paving, (8) snow plowing, (9) sprinkler systems, (10) metered gas and electric, (11) painting and (12) catch basins and storm sewer drains, which are to be kept fully functional, clear of obstruction and fee of damage at all times. The Lessee shall take the same good care of the Premises that would be taken by a reasonably prudent owner who desired to keep and maintain the same so that at the expiration or termination of the letting and at all times during the letting, the same (or a reconstruction of all or any part thereof) will be in as good condition as at the commencement thereof (or, in the case of improvements made during the letting hereunder, in as good condition as at the time of the installation or construction thereof), except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the building or other structures on the Premises or adversely affect the efficient or the proper utilization of any part of the Premises. To that end, the Lessee shall make frequent periodic inspections and, from time to time as the

necessity therefor arises and regardless of the cause of the condition requiring the same, the Lessee shall perform all necessary preventive maintenance including but not limited to painting, and, except under circumstances as set forth in paragraphs (b) or (c) of the Section entitled *"Casualty"*, the Lessee shall make all necessary repairs and replacements and do all necessary rebuilding with respect to all parts of the Premises, all of which shall be in quality equal to the original in materials and workmanship as of the Effective Date, except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the building or other structures on the Premises or adversely affect the efficient or the proper utilization of any part of the Premises, and regardless of whether such repairs and replacements are structural or non-structural, ordinary or extraordinary, foreseen or unforeseen. The Lessee shall commence to perform each of its obligations hereunder within twenty (20) days after notice from the Port Authority and shall thereafter continue the same to completion with reasonable diligence.

(d) ***Roof.*** Notwithstanding paragraph (c) of this Section, the Lessee shall not be responsible or liable for the care, repair or maintenance of the roof of the Building, unless a replacement roof is constructed and installed by the Port Authority (the ***"New Roof Construction"***). If the Port Authority replaces the roof, after the completion of the New Roof Construction, the Lessee shall be responsible for, liable for and shall indemnify the Port Authority from any and all Claims arising from or in connection with, the care, maintenance, repair and rebuilding whatsoever of such new roof as further provided in paragraph (c) of this Section. If the Lessee is unable to use a portion of any enclosed space within the Premises as permitted hereunder, and such inability (i) is due to the New Roof Construction and (ii) occurs during the Port Authority's performance of the New Roof Construction, the Basic Rental shall be abated pursuant to paragraph (c) of the Section of this Agreement entitled *"Basic Rental"*. Notwithstanding the foregoing in this paragraph (d), the Lessee shall repair, replace, rebuild and paint all or any part of the roof which may be damaged or destroyed by the acts or omissions of the Lessee or by those of its officers, employees or of other persons on or at the Premises with the consent of the Lessee.

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

Section 17. Services

(a) ***Utilities.*** The Port Authority shall be under no obligation to supply the Lessee with any services provided by utility companies and other service providers, including but not limited to water, gas, electricity, sewer service, heat, steam, air-conditioning, telephone, telegraph, cable, or electrical guard or watch service.

(b) ***Water-bills.*** The Lessee shall promptly pay all water-bills covering its own consumption. In the event that any such water-bill or bills shall remain unpaid for a period of six

(6) months after the same becomes due and payable, or in the event that any such bill remains unpaid at the date of expiration or earlier termination of the letting under this Agreement, the Port Authority may pay the same and any interest or penalties thereon, and the total payment or payments shall constitute an item of additional rental, payable to the Port Authority on demand.

(c) ***Heat.***

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

(ii) As required by that certain Tank Loan Agreement for 2,000 Gallon Aboveground Fuel Oil Tank (the "***Tank Loan Agreement***"), by and between John Duffy Fuel Co. ("***Duffy***") and the Port Authority (as successor-in-interest to Rabbit Hill, Inc.), the Lessee hereby agrees to obtain, at the Lessee's sole cost and expense, oil for all of the oil-based heaters on the Premises from Duffy until the entire Building's heating system is converted by the Port Authority from an oil-based system to a gas-based system (the "***Conversion***"). Until the Conversion is completed and notwithstanding paragraph (c) of the Section of this Agreement entitled "*Maintenance and Repair*", the Port Authority shall be responsible and liable for the maintenance and repair of (x) the oil tank loaned to the Port Authority (the "***Tank***") pursuant to the Tank Loan Agreement and (y) the portions of the Building's heating system that is oil-based. Upon the completion of the Conversion, the Lessee shall be responsible for, liable for and shall indemnify the Port Authority from any and all Claims arising from or in connection with the care, maintenance, repair and rebuilding whatsoever of the Building's heating system as further provided in paragraph (c) of the Section of this Agreement entitled "*Maintenance and Repair*".

(iii) The Port Authority and Duffy may access the Premises at any time to remove the Tank and any and all associated equipment (the "***Removal***"). After the Removal is completed, the Port Authority and/or Duffy shall return the portion or portions of the Premises affected by the Removal (the "***Affected Portion***") to the same or better condition that existed immediately prior to the commencement of the Removal process. The determination as to (x) what constitutes the Affected Portion and (y) the condition of the Affected Portion that existed immediately prior to the Removal, shall be in the Port Authority's sole discretion.

(iv) If the Lessee is unable to use a portion of any enclosed space within the Premises as permitted hereunder, and such inability (i) is due to the Removal or the Conversion and (ii) occurs during the Port Authority's performance of the Removal or the Conversion, the Basic Rental shall be abated pursuant to paragraph (c) of the Section of this Agreement entitled "*Basic Rental*".

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

Authority exercised at any time and from time to time by notice to the Lessee, pay, in accordance with any such notice, such charge, fee, rent or assessment or such increase thereof (or the portion thereof allocated by the Port Authority to the Premises or to the operations of the Lessee under this Agreement) either directly to the governmental body, authority or agency, or to the public utility or other entity, or directly to the Port Authority, as such notice may direct. All such payments shall constitute items of additional rental.

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

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

Section 18. Rights of Entry Reserved

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

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

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

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

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

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

(g) Subject to paragraph (d) of the Section of this Agreement entitled *"Maintenance and Repair"*, the exercise of any or all of the foregoing rights by the Port Authority or others shall not be or be construed to be an eviction of the Lessee nor be made the grounds for any abatement of rental nor any claim or demand for damages, consequential or otherwise.

Section 19. Property Insurance.

(a) ***Property Insurance.*** The Lessee shall, during the term of this Agreement, insure and keep insured to the extent of the full replacement cost thereof, all buildings, structures, improvements, installations, facilities and fixtures now or in the future located on the Premises when the same are located on the Premises against all risks of physical loss or damage, including loss against flood and earthquake, if available, and if not available, then against such hazards and risks as may now or in the future be included under a standard form of fire and extended coverage insurance policy available in the State of New Jersey including damage or loss by windstorm, cyclone, tornado, hail, explosion, riot, civil commotion, aircraft, vehicles, flood, earthquake and smoke, and, if the Port Authority so requests, also covering nuclear property losses and contamination hazards and risks (if such coverage is or becomes available) and boiler and machinery hazards and risks in a separate insurance policy or policies or as an additional coverage endorsement to the aforesaid policies in the form as may now or in the future be prescribed as of the effective date of said insurance by the Rating Organization having jurisdiction or the Director of Insurance of The State of New Jersey and the Lessee shall furthermore provide additional insurance with respect to the Premises covering any other property risk that the Port Authority may at any time during the term of this Agreement cover by carrier or self-insurance covered by appropriate reserves at other locations at the Facility upon written notice to the Lessee to such effect.

(b) ***Insureds.*** The aforesaid insurance coverages and renewals thereof shall insure the Port Authority and the Lessee, as their interests may appear, and shall provide that the loss, if any, shall be adjusted with and payable to the Port Authority.

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

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

(e) ***References to "Insurance".*** Regardless, however, of the persons whose interests are insured, the proceeds of all policies covered by this Section 2 shall be applied as provided in the Section of this Agreement entitled "*Casualty*"; and the word "insurance" and all other references to insurance in said Section shall be construed to refer to the insurance which is the subject matter of this Section, and to refer to such insurance only.

