Torres Rojas, Genara

From: rlinton@proskauer.com
Sent: Thursday, July 31, 2014 3:13 PM
To: Duffy, Daniel; American, Heavyn-Leigh
Cc: Torres Rojas, Genara; Van Duyne, Sheree
Subject: Freedom of Information Online Request Form

Information:

First Name: Robert
Last Name: Linton
Company: Proskauer Rose LLP
Mailing Address 1: 2049 Century Park East
Mailing Address 2: 32nd Floor
City: Los Angeles
State: CA
Zip Code: 90067-3206
Email Address: rlinton@proskauer.com
Phone: 310 284-4576
Required copies of the records: Yes

List of specific record(s):
Any agreements, including any concession management agreements and specifically all amendments and extensions of any concession management agreements, between Marketplace LaGuardia Limited Partnership and the Port Authority of New York and New Jersey regarding the concessions program at Terminal B also known as the Central Terminal Building of LaGuardia Airport, Flushing, New York.

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

August 15, 2014

Mr. Robert Linton
Proskauer Rose LLP
2049 Century Park East, 32nd Floor
Los Angeles, CA 90067-3206

Re: Freedom of Information Reference No. 15151

Dear Mr. Linton:

This is in response to your July 31, 2014 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code"), for copies of any "agreements, including any concession management agreements and specifically all amendments and extensions of any concession management agreements, between Marketplace LaGuardia Limited Partnership and the Port Authority of New York and New Jersey regarding the concessions program at Terminal B also known as the Central Terminal Building of LaGuardia Airport, Flushing, New York."

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/15151-LPA.pdf. Paper copies of the available records are available upon request.

Certain material responsive to your request is exempt from disclosure pursuant to exemptions (1), (2.a.) and (4) of the Code.

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

Very truly yours,

Daniel D. Duffy
FOI Administrator

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

AGA-317

MarketPlace Development and PANYNJ

Master Lease

TABLE OF CONTENTS

Section 1. The Letting 1

Section 2. Term; Certain Rights of Termination 7

Section 3. Lessee's Role and Certain of Lessee's Responsibilities Prior to the Principal Term . 15

(a) The Take Your Mark Period 15

(b) The Take Your Mark Period and the Get Set Period. 17

Section 4. Rentals 44

(a) Base Rental 44

(b) Variable Rental 46

Section 5. Use 56

Section 6. Compliance with Governmental Requirements . . 57

Section 7. Rules and Regulations 59

Section 8. Various Obligations of the Lessee 60

Section 9. Prohibited Acts 64

Section 10. Maintenance, Repair, Replacement and Property Insurance 67

Section 11. Indemnity and Liability Insurance 72

Section 12. Signs 76

Section 13. Additional Rent and Charges 76

Section 14. Rights of Entry Reserved 77

Section 15. Condemnation 79

Section 16. Assignment and Sublease 80

Section 17. Restrictions on Transfers of Interest or

	Creation of Additional Interests in Lessee or Any of its Affiliates; Termination of Letting	82
Section 18.	Termination by the Port Authority	85
Section 19.	Right of Re-entry	88
Section 20.	Waiver of Redemption	88
Section 21.	Survival of the Obligations of the Lessee	88
Section 22.	Reletting by the Port Authority	89
Section 23.	Remedies to be Non-Exclusive	90
Section 24.	Surrender	90
Section 25.	Acceptance of Surrender of Lease	91
Section 26.	Effect of Basic Lease	91
Section 27.	Removal of Property	91
Section 28.	Brokerage	92
Section 29.	Limitation of Rights and Privileges Granted	92
Section 30.	Notices	92
Section 31.	Construction by the Lessee	93
Section 32.	Place of Payments	96
Section 33.	Construction and Application of Terms	96
Section 34.	Non-liability of Individuals	96
Section 35.	Quiet Enjoyment	96
Section 36.	Force Majeure	97
Section 37.	Ingress and Egress	97
Section 38.	Non-Discrimination	98

Section 39. Affirmative Action 99

Section 40. The Lessee's Additional Ongoing Affirmative Action-Equal Opportunity Commitment. 99