(f) ***Insurance Requirements.*** The insurance covered by this Section shall be written by companies approved by the Port Authority, the Port Authority covenanting and agreeing not to withhold its approval unreasonably. All insurance coverages and policies required under these Sections may be reviewed by the Port Authority for adequacy of terms, conditions and limits of coverage at any time and from time to time during the term this Agreement remains in effect. The Port Authority at any such time may make additions, deletions, amendments to or modifications of the above-scheduled insurance requirements and may require such other and additional insurance, in such reasonable amounts, against such other insurable risks and hazards, as the Port Authority may deem advisable and the Lessee shall promptly comply therewith.

Section 20. Casualty

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

(b) ***Minor Damage.*** If the Premises, or any part thereof, shall be damaged by fire, the elements, the public enemy or other casualty but not rendered untenantable or unusable for a period of ninety (90) days, the Premises shall be repaired with due diligence in accordance with the plans and specifications for the Premises as they existed prior to such damage by and

at the expense of the Lessee and if such damage is covered by insurance, the proceeds thereof shall be made available to and be used by the Lessee for that purpose. The Basic Rental shall be abated as provided in paragraph (c) of the Section of this Agreement entitled *"Basic Rental"*, for the period from the occurrence of the casualty to the date that is the earlier of (i) the completion of the repairs or rebuilding and (ii) ninety (90) days.

(c) ***Major Damage to or Destruction of the Premises.***

(i) If the Premises, or any part thereof, shall be destroyed or so damaged by fire, the elements, the public enemy or other casualty as to be untenantable or unusable for ninety (90) days, or if within thirty (30) days after such damage or destruction the Lessee notifies the Port Authority in writing (the "Major Casualty Notification") that in its opinion said Premises will be untenantable or unusable for ninety (90) days, then the Lessee shall either (x) terminate this Agreement and assign to the Port Authority any insurance proceeds received in connection with such destruction or damage or (y) proceed with due diligence to make the necessary repairs or replacements to restore such Premises in accordance with the plans and specifications for the Premises as the same existed prior to such damage or destruction; or with the approval in writing of the Port Authority make such other repairs, replacements or changes as may be desired by the Lessee and the Basic Rental shall be abated as provided in paragraph (c) of the Section of this Agreement entitled *"Basic Rental"*, for the period from the occurrence of the casualty to the date that is the earlier of (i) the completion of the repairs or rebuilding and (ii) ninety (90) days. If such destruction or damage was covered by insurance, the proceeds thereof shall be made available to the Port Authority and be used by the Lessee for such restoration.

(ii) If the Lessee elects to terminate this Agreement pursuant to paragraph (c)(i) of this Section, then Lessee shall: (x) inform the Port Authority of such termination in the Major Casualty Notification; (y) pay to the Port Authority an amount equal to the then present value of the sum of the Basic Rental at an interest rate equal to the Revenue Bond Index for the week that includes the date that the Port Authority received notice of such termination from the Lessee that would have been paid by the Lessee to the Port Authority if this Agreement expired on the Expiration Date as such date may have been extended.

(d) ***Limited to Proceeds.*** The obligation of the Lessee to repair the Premises or any portion thereof pursuant to paragraph (b) of this Section shall be limited to the amount of the insurance proceeds provided the Lessee has carried insurance to the extent and in accordance with the Section of this Agreement entitled *"Property Insurance"*. Any excess of the proceeds of insurance over costs of the restoration shall be retained by the Port Authority.

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

Section 21. Condemnation

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

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

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

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

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

such taking, and such termination shall be effective as if the date of such taking were the original date of expiration hereof.

Section 22. Assignment and Sublease

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

(b) The Lessee shall not sublet the Premises, or any part thereof, without the prior written consent of the Port Authority.

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

(d) The Lessee further covenants and agrees that it will not use or permit any person whatsoever to use the Premises or any portion thereof for any purpose other than as provided in the Section entitled *"Use"*.

(e) Notwithstanding paragraph (a) above, the Lessee shall have the right to sublease or assign the Lease upon written consent and approval of the Port Authority (an ***"Approved Assignment"*** or ***"Approved Sublease,"*** as applicable).

i. If the rental under an Approved Sublease (the ***"Sublease Rental"***) is greater than the Basic Rental, the Lessee shall pay to the Port Authority fifty percent (50%) of that portion of the Sublease Rental that is equal to the Sublease Rental less the Basic Rental (the ***"Overage Rental"***). The Lessee shall pay the Overage Rental, if any, to the Port Authority in the same manner and simultaneously with the Lessee's payment of the Basic Rental to the Port Authority.

ii. For any Approved Assignment, the Lessee shall pay a fee (the ***"Assignment Consent Fee"***) to the Port Authority for the Port Authority's cost of administration with regard to the Port Authority's review, approval and consent of such Approved Assignment (the ***"Consent Process"***). The Assignment Consent Fee shall be equal to ten percent (10%) of the net present value of the gross Basic Rental payable to the Port Authority for the unexpired portion of the Term, at a discounted rate equal to five percent (5%).

(f) The transfer or issuance of any capital stock of any corporate lessee, the transfer of any membership interests of any limited liability company lessee or the transfer of a controlling interest in any partnership lessee, however accomplished, whether in a single transaction or in a series of related or unrelated transactions that aggregate fifty percent (50%)

or more of the outstanding shares of the capital stock and voting rights, membership interests or partnership interest in the Lessee shall be deemed an assignment of this Agreement subject to paragraph (e) of this Section.

(g) The Lessee further covenants and agrees not to enter into any management agreement or service agreement or any other similar type of agreement for the Premises without the prior written consent of the Port Authority.

(h) Any sublease, assignment, transfer, mortgage, pledge, hypothecation, encumbrance or disposition of the Premises or of the rents, revenues or any other income from the Premises, or this Agreement or any part hereof, or any license or other interest of the Lessee herein that is not made in accordance with the provisions of this Agreement shall be null and void *ab initio* and of no force and effect.

Section 23. Limitation of Rights and Privileges Granted

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

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

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

Section 24. Prohibited Acts

(a) The Lessee shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of the drainage and sewerage system, water system, communications system, fuel system, electrical, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses and other systems, if any, installed or located on, under, or in the Premises.

(b) The Lessee shall not dispose of nor permit any one to dispose of any waste material (whether liquid or solid) by means of the toilets, manholes, sanitary sewers or storm

sewers in the Premises or on the Facility except after treatment in installations or equipment included in plans and specifications submitted to and approved by the Port Authority.

(c) The Lessee shall not operate any engine or any item of automotive equipment in any enclosed space on the Premises unless such space is adequately ventilated and unless such engine or item of automotive equipment is equipped with a proper spark arresting device which has been approved by the Port Authority.

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

(e) The Port Authority, by itself or by contractors, lessees or permittees, shall have the exclusive right to install, maintain and receive the revenues from all coin-operated or other vending machines or devices installed by it and operated on the Premises for the sale of merchandise of all types or for the rendering of services.

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

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

(h) The Lessee shall not keep or store in the Premises, explosives, inflammable liquids or solids or oxidized materials or use any cleaning materials having a harmful corrosive effect on any part of the Premises, except for those materials normally used in the operation of a marine terminal and stored in a structure normally used for the storage of such materials and made safe for the storage thereof.

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

(j) The Lessee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on or from the Premises, and shall not dispose of, release or discharge or permit anyone subject to its control or authority to dispose of, release or discharge any Hazardous Substance at the Facility. Any Hazardous Substance disposed of, released or discharged by the Lessee (or permitted by the Lessee to be disposed of, released or discharged) on or from the Premises or at the Facility, shall upon notice by the Port Authority to the Lessee and subject to the provisions of the Section of this Agreement entitled

"Additional Rent and Charges", be completely removed, cleaned up and/or remediated by the Lessee. The obligations of the Lessee pursuant to this paragraph shall survive the expiration or termination of this Agreement.