Section 41. Services to the Lessee and/or the Lessee's Subtenants. 108

Section 42. Condition of Premises; No Representations, etc. in Any Respect; Changes in the CTB 117

Section 43. Late Charges 118

Section 44. Security Deposit 119

Section 45. Definitions, Etc.. 122

Section 46. Port Authority Operational Approvals.. 124

Section 47. Entire Agreement 125

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

Lease No. AGA-317

AGREEMENT OF LEASE

THIS AGREEMENT OF LEASE, dated the 19th day of September, 1994, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority"), a body corporate and politic, established by Compact between the States of New Jersey and New York with the consent of the Congress of the United States of America, and having an office at One World Trade Center, in the Borough of Manhattan, City, County and State of New York, and MARKETPLACE LAGUARDIA LIMITED PARTNERSHIP (hereinafter called "the Lessee"), a limited partnership organized and existing under the laws of the State of Delaware and having an office and place of business at 50 Federal Street, in the City of Boston, Commonwealth of Massachusetts whose representative is Robert M. Weinberg, President.

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. <u>The Letting</u>

(a) The Port Authority lets to the Lessee and the Lessee leases from the Port Authority at LaGuardia Airport (herein referred to as "the Airport") in the County of Queens, City and State of New York the areas in the Central Terminal Building (herein referred to as "the CTB") shown in diagonal hatching on the drawings attached hereto, hereby made a part hereof and marked "Exhibit A"and located in its passenger Concourses (on the "Departures Level"), collectively herein "the Concourses", in its Center Section (herein "the Center Section") and in its East and West Wings (on the "Departures Level"), collectively herein "the Wings", subject to and on the terms and conditions set forth in this Lease and further subject to the agreements, permits, leases, tenancies, users and occupancies

identified in Schedule "A" attached to this Lease and to such other agreements, permits, leases, tenancies, users and occupancies provided for in Section 3(b)(1) below, together with the fixtures, improvements, equipment and other property of the Port Authority located or which in the future may be located therein or thereon (herein collectively referred to as "the premises" or "the leased premises"). The Lessee acknowledges its receipt from the Port Authority of copies of, and familiarity with, all of the leases, permits and agreements identified in said Schedule "A", such leases, permits and agreements sometimes herein referred to collectively as "the Old Guard Portfolio".

(b) In the event that for any reason whatsoever, whether or not within the control of the Port Authority, except as to such leasable space and circumstances as the Port Authority may exclude from the operation of this provision in the first Merchandising and Tenant-Mix Plan required under Section 3(a) below to be submitted by the Lessee for Port Authority approval provided such plan is so approved in writing, leasable space in the following areas is not subleased by the Lessee with the specific written consent or approval of the Port Authority and a copy of the fully executed sublease is not delivered to the Port Authority within the respective time limits indicated below (i) as to the Center Section of the CTB (as such Section is defined in Section 2(a) below) the leasing of which is not specifically indicated in such plan as being deferred, including in the Center Section any area of the leased premises on the third and fourth floors whether or not so indicated, by the sixtieth day ("the Alert") from the date the Port Authority gives the Lessee notice that it intends to exercise its rights pursuant to this sentence as to the therein designated leasable area (such period ending as of the Alert called "the Alert period") provided that the Alert shall be no earlier than the first anniversary of the commencement of the Get Set Period as defined in Section 2(a) below and further provided ("the tolling proviso"), that during any period from the sixth day after the Port Authority's receipt of any Merchandise and Tenant-Mix Plan submitted for its approval in good faith and until the date of its rejection or disapproval of the same, inclusive, there shall be a pause in the running of the Alert period, or (ii) as to the Wings or the Concourses by the Alert provided such be no earlier than the first anniversary of the date of approval by the Port Authority of the said first Merchandising and Tenant-Mix Plan subject to the aforesaid tolling proviso, then, as to such area, at any time thereafter the Port Authority shall have the right to lease such area to any third party(ies) subject to any exclusive granted by the Lessee

under a sublease specifically consented to by the Port Authority in writing provided, however, that any tenant of the Port Authority engaged in retail activity in such area is obligated to adhere both to the same design standards for such area (except any area on the third or fourth floor not visible to the public from the Food Court) and the same pricing standards applicable to its operations with respect to such area as the Lessee is obligated by this Lease to enforce with respect to its subtenants and to conduct a first rate operation in such area. Such right of the Port Authority as to such area shall be deemed extinguished if prior to the date of the Port Authority's notice to the Lessee provided in the next sentence and as of such date and for so long as the Lessee subleases the same area with the express written consent of the Port Authority and delivers to the Port Authority a copy of the applicable sublease. If and when the Port Authority, pursuant to the foregoing right, leases the said area, it shall give the Lessee notice thereof and with the giving of such notice such area shall cease to be part of the leased premises, the letting then terminating as to such area with the same effect as though such date were the original expiration date of this Lease without the need for any additional act or instrument and without such event either releasing or modifying to any extent any of the Lessee's obligations under this Lease as to the remainder of the leased premises or entitling the Lessee to any claim against or compensation from the Port Authority, the Lessee to have no further responsibility as to such area save for those obligations accruing through or to take effect on the date such notice is given as though such date were the original expiration date of this Lease. The foregoing rights and obligations of the Port Authority and the consequences arising from the exercise thereof as provided in this paragraph also shall apply if the Lessee does not sublease with the specific written consent or approval of the Port Authority and deliver to the Port Authority a copy of the applicable sublease any leasable area the leasing of which is not specifically indicated in any subsequent Port Authority approved Merchandising and Tenant-Mix Plan as being deferred, within the time limits applicable thereto in said approved Plan. Approval of any Merchandising and Tenant-Mix Plan by the Port Authority shall not limit or otherwise affect the Port Authority's absolute discretionary right of approval and consent under this Lease as to any subtenant, user or occupant and any sublease or other subordinate agreement which is required to be submitted to it by the Lessee under this Lease for the approval of the Port Authority, such approval also being a condition prerequisite to the same having any legal force or effect.

(c) In the event that at any time during the principal term of this Lease (as defined in Section 2(a) below) (i) retail operations under any sublease or other subordinate agreement covering any area of the premises cease or are suspended (or the level or quality of such subtenant's operations has diminished to the point where the Port Authority determines that such subtenant should be deemed to have suspended its operations) for a substantially continuous period of sixty (60) days except for conditions beyond the control of a subtenant, user or occupant (exclusive of any condition due to the fault or negligence or related to the financial circumstance of the subtenant, user or occupant) and the Lessee does not promptly thereafter terminate such sublease or other subordinate agreement and expeditiously and diligently take all necessary action to regain possession thereof, or (ii) any leasable area of the premises is not under sublease or other subordinate agreement by the Lessee expressly approved in writing by the Port Authority as required in this Lease (with the Port Authority having received a copy of the sublease or other subordinate agreement) for a period in excess of sixty (60) days the respective sixty day periods in clauses (i) and (ii) preceding called "the dark period"; then, in either of such cases, the consequences described in the immediately preceding paragraph (b) shall become operative as to such area provided that in a dark period as to each particular area if the Lessee shall deliver (aa) a revised Merchandising and Tenant-Mix Plan which provides for the removal of the particular area from active leasing efforts at that time, which revised plan is approved in writing by the Port Authority within such applicable sixty day period or (bb) a sublease or other subordinate agreement to the Port Authority for its approval, then, if so approved in writing, the Lessee shall have thirty days including the remainder of the dark period, if any such time shall remain, to deliver a copy of the fully executed lease or other subordinate agreement (as so approved) to the Port Authority, but if rejected or disapproved by the Port Authority, another and, as to the same area, final sixty days to have a sublease or other subordinate agreement as to the same area approved in writing by the Port Authority and the copy of the fully executed document (so approved) delivered to the Port Authority.