Section 25. Termination

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

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

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

iii. 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

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

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

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

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

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

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

x. The Lessee shall fail duly and punctually to pay the Basic Rental or to make any other payment required hereunder when due to the Port Authority; or

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

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

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

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

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

Section 26. Effect of Termination

(a) Notwithstanding any other term or condition hereof, as of April 1, 2021 and each anniversary of such date until and including April 1, 2026, this Agreement may at any time be terminated by the Port Authority without cause upon one (1) year's prior notice, and terminated by the Lessee without cause upon one (1) year's prior notice; provided, however, that it may be

terminated on twenty-four (24) hours' notice if the Lessee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Agreement, including without limitation the obligation to pay any rental. Further, in the event the Port Authority exercises its right to revoke or terminate this Agreement for any reason other than "without cause", the Lessee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space which may be used and occupied under this Agreement (on failure of the Lessee to have it restored), preparing such space for use by a succeeding lessee, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the space in order (such as but not limited to cleaning and decorating the same). Unless sooner revoked or terminated, the term shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Lessee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

(b) No exercise by the Port Authority of any right of revocation or termination granted to it in this Section shall be deemed to be a waiver of any other rights of revocation or termination contained in this Section or elsewhere in this Agreement or a waiver of any other rights or remedies which may be available to the Port Authority under this Agreement or otherwise.

Section 27. Right of Re-entry

The Port Authority shall, as an additional remedy upon the giving of a notice of termination as provided in the Section entitled *"Termination"*, 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 28. Waiver of Redemption

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

Section 29. Survival of the Obligations of the Lessee

(i) In the event that the letting shall have been terminated in accordance with a notice of termination as provided in the Sections entitled *"Termination"* and *"Effect of Termination"* unless such termination is "without cause", or the interest of the Lessee shall have been cancelled pursuant thereto, or in the event that the Port Authority has re-entered, regained or resumed possession of the Premises in accordance with the provisions of the Section entitled *"Right of Entry Reserved"*, all of the obligations of the Lessee under this Agreement shall survive such termination or cancellation, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of the letting, as originally fixed in the Section entitled *"Term"*, and the amount or mounts of damages or deficiency shall become due and payable to the Port Authority to the same extent, at the same time or times and in the same manner as if no termination, cancellation, re-entry, regaining or resumption of possession had taken place. The Port Authority may maintain separate actions each month to recover the damage or deficiency then due or at its option and at any time may sue to recover the full deficiency less the proper discount, for the entire unexpired term. Notwithstanding the foregoing, the Port Authority shall use reasonable efforts to mitigate any damages or deficiencies by re-letting the Premises for such rent and upon such terms as the Port Authority deems reasonable under the circumstances.

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

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

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

Section 30. Reletting by the Port Authority

The Port Authority, upon termination or cancellation pursuant to the Section entitled *"Termination"*, or upon any re-entry, regaining or resumption of possession pursuant to the Section entitled *"Right of Entry Reserved"*, 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 Section entitled *"Termination"*, or upon re-entry,

regaining or resumption of possession pursuant to the Section entitled *"Right of Entry Reserved"*, have the right to repair and to make structural or other changes in the Premises, including changes which alter the character of the Premises and the suitability thereof for the purposes of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder. In the event either of any reletting or of any actual use and occupancy by the Port Authority (the mere right to use and occupy not being sufficient however) there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, Lessee or other occupier in connection with the use of the Premises or portion thereof during the balance of the term of the letting as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the Premises as the Port Authority may itself during such period actually use and occupy, all expenses, costs and disbursements incurred or paid by the Port Authority in connection therewith. No such reletting or such use and occupancy shall be or be construed to be an acceptance of a surrender.

Section 31. Remedies to Be Nonexclusive

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

Section 32. Surrender

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

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

Section 33. 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 34. Affirmative Action

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

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

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

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

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

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

Section 35. Environmental Compliance

(a) ***No Release of Hazardous Substances.*** The Lessee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on, or under the Premises or into any ditch, conduit, stream, storm sewer, or sanitary sewer connected thereto or located at the Facility. Any Hazardous Substance disposed of, released or discharged by the Lessee (or permitted by the Lessee to be disposed of, released or discharged) on the Premises or at the Facility, shall upon notice by the Port Authority to the Lessee and subject to the provisions of all Environmental Requirements be completely removed and/or Remediated by the Lessee.

(b) ***Compliance with Environmental Requirements.*** Without limiting the Lessee's obligations elsewhere under this Agreement to comply with all laws, ordinances, governmental rules, regulations and orders which were or at any time are in effect during the term, the Lessee understands and agrees that, except as provided in paragraph (d) of this Section, it shall be obligated, at its cost and expense, to comply with, and relieve the Port Authority from compliance with, all Environmental Requirements which are applicable to or which affect (w) the Premises, (x) the operations of, or work performed by, the Lessee or others with the consent of the Lessee at the Premises or the Lessee's operations at the Facility, (y) the occupancy and use of the Premises by the Lessee or by others with its consent or (z) any Hazardous Substance which has migrated from the Premises. Nothing in the foregoing shall be construed as a submission by the Port Authority to the application to itself of any Environmental Requirements; provided, however, that no immunity or exemption of the Port Authority from any Environmental Requirements shall excuse compliance or be grounds for noncompliance on the part of the Lessee. Without limiting the generality of the foregoing and as part of the Lessee's fulfillment of the foregoing obligations, the Lessee shall be responsible, at its sole cost and expense and subject to the direction of the Port Authority, for:

(i) the preparation of and submission to all applicable Governmental Authorities of any notice, negative declaration, no further action letter, remediation agreement or any other documentation or information;

(ii) the obtaining of any surety bond or the giving of any other financial assurances; and

(iii) complying with the provisions of all Environmental Requirements becoming effective on or relating to the termination, expiration or surrender of the letting of the Premises or of any portion thereof under this Agreement, or on the closure or transfer of the Lessee's operations at the Premises.

(c) ***Environmental Site Assessment.*** Promptly, when required by any applicable federal, state, or local regulatory authority, the Lessee shall perform, at its sole cost and expense, an environmental site assessment reasonably acceptable to the Port Authority to determine the extent, if any, of contamination of the Premises resulting from or in connection with the use and occupancy of the Premises by the Lessee and shall, at its sole cost and expense, clean up, remove, and Remediate (i) all Hazardous Substances in, on, or under the Premises, (ii) any petroleum in, on, or under the Premises in excess of allowable levels, and (iii) all contaminants and pollutants in, on, or under the Premises that create or threaten to create a substantial threat to human health or the environment and that are required to be removed, cleaned up, or Remediated by any and all applicable environmental requirements.

(d) ***Acts by the Port Authority.*** Notwithstanding the foregoing, it is hereby agreed and understood that the Lessee shall not be responsible for the Remediation or removal of Hazardous Substances in the soil or groundwater in, on or under the Premises caused by the sole acts or omissions of the Port Authority prior to, on or after the Effective Date.