(d) Should the Port Authority at any time or times during the term of this Lease identify any area in the CTB (outside the leased premises) which it proposes be developed for retail purposes (exclusive of uses which the Port Authority

exclusively reserves to itself (and its designees) under Section 3(b)(3)A of this Lease ("the reserved uses"), provided, however, that notwithstanding anything in said Section to the contrary, in any such area as hereafter may be so identified by the Port Authority hereunder as the site for one or more vending machines dispensing a product(s), as determined by the Port Authority in its sole discretion, which is(are) among those permitted to be sold by then existing subtenants of the Lessee under their subleases approved by the Port Authority as provided this Lease, the Port Authority shall offer the Lessee in writing to include such area as part of the leased premises hereunder subject to such terms and conditions as the Port Authority shall have the right, in its sole and absolute discretion, to impose therein. Such offer shall remain open for unqualified acceptance in its entirety by the Lessee by notice to the Port Authority to such effect signed by the general partner of the Lessee and received by the Port Authority within fourteen days after the date of the Port Authority's offer. If such acceptance is duly effected as aforesaid, said area shall thenceforth be and become part of the leased premises without the need for any additional act or instrument. If such acceptance is not duly effected, the Port Authority may develop and permit such area to be developed by others for retail purposes subject however to the same conditions as to design standards, pricing standards and first rate operation as set forth in paragraph (b) above.

(e) Should the Port Authority at any time or times during the term of this Lease require any one or more portions of the leased premises deemed advisable by it in its sole and absolute judgment in order to meet or help in meeting governmental requirements or in connection with its operation of the CTB or the Airport or, as to any area(s) in the Concourses or the "back corridor" of the Wings, if such portion(s) is needed in connection with or to facilitate or improve operations in or of the CTB or the Airport or one or more aircraft operators using the same or to better accommodate the needs or interests of the public, all as determined by the Port Authority, the Port Authority shall have the right upon thirty (30) days' written notice to the Lessee to terminate this Lease and the term of the letting hereunder as to such area(s) only. Termination pursuant to the preceding sentence shall not relieve the Lessee of any liabilities or obligations under this Lease as to such area(s) accruing through or to take effect on, the effective date of such termination and shall not release or modify to any extent any of the Lessee's other obligations under the Lease or entitle it to any claim against or compensation from the Port Authority. As to

such area, such termination shall have the same effect as though such date were the original expiration date of this Lease. If the area(s) as to which such right of termination is exercised is then also the area or a portion of the area subject to a sublease or other subordinate agreement, the Port Authority simultaneously with the exercise of such right of termination shall also revoke its consent or approval to any applicable sublease or other subordinate agreement as it pertains to all or any portion(s) of the area subject to the rights or interests granted by the Lessee to the applicable subtenant or occupant of the leased premises, such revocation as to such area designated by the Port Authority, in its sole and absolute discretion, to take effect upon thirty (30) days' written notice to the applicable subtenant or occupant with the same effect as to such area(s) as though such date were the original expiration date of the term of the sublease or other subordinate agreement. In the event the Port Authority exercises its right of revocation pursuant to the preceding sentence, the Port Authority shall have no obligation or liability on such account to either the Lessee or the applicable subtenant or occupant or entitle either to any claim against or compensation from the Port Authority except that the Port Authority shall pay to the applicable subtenant or occupant under a sublease or other subordinate agreement specifically approved or consented to in writing by the Port Authority such amount as may be payable by the Lessee to such subtenant or occupant in accordance with such sublease or other subordinate agreement by virtue of the exercise of such right of termination or revocation hereunder based on such subtenant's or occupant's then unamortized initial capital investment in the space subject to such termination or revocation (prorated on a square foot basis if less than all the space subject to such applicable sublease or subordinate agreement is involved), as such subtenant's or operator's unamortized capital investment is defined in Section 45 below, and limited dollarwise (also prorated if less than all such space is involved) as provided in the approved sublease or other subordinate agreement. No such payment shall be due unless and until the appropriate amount thereof shall have been substantiated to the satisfaction of the Port Authority and the Port Authority shall have completed its audit of all relevant books and records required by it in the performance of such audit and shall have satisfied itself as aforesaid. In no event shall the Port Authority thereafter grant an aircraft operator the right to use any area in the Concourses or the airside (or back) corridors or the Wings for retail purposes. As of the effective date of termination under this paragraph the area(s) subject thereto shall cease to be part of

the leased premises without the need for any additional act or instrument.

Section 2. Term; Certain Rights of Termination

(a) The term of the letting under this Lease ~~as~~ shall (i) commence thirty (30) days after execution of this Lease by the parties hereto except as to those portions (herein collectively "later commencing area") of the premises other than the area shown in diagonal hatching on page 7 of Exhibit "A" located within the Center Section of the CTB as to which later commencing area the letting hereunder shall commence upon the Get Set Date, but if at an earlier date than the Get Set Date any part of the later commencing area is tendered to the Lessee by the Port Authority and the Lessee enters or undertakes any activity therein or permits any entrance or activity therein by another, then, with respect to such part, upon the commencement of such entrance or activity, continue for a period (herein referred to as "the Take Your Mark Period") until the effective date (herein referred to as "the Get Set Date") of the Port Authority's written notice to the Lessee that it may enter at least eighty percent in the aggregate of those areas shown in diagonal hatching on Exhibit "A-1" located within the Center Section of the CTB the leasing of which is not specifically indicated in the first Merchandising and Tenant-Mix Plan described in Section 3(b) (approved without qualification by the Port Authority) as being deferred, to commence the Lessee's fit-up work so as to prepare the Center Section for retail operations subject to such requirements, limitations and conditions as the Port Authority may prescribe at such time and throughout the Get Set Period (described later in this sentence) to the end, in the sole judgment of the Port Authority, that the timely completion of that part of the Port Authority's Work in or applicable to that portion of the leased premises in the Center Section and/or the Center Section Common Area, as such Work is described or referred to in the schedule attached hereto and hereby made a part hereof and marked "Schedule W" and which the Port Authority shall be responsible for completing, remaining to be done shall not be impeded, obstructed, delayed, or rendered more difficult or costly to complete by virtue of the Lessee's entry, presence or work and that any part of the Port Authority's Work, including that which remains to be completed, shall not be placed at risk of loss or damage on the same account, (ii) continue for a period (herein referred to as "the Get Set Period") ending as of the latest of (x) the date the Port Authority's Work is substantially

completed, meaning the completion of all of such Work except for such portions as will not materially impede or obstruct the conduct of retail operations in the Center Section, including without limitation, "punch-list items" and decorative, trim or other esthetic elements, (y) a date which is 180 days from the commencement of the Get Set Period or (z) the date retail operations serving the public commence under Port Authority approved subleases in at least both seventy-five percent (75%) of the retail area of the premises shown in diagonal hatching and in stipple over diagonal hatching in Exhibit "MP" (collectively hereinafter "the overall retail area") attached hereto and hereby made a part hereof and fifty percent (50%) of the retail area of the premises shown solely in diagonal hatching on said Exhibit MP (hereinafter "the Center Section retail area") without taking into account in either situation any Port Authority accepted "fallow" or "banked" space in any of such areas under any approved merchandising and Tenant-Mix Plan except as may be expressly approved in advance in writing by the Port Authority and (iii) continue thereafter for a period of 180 calendar months but, if the Get Set Period does not end on the last day of a calendar month, thence for a period to the end of the calendar month in which the Get Set Period ends and for 180 calendar months thereafter, (in this Lease referred to as "the principal term") on the last day of which principal term this Lease shall expire unless this Lease shall have sooner terminated. Immediately following the commencement of the principal term, the parties shall enter into a supplemental agreement setting forth the expiration date of this Lease in accordance with the foregoing.