(e) ***Obligation to Remediate.*** In addition to and without limiting the generality of the obligations of the Lessee set forth above and elsewhere in this Agreement, the Lessee shall, at its sole cost and expense, upon notice from the Port Authority, promptly take all actions to:

(i) except as provided in paragraph (d) of this Section, completely remove and Remediate all Hazardous Substances in, on and under the Premises and at the Facility resulting from or in connection with the use and occupancy of the Premises by the Lessee or any affiliate or which have been or permitted to be disposed of, released, discharged or otherwise placed in, on or under the Facility by the Lessee or any affiliate or which have been disposed of, released, discharged or otherwise placed in, on or under the Premises during the term of the letting of the Premises under this Agreement or during the term of any previous agreement between the Lessee and the Port Authority covering the Lessee's or any such affiliate's use and/or occupancy of the Premises or any portion thereof;

(ii) except as provided in paragraph (d) of this Section, remove and Remediate all Hazardous Substances in, on or under the Premises or which have migrated from the Premises to any other property that (x) any Governmental Authority or any Environmental

Requirement or any violation thereof require to be Remediated or removed and (y) were caused by or resulted from the use and occupancy of the Premises by the Lessee or by any affiliated company of the Lessee, or the performance of any work by any of them, or the acts or omissions of the Lessee, its officers, agents or employees, or the acts or omissions of any affiliated company of the Lessee or of any sublessees or others who occupied the Premises with the permission of the Lessee or with the permission of an affiliated company of the Lessee or their officers, agents or employees; and

(iii) except as provided in paragraph (d) of this Section, remove and Remediate all Hazardous Substances in, on or under the Premises or which have migrated from or from under the Premises necessary to mitigate any Environmental Damages that were caused by or resulted from the use and occupancy of the Premises by the Lessee or by any affiliated company of the Lessee, or the performance of any work by any of them, or the acts or omissions of the Lessee, its officers, agents or employees, or the acts or omissions of any affiliated company of the Lessee or of any sublessees or others who occupied the Premises with the permission of the Lessee or with the permission of an affiliated company of the Lessee or their officers, agents or employees.

(f) ***Asbestos Abatement And Removal.*** Except as provided in paragraph (d) of this Section, if (i) any asbestos or asbestos-containing materials requiring removal, abatement or Remediation pursuant to any Environmental Requirement is or becomes located in any structures (whether above-grade or below-grade) on the Premises and (ii) the need for such removal, abatement or Remediation was caused by or resulted from the use and occupancy of the Premises by the Lessee or by any affiliated company of the Lessee, or the performance of any work by any of them, or the acts or omissions of the Lessee, its officers, agents or employees, or the acts or omissions of any affiliated company of the Lessee or of any sublessees or others who occupied the Premises with the permission of the Lessee or with the permission of an affiliated company of the Lessee or their officers, agents or employees., the Lessee shall conduct the complete abatement and removal of all of such asbestos and asbestos-containing materials located in all structures (whether above-grade or below-grade) and the handling, transporting and off-Facility disposal thereof (including, if required, disposal of asbestos in an off-Facility long-term asbestos disposal facility), all of the foregoing to be performed and completed in accordance with Environmental Requirements.

(g) ***Port Authority Remedies.*** Without limiting the Port Authority's other remedies under this Agreement or, generally, at law or equity, the Port Authority shall have the right, during and after the term, to such equitable relief, including restraining injunctions and declaratory judgments, to enforce compliance by the Lessee of its environmental obligations under this Agreement, including without limitation all the Lessee's obligations under this Section and the Section of this Agreement entitled *"Environmental Obligations"*. In the event that the Lessee fails to comply with or perform any of such obligations, the Port Authority at any time during or subsequent to the termination, expiration or surrender of the letting of the Premises or any portion thereof may elect (but shall not be required) to perform such obligations, and

upon demand the Lessee shall pay to the Port Authority as additional rent its costs thereof, including all overhead costs as determined by the Port Authority.

(h) ***Information and Reports.*** Without limiting any other of the Lessee's obligations under this Agreement and except as provided in paragraph (d) of this Section, the Lessee, at its sole cost and expense, shall provide the General Manager of the Facility with such information, documentation, records, correspondence, notices, reports, tests, results, and certifications and any other information as the Port Authority may request in connection with any Environmental Requirements or Environmental Damages, and the Lessee shall promptly acknowledge, swear to, sign or otherwise fully execute the same. The Lessee agrees that any of the foregoing may be filed by the Port Authority with the appropriate Governmental Authority on behalf of the Lessee at the Lessee's cost and expense. Further, the Lessee agrees, unless directed otherwise by the Port Authority, to provide the General Manager of the Facility with copies of all information, documentation, records, correspondence, notices, certifications, reports, test results and all other submissions provided by the Lessee to a Governmental Authority, and by a Governmental Authority to the Lessee, within two (2) business days after the same have been made available to or received by the Lessee with respect to any Environmental Requirements or Environmental Damages.

(i) ***Indemnification.*** Without limiting the generality of any other provision of this Agreement, and except as provided in paragraph (d) of this Section, the Lessee shall indemnify, hold harmless and reimburse the Port Authority, its Commissioners, officers, employees and representatives from all claims, demands, penalties, fines, liabilities (including strict liability), settlements, attorney and consultant fees, investigation and laboratory fees, removal and Remediation costs, court costs and litigation expenses, damages, judgments, losses, costs and expenses of whatsoever kind or nature and whether known or unknown, contingent or otherwise, just or unjust, groundless, unforeseeable or otherwise, arising or alleged to arise out of or in any way related to any Environmental Damages or any Environmental Requirement that the Lessee is obligated to comply with pursuant to this Agreement, or the risks and responsibilities assumed hereunder by the Lessee for the condition of the Premises or a breach or default of the Lessee's obligations under this Section. If so directed, the Lessee shall at its own expense defend any suit based upon the foregoing, and in handling such it shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.

(j) ***Compliance Standard.***

(i) Without limiting the generality of any provision of this Agreement, in the event that any Environmental Requirement sets forth more than one compliance standard, the Lessee agrees that the standard or standards to be applied in connection with any obligation it may have under this Agreement with respect to such Environmental Requirement shall be that which requires or permits the lowest level of a Hazardous Substance; provided,

however, that in the event such lowest level of a Hazardous Substance (x) requires or allows the imposition of any restriction of any nature whatsoever upon the use or occupancy of the Premises or any other portion of the Facility or upon any operations or activities conducted or to be conducted on the Premises or the Facility or upon the transfer of the Premises or the Facility or (y) is not in compliance with the Basic Lease, then the Lessee shall Remediate to such a level so that there is no such restriction placed upon the use and occupancy of the Premises or the Facility or upon any operations or activities conducted or to be conducted on the Premises or the Facility.

(ii) The Lessee further agrees that, notwithstanding the terms and conditions of paragraph (j)(i) above, the Port Authority shall have the right at any time and from time to time, acting in its sole discretion and without any obligation whatsoever to the Lessee or otherwise to do so, to designate any level or levels or standard or standards of Remediation permitted or required under any Environmental Requirement, and such designation shall be binding upon the Lessee with respect to its obligations under this Agreement with respect to Environmental Requirements.

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

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

Section 36. Environmental Obligations

(a) ***Definitions.*** For the purposes of this Agreement, the following terms shall have the respective meaning provided below:

(i) ***"Condition Exceptions"*** shall mean the following:

(1) The remediation or removal of Hazardous Substances in the soil or groundwater in, on or under the Premises caused by the sole acts or omissions of the Port Authority on or after the Effective Date;

(2) The remediation or removal of Migrated Hazardous Substances; and

(3) Any conditions that existed prior to the Effective Date, unless such conditions become exacerbated by the use and occupancy of the Premises by the Lessee or by any affiliated company of the Lessee, or the performance of any work by any of them, or the acts or omissions of the Lessee, its officers, agents or employees, or the acts or omissions of any affiliated company of the Lessee or of any sublessees or others who occupied the Premises with the permission of the Lessee or with the permission of an affiliated company of the Lessee or their officers, agents or employees.

(ii) ***"Initial Environmental Report"*** shall mean the environmental report written in connection with an initial Phase I and audit of the Premises pursuant to the "Environmental Site Assessment Scope of Work" as described on "Exhibit C", attached hereto and hereby made a part hereof, as the same may be supplemented and amended pursuant to paragraph (g) of this Section by test results set forth in a Remediation Completion Report for soil and water samples taken prior to the Effective Date (the ***"Initial Phase I and Audit"***), provided, however, the Initial Environmental Report shall not contain any test results on samples taken from locations which are not located on the Premises.

(iii) ***"Lessee's Act"*** shall mean any act or omission of the Lessee or by any affiliated company of the Lessee or of any of their agents, contractors, sublessees, representatives, or others on the Premises with the consent of the Lessee or any affiliated company of the Lessee (excluding, however, use by third parties of any right of way through the Premises granted by this Agreement) or over whom the Lessee has control.