(b) The Port Authority shall have the right at any time, without cause, to terminate this Lease and the term of the letting hereunder upon thirty (30) days' written notice to the Lessee. Termination hereunder shall not relieve the Lessee of any liabilities or obligations under this Lease which shall have accrued on or prior to, or which shall take effect on, the effective date of termination. Termination hereunder shall have the same effect as though such date were the original expiration date of this Lease. Except as expressly provided in this paragraph (b), termination pursuant hereto shall create no obligation on the part of the Port Authority. In the event of termination pursuant to the foregoing:

(1) If such notice is given (i) on or after due execution and delivery of this Lease by both parties hereto but prior to the Port Authority's unqualified written

approval of the first Merchandising and Tenant-Mix Plan required to be submitted by the Lessee as described in Section 3(a) below ("plan approval date"), (ii) on or after the plan approval date but prior to the next applicable "milestone" date set forth in the table below and described in the following clause, or (iii) when the Port Authority shall have specifically consented to or approved in writing specific subleases or other subordinate agreements with specific sublessees or other subordinate entities in definitive executed form covering both floor space percentages per stratum set forth in the table below of (x) the overall retail area and (y) the Center Section retail area, then, subject to the matters referred to in subparagraph (3) of this paragraph, the Port Authority shall pay to the Lessee an amount equal to the sum of the Lessee's Unamortized Capital Investment (as defined in paragraph (d) of this Section) as of the date such notice is given and the single applicable amount set opposite the "milestone" indicated in the following table which is last achieved as of the same date less all amounts claimed by the Port Authority to be due from the Lessee provided that any such claim shall not be conclusive against the Lessee:

Notice On or After Milestone Last Attained:	Applicable Amount Payable
1. Commencement of the term of the letting hereunder	$600,000
2. Merchandise and Tenant-Mix plan approval date	$900,000
3. The following percentages of both the overall retail area ("overall") and the Center Section retail area ("CS") under subleases and/or other subordinate agreements consented to by the Port Authority:	
33% overall/25% CS	$1,350,000
50% overall/35% CS	$2,030,000
75% overall/50% CS	$2,930,000

For the purposes of this subparagraph (1), the subleases/ other subordinate agreements referred to in this subparagraph shall exclude any sublease/other subordinate agreement with a stated term of less than five years during which rentals are payable or covering a greater period than five years during which rentals are payable but terminable by the sublessee/occupant without cause at any time.

(2) If such notice is given at any time after the commencement of the principal term of this Lease, then, subject to the matters referred to in subparagraph (3) of this paragraph, the Port Authority shall pay to the Lessee an amount equal to the higher of the sum of (i) the Lessee's Unamortized Capital Investment as of the date such notice is given, or (ii) the value of the Lessee's interest in this Lease (herein referred to as "the leasehold value") with respect to the remaining term of the letting under this Lease as of the date such notice is given, provided, however, that the leasehold value shall in no event exceed an amount equal to the aggregate of (x) the Lessee's Unamortized Capital Investment as of the date such notice is given plus (y) the product of (aa) $25,000 and (bb) the number of full calendar months remaining in the principal term as of the date such notice is given and less any amount claimed by the Port Authority to be due from the Lessee provided that any such claim shall not be conclusive against the Lessee. On the first business day after the end of the second full calendar month from the day such notice is given, the Port Authority and the Lessee shall simultaneously exchange in the Office of the Aviation Director of the Port Authority each other's estimate and appraisal of the leasehold value and provide the other with the name, address and telephone number of the party responsible for its appraisal. If the Lessee's estimate is less than that of the Port Authority's estimate, the Lessee's estimate shall be the sole one used in the foregoing calculation. Otherwise, provided the lower of the two estimates is at least ninety percent (90%) of the higher estimate, the average of the two shall be used in the foregoing calculation but, if the lower is less than ninety percent (90%) of the higher estimate, each of the Lessee and the Port Authority shall itself or shall cause the party responsible for the appraisal submitted by it or on its behalf to contact the other party and both parties hereto shall select an independent person with experience in the appraisal of commercial retail real estate leases over at

least a ten (10) year period immediately preceding and certified as a general real estate appraiser under the laws of the State of New York, such selected and qualified person to determine "a leasehold value of the Lease dated the 19th day of September, 1994, by and between The Port Authority of New York and New Jersey and Marketplace LaGuardia Limited Partnership bearing Port Authority Lease No. AGA-317, as the same may have been amended and supplemented, without regard to or consideration of either any of the express provisions hereunder relating to termination of this Lease by either party without cause or any payments consequently due hereunder" without reviewing the two aforesaid appraisals which shall not be submitted or revealed to said third appraiser and after conducting such inquiry as the third appraiser deems desirable and toward which end both the Lessee and the Port Authority shall cooperate. Such leasehold value determined by the third appraiser shall be set forth in writing together with the third appraiser's analysis and findings and delivered to each of the Lessee and the Port Authority. Whichever of the two estimates of leasehold value originally presented by the Port Authority and the Lessee as aforesaid is closest to the figure determined by the third appraiser shall be the leasehold value and such shall be used in the calculation called for in this clause (ii). The determination of the leasehold value hereunder shall be final and binding on both the Lessee and the Port Authority. If as a result of the determination of the leasehold value, an amount shall be found owing from the Port Authority under this subparagraph (2) over and above the Lessee's Unamortized Capital Investment as above provided, the Port Authority shall pay such amount owing to the Lessee within thirty days thereafter less all amounts claimed by the Port Authority to be due from the Lessee provided that any such claim shall not be conclusive against the Lessee.

(3) Subject to the Port Authority having received from the Lessee and being satisfied with the documentation in support of the Lessee's Unamortized Capital Investment in the form required to be maintained and furnished as provided below in this Section and having a reasonable period of time from the date of the notice of termination within which to review the same and to inspect such relevant books and records of the Lessee and perform such audit as the Port Authority deems necessary, the Port Authority shall make payment to the Lessee within thirty

days thereafter of the sum called for in subparagraph (1) of this paragraph (b), in paragraph (c) of this Section or in clause (i) of subparagraph (2) of this paragraph (b) with respect to the Lessee's Unamortized Capital Investment (without awaiting the determination of the leasehold value as provided under clause (ii) thereof), as applicable, less all amounts claimed by the Port Authority to be due from the Lessee provided that any such claim shall not be conclusive against the Lessee.

(c) (i) The Lessee, as its sole remedy and without any right to assert any claim whatsoever for damages or otherwise against the Port Authority on account of or relating to the condition prerequisite to the exercise of such remedy (as set forth below), may terminate this Lease upon written notice of termination received by the Port Authority within seven (7) days after the date set forth in this sentence if the Port Authority's Work is not substantially completed (within the meaning set forth in paragraph (a) of this Section 2) by the end of the eighteenth full calendar month following the Anticipated Get Set Date (as defined in division D of Section 3(b)(1) for any reason whatsoever except if due in whole or in part to any condition or circumstance beyond the reasonable control of the Port Authority (financial capability excluded); if such remedy is exercised and the Port Authority has not proceeded in good faith with respect to the substantial completion of the Port Authority's Work, the provisions of subparagraph (1) of paragraph (b) of this Section 2 with respect to the calculation and payment of the sum payable to the Lessee by the Port Authority shall become operative under this paragraph (c) but if such failure to proceed in good faith is not present, then payment shall be in the amount provided in the following subparagraph (ii).

(ii) Each of the Lessee and the Port Authority shall have the right, upon written notice to the other (if by the Port Authority, then upon thirty (30) days' written notice) to terminate this Lease if for any reason beyond the reasonable control of the Port Authority (including any cost increases in excess of commercially reasonable amounts), the Port Authority's Work is not substantially completed by the end of the twenty-fourth full calendar month following the Anticipated Get Set Date; if either elects to terminate pursuant to this provision, the sole obligation of the Port Authority to the Lessee on account thereof shall be the payment of the Lessee's Unamortized Capital Investment as of the effective date of

termination less any amount claimed by the Port Authority to be due from the Lessee.

(iii) Termination pursuant to this paragraph (c) otherwise shall have the same effect as though such date were the original expiration date of this Lease and neither party shall have any further liability to the other except as above provided and as to obligations accruing through or which take effect on the effective date of termination.