(iv) ***"Migrated Hazardous Substances"*** shall mean any Hazardous Substance that has migrated onto the Premises from outside the Premises, provided, however, Migrated Hazardous Substances shall in no event include any Hazardous Substances that have migrated as a result of or in connection with any Lessee's Act.

(b) ***Initial Phase I and Audit.*** Prior to the first anniversary of the Effective Date, the Port Authority shall perform the Initial Phase I and Audit at the Port Authority's sole cost and expense.

(c) ***Similarly Situated Persons.*** The Port Authority has advised the Lessee that it is the intention of the Port Authority with respect to the application of pollution prevention programs, "best management practices plans" and other voluntary programs adopted and agreements made by the Port Authority with any governmental agencies, departments, commissions, boards, bureaus or instrumentalities of the United States, states and political

subdivisions thereof constituting Environmental Requirements that the Port Authority will treat the Lessee in a similar manner as similarly situated Persons at the Facility.

(d) ***Liability for the Condition of the Premises.*** Without limiting the generality of any of the other terms and provisions of this Agreement, the Lessee hereby expressly agrees to assume all responsibility for, relieve the Port Authority from, and reimburse the Port Authority for, any and all risks, claims, penalties, costs and expenses of any kind whatsoever caused by, arising out of or in connection with, the condition of the Premises that were caused by or resulted from the use and occupancy of the Premises by the Lessee or by any affiliated company of the Lessee, or the performance of any work by any of them, or the acts or omissions of the Lessee, its officers, agents or employees, or the acts or omissions of any affiliated company of the Lessee or of any sublessees or others who occupied the Premises with the permission of the Lessee or with the permission of an affiliated company of the Lessee or their officers, agents or employees, including without limitation all Environmental Requirements and all Environmental Damages, and to indemnify and hold harmless the Port Authority for all such risks, claims, penalties, responsibilities, costs and expenses.

(e) ***Disposal of Matter.***

(i) It is expressly understood and agreed that the proper handling, delivery, treatment, storage, transportation, disposal and depositing (all of the foregoing being hereinafter collectively called ***"Disposal"***), whether on or off the Facility, of any soil, dirt, sand, silt, water, asbestos, lead, PCB's, demolition or construction debris or other matter (hereinafter collectively called the ***"Matter"***) excavated, disturbed or removed by the Lessee (or by any contractor or contractors of the Lessee) at, from or under the Premises (or any other area of the Facility) at any time or times and regardless of the nature or composition of such Matter, or any repair, replacement or rebuilding of the Premises, and any and all remediation and Disposal of said Matter and any and all other remediation and Disposal (whether soil, upper aquifer or otherwise) necessary, required or appropriate as a result of, caused by, incidental to or triggered by such excavation, disturbance or removal of the Matter or arising therefrom, and the taking or doing of any and all other action or actions necessary, required or appropriate in connection therewith, shall be the sole and complete responsibility of the Lessee, including, without limitation, all costs and expenses thereof and any and all Environmental Damages, applicable Environmental Requirements, claims, penalties and other expenses relating thereto. The foregoing obligations of the Lessee shall obtain and apply with full force and effect irrespective of the nature or source of any contaminant, pollutant, chemical, waste or other substance or whether any of the same is a Hazardous Substance. The Lessee shall perform all of the foregoing in accordance with and subject to all the terms, provisions, covenants and conditions of this Agreement.

(ii) Without limiting the generality of any other term or condition of this Agreement, title to any Matter on the Premises or the Facility excavated or removed by the Lessee and not used at the Premises shall vest in the Lessee upon the excavation or removal thereof, and all such Material shall be delivered and deposited by the Lessee at the Lessee's sole

cost and expense to a location off the Facility in accordance with the terms and conditions of this Agreement and all applicable Environmental Requirements.

(iii) In the event the Lessee discovers any Hazardous Substance in, on or under the Premises, the Lessee in reporting such Hazardous Substance shall direct such report to the attention of such individual at the subject governmental authority as the General Manager of the Facility shall require in order to assure consistency in the environmental management of the Facility, provided, however, notwithstanding the foregoing, in no event shall the Lessee be required by this paragraph to violate any Environmental Requirement.

(iv) Promptly upon final disposition by the Lessee of any Hazardous Substance from the Premises or the Facility, the Lessee shall submit to the Port Authority a "Certification of Final Disposal" stating the type and amount of material disposed, the method of disposal and the owner and location of the disposal facility. The format of such certification shall follow the requirements, if any, of governmental agencies having jurisdiction as if the Port Authority were a private organization and the name of the Port Authority shall not appear on any certificate or other document as a generator or owner of such material.

(f) ***Environmental Condition Due to Lessee's Use of Premises.*** Notwithstanding any other term or provision of this Agreement, the Condition Exceptions shall not apply to, any Hazardous Substance whose presence in, on or under the Premises was caused by or resulted from the use and occupancy of the Premises by the Lessee or by any affiliated company of the Lessee, or the performance of any work by any of them, or the acts or omissions of the Lessee, its officers, agents or employees, or the acts or omissions of any affiliated company of the Lessee or of any sublessees or others who occupied the Premises with the permission of the Lessee or with the permission of an affiliated company of the Lessee or their officers, agents or employees.

(g) ***Remediation Completion Report.*** After any Person performs any remediation on the Premises, such Person, may but shall not be obligated to, sample and test the soil and/or aquifer of the Premises or portions thereof and set forth the results of such samplings and tests in a report. Any such report and test results shall be referred to for purposes of this Agreement as a "***Remediation Completion Report***". Upon delivery of a Remediation Completion Report to the Lessee and the Port Authority, such Remediation Completion Report shall supersede and replace the existing Initial Environmental Report, provided, however, that said samples and testing shall produce a fair and representative sampling of the Premises, shall be analyzed by a New Jersey State approved independent consultant and laboratory (an "***Environmental Consultant***"), and that said sampling and testing were performed in accordance with a methodology approved by the Port Authority.

(h) ***No Port Authority Remediation Obligation.*** Notwithstanding any other term or condition of this Agreement, it is hereby understood and agreed that the Lessee's obligations under this Agreement for remediation and removal of Hazardous Substances shall not be nor be deemed to be affected in any way whatsoever the fact the Lessee cannot remediate or remove one or more Hazardous Substances for which it is responsible to remediate or due to cost or

expedience or for any other reason, and, in no event shall the Port Authority have any responsibility for such remediation or removal, including without limitation, any obligation to share in the cost of such remediation or removal.

(i) ***Port Authority Right to Enter for Investigations.*** Without limiting the foregoing, the Port Authority and its designees, shall have the right but not the obligation to enter upon the Premises upon forty-eight (48) hours' notice to the Lessee to install wells, make borings or conduct other environmental testing and related activities, including but not limited to conducting pumping operations from said wells.

(j) ***Wells.*** Without limiting the generality of any of the foregoing, the Lessee agrees to protect and maintain the wells referred to in paragraph (i) of this Section and shall repair any damage thereto not caused by the activities of the Port Authority, or its designee(s), if any, or replace any damaged wells that cannot be repaired or maintained due to the footprint of the planned construction at locations to be approved by the Port Authority.

(k) ***Exit Baseline.***

(i) Without limiting any other term or provision hereof, all the obligations of the Lessee under this Section shall survive the expiration or termination of the letting of the Premises or any portion thereof, provided, however, the Lessee shall not be responsible for any Hazardous Substances in, on, under or about the Premises which the Lessee can prove occurred after the date that the Lessee shall have surrendered the Premises to the Port Authority and were not due to a Lessee's Act.

(ii) Testing and Sampling.

(1) Within one (1) year prior to the Expiration Date or, in the case of an earlier termination of the letting hereunder, within three months after the effective date of such termination, the Port Authority, at its sole cost and expense, shall perform a Phase I Assessment and audit of the Premises conditions and where necessary sample and test the soil and groundwater in, on and under the Premises (such sampling and testing of the soil and groundwater is hereinafter referred to as the "***Exit Baseline***"). Notwithstanding the foregoing, the Lessee may conduct its own sampling and testing of the soil and groundwater in, on and under the Premises simultaneously with the Port Authority's sampling and testing at its sole cost and expense (such sampling and testing of the soil and groundwater is hereinafter referred to as the "***Alternative Exit Baseline***"). Without limiting the terms and conditions of the Section of this Agreement entitled "*Construction of the Lessee*", all such sampling, testing and the preparation of any associated report shall be performed by an Environmental Consultant (as defined in paragraph (b) of this Section), and said sampling and testing shall produce a fair and representative sampling of the Premises.

(2) If an Alternative Exit Baseline is conducted, then the Lessee's and Port Authority's Environmental Consultants shall consult with each other in good faith to resolve any conflicting results. If the Environmental Consultants resolve all conflicting results, then the

agreed upon results shall become the "Exit Baseline". If the Environmental Consultants are unable to resolve any conflicting result(s) within thirty (30) days from the date that is the later of (x) the date the Exit Baseline is completed and (y) the date the Alternative Exit Baseline is completed, then the result(s) of the Port Authority's Environmental Consultant for such disputed result(s) shall be determinative and together with the other undisputed results shall become the "Exit Baseline".

(iii) It is hereby understood and agreed that the Exit Baseline and the test results therefrom may be used by the Port Authority to evidence that a Hazardous Substance in, on or under the Premises is not a Condition Exception and/or the existence of such Hazardous Substance in, on or under the Premises occurred during the term of the letting of the Premises or a portion thereof.

(l) ***No Waiver.*** The terms and conditions of this Section are intended to allocate the obligations and responsibilities between the Lessee and the Port Authority, and nothing in this Section or elsewhere in this Agreement shall, or shall be deemed to, limit, modify, waive or otherwise alter the rights, claims and remedies which the Port Authority or the Lessee may have against third parties at law, equity or otherwise.

(m) ***Survival of Obligations.*** Without limiting the generality of any other term or provision of this Agreement, all of the obligations of the Lessee under this Section shall survive the expiration or earlier termination of the letting of the Premises or any portion thereof.

Section 37. Third Party Access

(a) ***The United States of America.*** The Lessee hereby agrees that this Agreement is subject and subordinate to (x) that certain permit Port Authority No. PPJ-013 (the "***U.S. Permit***"), by and between the Port Authority, as permittor, and The United States of America, (and any agencies thereof, the "***U.S.***"), as permittee, dated as of April 1, 2012 and (y) any easements (the "***U.S. Easements***") for the benefit of the U.S., whenever such easements are granted. For so long as the U.S. Permit or any U.S. Easement is effective, including any amendments, extensions and replacements thereto, the employees, officers, agents, representatives, and contractors of the U.S. and the Port Authority shall have the following rights:

(i) Access to, over and across the Premises for the purpose of inspecting, servicing, maintaining, locating, operating, repairing, and replacing all navigational aids, including without limitation any Harbor Navigational Tower, whether currently existing or to be constructed, and any and all associated equipment;

(ii) To demolish the existing Harbor Navigational Tower and its associated equipment currently located as shown on Exhibit A; and

(iii) To construct a new Harbor Navigational Tower and any associated equipment to be located approximately as shown on Exhibit A.

(iv) ***Verizon.*** The Lessee hereby agrees that this Agreement is subject and subordinate to that certain Easement Agreement (the "***Verizon Easement***"), dated January 28, 1992, by and between Workbench, Inc., as grantor, and New Jersey Bell Telephone Company, as grantee, and recorded in the Office of the Hudson County Register, in Deed Book 4478, page 212. The Lessee acknowledges that the Verizon Easement grants certain access, occupancy and other rights to Verizon New Jersey, Inc. (as successor-in-interest to New Jersey Telephone Company), its associated and affiliated companies, its licensees, successors-in-interest, and assigns, which shall include the employees, officers, agents, representatives, and contractors thereof, to a portion of the premises in connection with the provision of communications services and associated equipment as more fully described in the Verizon Easement, which shall include without limitation an easement for exclusive access to, occupancy of and use of that portion of the Premises entitled "Hut" on Exhibit A.

Section 38. Railroad Services

The Port Authority shall not provide and shall not be responsible for the provision of any railroad or other transportation services to the Lessee.

Section 39. Notices

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

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

Section 40. General

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

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

ii. If the Lessee is an unincorporated association, or a "Massachusetts" or business trust, its obligations shall be performed by and its rights shall be exercised only by it acting only through the medium of its members, trustees, officers and employees or

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

iv. If the Lessee is an individual, his obligations shall be performed and his rights shall be exercised by himself and his employees only or

v. If the Lessee is a limited liability company, its obligations shall be performed by and its rights shall be exercised by it acting only through the medium of its managers, members and employees;

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

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

(c) Unless otherwise stated in the Section entitled *"Use"*, the rights of user thereby granted to the Lessee with respect to the Premises shall be exercised by the Lessee only for its own account and, without limiting the generality of the foregoing, shall not be exercised as agent, representative, factor, broker, forwarder, bailee, or consignee without legal title to the subject matter of the consignment.

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

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

(f) All payments required of the Lessee by this Agreement shall be sent to the following address: The Port Authority of New York and New Jersey, P. O. Box 95000-1517, Philadelphia, Pennsylvania 19195-1517, or made via the following wire transfer instructions: Bank: TD Bank; Bank ABA Number: 031201360; Account Number: Ex. 1 or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor. If the commencement date of the letting under this Agreement is other than the first day of a calendar month, the basic rental for the portion of the month during which the letting is effective shall be the amount of the monthly installment prorated on a daily basis using the

actual number of days in the month, and if the expiration or termination date of the letting is other than the last day of a calendar month, the basic rental for the portion of the month during which the letting is effective shall be the amount of the monthly installment similarly prorated.

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

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

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

Section 41. Premises

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

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

(c) If permission is given to the Lessee to enter into the possession of the Premises or to occupy space other than the Premises prior to the date specified in the Section entitled *"Term"* as the commencement of the term of the letting, the Lessee agrees that such possession

or occupancy shall be deemed to be under all the terms, covenants, conditions and provisions of this Agreement except as to the covenant to pay rent and except as may be expressly provided otherwise by the written instrument, if any, giving such possession or occupancy; in either case, rent shall commence on the date specified in this Agreement, and in the event of possession of the Premises, the date of such possession shall be the date of commencement of the term hereunder.

Section 42. Force Majeure

(a) The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control, including without limitation strikes, boycotts, picketing, slow-downs, work stoppages, labor troubles of any other type, embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, tides, riots, rebellion, sabotage or any other circumstances for which it (or its contractors or subcontractors) is not responsible and which are not within its (or its contractors' or subcontractors') control. Further, the Port Authority shall not be liable unless the failure, delay or interruption shall result from failure on the part of the Port Authority to use reasonable care to prevent or reasonable efforts to cure such failure, delay or interruption.

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

Section 43. Brokerage

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

Section 44. Non-liability of Individuals

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

Section 45. [Intentionally Omitted]

Section 46. Waiver of Trial by Jury

The Lessee waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Lessee in respect of the Premises and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Agreement. The Lessee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of rents, fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed.

Section 47. Effect of Use and Occupancy of Premises after Expiration or Termination

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

Section 48. Lessee's Rights Non-Exclusive

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

Section 49. OFAC Compliance

(a) **Lessee's Representation and Warranty.** The Lessee hereby represents and warrants to the Port Authority that the Lessee (x) is not a person or entity with whom the Port Authority is restricted from doing business under the regulations of the Office of Foreign Assets Control (***"OFAC"***) of the United States Department of the Treasury (including, without limitation, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order or other regulation relating to national security or foreign policy (including, without limitation, Executive Order 13224 of September 23, 2001, *Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism*), or other governmental action related to national security, the violation of which would also constitute a violation of law, such persons being referred to herein as ***"Blocked Persons"*** and such regulations, statutes, executive orders and governmental actions being referred to herein as ***"Blocked Persons Laws"***) and (y) is not engaging in any dealings or transactions with Blocked Persons in violation of any Blocked Persons Laws. The Lessee acknowledges that the Port Authority is entering into this Agreement in reliance on the foregoing representations and warranties and that such representations and warranties are a material element of the consideration inducing the Port Authority to enter into and execute this Agreement.

(b) **Lessee's Covenant.** Lessee covenants that (i) during the term of the Lease it shall not become a Blocked Person, and shall not engage in any dealings or transactions with Blocked Persons in violation of any Blocked Persons Laws. In the event of any breach of the aforesaid covenant, the same shall constitute an event of default and, accordingly, a basis for termination of the Lease by the Port Authority, in addition to any and all other remedies provided under the Lease or at law or in equity, which does not constitute an acknowledgement by the Port Authority that such breach is capable of being cured.

(c) **Lessee's Indemnification Obligation.** The Lessee shall indemnify and hold harmless the Port Authority and its Commissioners, officers, employees, agents and representatives from and against any and all claims, damages, losses, risks, liabilities and expenses (including, without limitation, attorney's fees and disbursements) arising out of, relating to, or in connection with the Lessee's breach of any of its representations and warranties made under this Agreement. Upon the request of the Port Authority, the Lessee shall at its own expense defend any suit based upon any such claim or demand (even if such suit, claim or demand is groundless, false or fraudulent) and in handling such it shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provision of any statutes respecting suits against the Port Authority.

(d) **Survival.** The provisions of this Section shall survive the expiration or earlier termination of the term of the letting hereunder.

Section 50. Construction and Application of Terms

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

(b) Unless otherwise expressly specified, the terms, provisions and obligations contained in any Exhibits and Schedules attached hereto, whether they are set out in full or as amendments of, or supplements to provisions elsewhere in the Agreement stated, shall have the same force and effect as if herein set forth in full.

(c) If any clause, provision or section of this Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof.

(d) The fact that certain of the terms and provisions hereunder are expressly stated to survive the expiration or termination of the letting hereunder shall not mean that those provisions hereunder which are not expressly stated to survive shall terminate or expire on the expiration or termination of the letting hereunder and do not survive such termination or expiration.

(e) The parties agree that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Agreement or any amendments, addenda or supplements hereto or any Exhibits or Schedules hereto.

Section 51. Governing Law

This Agreement and any claim, dispute or controversy arising out of, under or related to this Agreement, the relationship of the parties hereunder, and/or the interpretation and enforcement of the rights and obligations of the parties hereunder shall be governed by, interpreted and construed in accordance with the laws of the State of New Jersey, without regard to choice of law principles.

Section 52. Entire Agreement

This Agreement consists of the following: Sections 1 through 52, Standard Endorsement, Exhibits A and B and the Insurance Schedule attached hereto. 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 Port Authority and the Lessee have executed these presents as of the date first written above.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

ATTEST:

Deputy Secretary

By: _____

(Print Name): RICHARD M. LARRABEE

(Title): DIRECTOR, PORT COMMERCE DEPT.

(Seal)

COURIER SYSTEMS INC.

ATTEST:

Secretary

By: _____

(Print Name): Richard J. Ward

(Title): President

(Corporate Seal)

Port Authority Use Only:	
Approval as to Terms:	Approval as to Form:
amc JK	SSA

SSA

(a) If at any time the Lessee shall become entitled to an abatement of Basic Rental under the provisions of this Agreement or otherwise, such abatement shall be computed as follows:

For each square foot of useable Warehouse Space the use of which is denied to the Lessee, at the annual rate of	$6.20*
For each square foot of Open Area Space the use of which is denied to the Lessee, at the annual rate of	None

(b) If no rates are filled in above then the abatement of Basic Rental shall be made on an equitable basis, giving effect to the amount and character of the area the use of which is denied the Lessee, as compared with the entire area of such character included in the Premises.

(c) If an exemption amount is fixed in this Agreement, it shall be reduced in the same proportion as the total Basic Rental is abated.

(d) For the purposes of this Endorsement, the number of square feet of covered area shall be computed as follows: by measuring from the inside surface of outer building walls to the surface of the public area side, or of the non exclusive area side, as the case may require, of all partitions separating the area measured from adjoining areas designated for the use of the public or for use by the Lessee in common with others, and to the center of partitions separating the area measured from adjoining area exclusively used by others; no deduction will be made for columns, partitions, pilasters or projections necessary to the building and contained within the area measured. Permanent partitions enclosing elevators shafts, stairs, fire towers, vents, pipe shafts, meter closets, flues, stacks and any vertical shafts have the same relation to the area measured as do outer building walls.

(e) In the event that during the term of the letting under this Agreement the Lessee shall be partially evicted (actually or constructively) and shall remain in possession of the Premises or the balance thereof, the Lessee agrees that notwithstanding it might have the right to suspend payment of the rent in the absence of this provision, it will pay at the times and in the manner herein provided, the full Basic Rental less only an abatement thereof computed in accordance with the above.

* through October 1, 2014, thereafter the said rates shall be increased during the term of the letting by three percent (3%) every two (2) years, such increase to first occur on October 1, 2014.

Standard Endorsement No. L27.4
Abatement
All Marine Terminals
10/6/68

EXEMPTION (4)

DRAWINGS OF NON-PUBLIC AREAS

EXHIBIT B

LPJ-007 COURIER SYSTEMS INC.
Basic Rental

	Monthly Payment	Annual Rental
April 1, 2012 - September 30, 2012	$0.00	$0.00
October 1, 2012 - September 30, 2013	$109,626.33	$1,315,516.00
October 1, 2013 - September 30, 2014	$109,626.33	$1,315,516.00
October 1, 2014 - September 30, 2015	$112,915.12	$1,354,981.48
October 1, 2015 - September 30, 2016	$112,915.12	$1,354,981.48
October 1, 2016 - September 30, 2017	$116,302.58	$1,395,630.92
October 1, 2017 - September 30, 2018	$116,302.58	$1,395,630.92
October 1, 2018 - September 30, 2019	$119,791.65	$1,437,499.85
October 1, 2019 - September 30, 2020	$119,791.65	$1,437,499.85
October 1, 2020 - September 30, 2021	$123,385.40	$1,480,624.85
October 1, 2021 - September 30, 2022	$123,385.40	$1,480,624.85
October 1, 2022 - September 30, 2023	$127,086.97	$1,525,043.59
October 1, 2023 - September 30, 2024	$127,086.97	$1,525,043.59
October 1, 2024 - September 30, 2025	$130,899.58	$1,570,794.90
October 1, 2025 - September 30, 2026	$130,899.58	$1,570,794.90
October 1, 2026 - September 30, 2027	$134,826.56	$1,617,918.75

For the Port Authority

Initialed by:

For the Lessee

EXHIBIT C

Environmental Site Assessment Scope of Work

Scope of Work

- Conduct a Phase I Assessment in accordance with accepted standards and practices to include at a minimum:
  - Records Review
  - Site Reconnaissance
- Six months after the building is operational conduct an audit of applicability and compliance with Environmental Requirements including:
  - Petroleum Bulk Storage;
  - Emergency Planning and Community Right to Know (EPCRA);
  - Chemical Bulk Storage;
  - Pesticide Usage
  - Toxic Substances Control Act (TSCA)
  - Water Quality Management
  - Air Emissions
  - Hazardous Waste Management
  - Solid Waste Management
  - Wetland and Wildlife Management
  - Asbestos
  - Lead
  - Nuisances
  - Waste Water Discharge
- Prepare a Site Assessment Report summarizing the findings eight months after site is operational

The site assessment will not include subsurface investigation such as the installation of sample locations to collect soil and groundwater samples.

Initialed by:

Port Authority

Lessee

INSURANCE SCHEDULE

(a) The Lessee named in the Agreement of Lease to which this Insurance Schedule is attached and of which it constitutes an integral part (the "***Lease***"), in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of the Lease on a policy or policies of Commercial General Liability Insurance and Commercial Automotive Liability Insurance including premises-operations and products-completed operations and covering bodily-injury liability, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limit set forth below:

	Minimum Limits
Commercial General Liability Insurance Combined single limit per occurrence for death, bodily injury and property damage liability:	$2,000,000.00
Commercial Automotive Liability Insurance Combined single limit per occurrence for death, Bodily injury and property damage liability:	$2,000,000.00
Workers' Compensation and Employers Liability Insurance Lessee's obligations under the applicable State Workers' Compensation Law for the employees of the Lessee employed in operations conducted pursuant to the Lease at or from the Premises	Statutory

The Commercial General Liability Insurance shall also include coverage for explosion, collapse and underground property damage hazards. If the Lessee's operations entail the ownership, maintenance, operation, or use of any watercraft, whether owned, non-owned, or hired, the Lessee shall have any exclusion for such watercraft deleted or shall purchase equivalent coverage under a policy of Protection and Indemnity Insurance and shall provide the Port Authority with a certificate of insurance evidencing such coverage.

In the event the Lessee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers' Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of the Lease, including without limitation this Insurance Schedule.

(b) Each policy of insurance, except for the Workers' Compensation and Employers Liability Insurance policies, shall also contain an ISO standard "separation of insureds" clause or a cross liability endorsement providing that the protections afforded the 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 and any claim or action against the Port Authority by the Lessee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Lessee under the Lease.

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

(d) Each policy must be specifically endorsed to provide that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer "shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority." The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of the Lease by the Lessee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance delivered to the Port Authority at least thirty (30) days prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the Lease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Lessee under the Lease. The foregoing insurance requirements shall not constitute a representation or warranty as to the adequacy of the required coverage to protect the Lessee with respect to the obligations imposed on the Lessee by the Lease or any other agreement or by law.

For the Port Authority

Initialed:

For the Lessee

SCHEDULE E

AFFIRMATIVE ACTION-EQUAL OPPORTUNITY---MINORITY BUSINESS ENTERPRISES ---WOMEN-OWNED BUSINESS ENTERPRISES REQUIREMENTS

PART I. Affirmative Action Guidelines - Equal Employment Opportunity

I. As a matter of policy the Port Authority hereby requires the Lessee and the Lessee shall require the Contractor, as hereinafter defined, to comply with the provisions set forth hereinafter in this Schedule E and in Section --- of Port Authority Agreement No. ------ (herein called the "Lease") with -------- (herein and in the Lease called the "Lessee"). The provisions set forth in this Part I are similar to the conditions for bidding on federal government contract adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

The Lessee as well as each bidder, contractor and subcontractor of the Lessee and each subcontractor of a contractor at any tier of construction (herein collectively referred to as the "Contractor") must fully comply with the following conditions set forth herein as to each construction trade to be used on the construction work or any portion thereof (said conditions being herein called "Bid Conditions"). The Lessee hereby commits itself to the goals for minority and female utilization set forth below and all other requirements, terms and conditions of the Bid Conditions. The Lessee shall likewise require the Contractor to commit itself to the said goals for minority and female utilization set forth below and all other requirements, terms and conditions of the Bid Conditions by submitting a properly signed bid.

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

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

(1)	Minority participation		
	Minority, except laborers	30%	
	Minority, laborers		40%
(2)	Female participation		
	Female, except laborers	6.9%	
	Female, laborers	6.9%	

These goals are applicable to all the Contractor's construction work performed in and for the Premises.

The Contractor's specific affirmative action obligations required herein of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make good faith efforts to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract. Compliance with the goals will be measured against the total work hours performed.

(b) The Contractor shall provide written notification to the Lessee and the Lessee shall provide written notification to the Port Authority's Aviation Department and Office of Business Diversity and Civil Rights within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

(c) As used in these specifications:

(1) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941:

(2) "Minority" includes:

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

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

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

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

(d) Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the construction work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 those provisions which include the applicable goals for minority and female participation.

(e) The Contractor shall implement the specific affirmative action standards provided in subparagraphs (1) through (16) of Paragraph (h) hereof. The goals set forth above are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the Premises. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

(f) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations hereunder.

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

(h) The Contractor shall take specific affirmative actions to ensure equal employment opportunity ("EEO").

The evaluation of the Contractor's compliance with these provisions shall be based upon its good faith efforts to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

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

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

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

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

(5) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and training programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under subparagraph (2) above.

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

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

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

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

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

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

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

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

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

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

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

(i) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under Paragraph (h) hereof provided that: the Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific minority group of women is underutilized).

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

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

(m) The Contractor shall carry out such sanctions and penalties for violation of this clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by the Lessee. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative actions steps, at least as extensive as those standards prescribed in paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, the Lessee shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the

provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

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

(q) Without limiting any other obligation, term or provision under the Lease, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Port Authority.

PART II. MINORITY BUSINESS ENTERPRISES AND WOMEN-OWNED BUSINESS ENTERPRISES

As a matter of policy the Port Authority requires the Lessee and the Lessee shall itself and shall require that any Contractor utilized by the Lessee to perform contract work ("the work") on the premises including without limitation construction work to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the work pursuant to the provisions of this Schedule E. For purposes hereof, "Minority Business Enterprise" "(MBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, "Women-owned Business Enterprise" "(WBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by women and such ownership is real, substantial and continuing. A minority shall be as defined in paragraph II(c) of Part I of this Schedule E. "Meaningful participation" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

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

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

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

(d) Utilizing the list of eligible MBEs and WBEs maintained by the Port Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors.

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

(f) Insuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis, preferably bi-weekly, and that retainage is paid to MBEs and WBEs when they have completed their work.

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

(h) Requiring each contractor to submit to the Lessee with each payment request evidence that all MBE and WBE Contractors have been paid in accordance with their contract.

Certification of MBEs and WBEs hereunder shall be made by the Office of Business Diversity and Civil Rights of the Port Authority. If the Contractor wishes to utilize a firm not already certified by the Port Authority, it 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 then required by the Port Authority. All such requests shall be in writing addressed to the Office of Business Diversity and Civil Rights, the Port Authority of New York and New Jersey, 233 Park Avenue South, 4th Floor, New York, New York 10003 or such other address as the Port Authority may specify by notice to the Lessee. Certification shall be effective only if made in writing by the Director in charge of the Office of Business Diversity and Civil Rights of the Port Authority. The determination of the Port Authority shall be final and binding.

The Port Authority has compiled a list of the firms that the Port Authority has determined satisfy the criteria for MBE and WBE certification. This list may be supplemented and revised from time to time by the Port Authority. Such list shall be made available to the Contractor upon request. The Port Authority makes no representation as the financial responsibility of such firms, their technical competence to perform, or any other performance-related qualifications.

Only MBE's and WBE's certified by the Port Authority will count toward the MBE and WBE goals.

Please note that only sixty percent (60%) of expenditures to MBE or WBE suppliers will count towards meeting the MBE and WBE goals. However, expenditures to MBE or WBE manufacturer's (i.e. suppliers that produce goods from raw materials or substantially alter them before resale) are counted dollar for dollar.

For the Port Authority

Initialed:

For the Lessee

For The Port Authority

STATE OF NEW YORK)

SS

COUNTY OF NEW YORK)

On the 30th day of April in the year 2012, before me, the undersigned, a Notary Public in and for said state, personally appeared RICHARD M. LARRABEE DIRECTOR, PORT COMMERCE DE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

(notarial seal and stamp)

LUCY AMBROSINO
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01AM6101070
QUALIFIED IN NEW YORK COUNTY
MY COMMISSION EXPIRES NOV. 3, 2015

For the Lessee

STATE OF New Jersey)
) ss
COUNTY OF Essex)

On the 20th day of March in the year 2012, before me, the undersigned, a Notary Public in and for said state, personally appeared Richard Merad, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

(notarial seal and stamp)

FRANCES A VERLANGIERI
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires Dec. 27, 2016