(d) For the purpose of this Lease subject to the exception indicated at the end of division D of Section 3(b)(1) below the Lessee's Unamortized Capital Investment shall mean the aggregate amount of the Lessee's actual expenditures ("the Lessee's qualifying costs"), as accrued for the period through the twenty-fourth full calendar month following the commencement of the principal term on a line-item basis in accordance with the capital budget attached hereto as Schedule "CB" and hereby made a part hereof, as the same shall be amortized pursuant to the straight-line method of accounting (principal only) over fifteen (15) years, such expenditures to be for the direct and sole benefit of the Port Authority's Central Terminal Building Retail Redevelopment Program at the Airport ("the Project") in the fulfillment by the Lessee of its design, development and leasing obligations to the Port Authority under this Lease, provided, however, anything in said capital budget to the contrary notwithstanding, unless expressly approved in writing by the Port Authority the Lessee's qualifying costs shall not include:

(i) any costs and expenses prior to full execution of this Lease except, but subject nonetheless to clauses (iii), (vi) and (vii) below and the provisions of this paragraph (d) thereafter ensuing, up to (aa) Ex. 2.a. in the aggregate for architect and engineering design work (by professional and technical personnel in such fields) subsequent to May 12, 1993, including the costs and expenses of such personnel in interacting with Port Authority personnel and (bb) up to Ex. 2.a. in the aggregate on or after July 15, 1994 in connection with the Lessee's negotiations with Host Marriott on a temporary lease extension and revised unamortized buyout obligation under the existing Port Authority lease including the costs and expenses in interacting with Port Authority personnel;

and the Lessee's officers

(ii) any costs and expenses of or related to matters of a promotional, marketing or advertising nature

targeted to third parties including the preparation or dissemination of information or materials;

(iii) any costs and expenses in seeking or retaining or employing "outside" professionals, business or other consultants, contractors or agents;

(iv) any costs and expenses of insurance policies, including coverage limits in excess of those required at a minimum to be maintained by the Lessee under this Lease, or of any action required of the Lessee by the insurer thereunder or as a condition to the issuance or continued effectiveness of such policies except as to insurance expressly required of the Lessee under this Lease;

(v) any costs and expenses of or related to the use or leasing of off-premises space or facilities in connection with the Project or the maintenance, repair or operation of any off-premises space or facilities;

(vi) any costs and expenses for compensation of, or reimbursement of expenses to, any officer, director, partner or principal of, or investor in, the Lessee or of or in any entity affiliated with the Lessee, directly or indirectly, including any officer, director, partner or principal of or investor in such entity, the reference to each such person in this clause (vi) to include the immediate family of such person, except to the extent, if at all, expressly included in said capital budget, the foregoing also to apply to any member of the family of any such person; or

(vii) any costs associated with or arising out of contracts or arrangements with any entity affiliated with the Lessee, directly or indirectly.

Notwithstanding that the Lessee's qualifying costs represent an aggregate amount, for the purposes hereof the Lessee shall adhere strictly to the line-item formulation of such capital budget, it being intended and agreed that any amount not utilized under any particular line-item shall not be transferred to or available for use under any other line-item except as and to the extent otherwise specified in such capital budget attached hereto as Schedule CB.

Such expenditures as fall within the foregoing definition of the Lessee's qualifying costs shall nevertheless not be treated as such under this Lease unless they are evidenced by certificates

of a responsible fiscal officer of the Lessee sworn to before a Notary Public and delivered to the Port Authority within sixty (60) days after they are incurred by the Lessee, which certificates shall (aa) set forth, in reasonable detail and with reference to a stated line-item in said capital budget, all as to facilitate audit by the Port Authority, the amounts paid by the Lessee to specified persons or entities and other expenses paid by the Lessee meeting said definition of the Lessee's qualifying costs not previously reported in similar certificates delivered to the Port Authority, (bb) have attached thereto reproduction copies or duplicate originals of the invoices of third parties and substantiation that such invoices have been paid in full and (cc) certify that the amounts, payments and costs and expenses therein set forth constitute part of the Lessee's qualifying costs as defined under this paragraph (d). The Lessee's qualifying costs shall be subject to audit by the Port Authority which, however, shall not be prejudiced or deemed to have waived any of its rights or powers under this Lease arising from it not challenging or not having challenged one or more statement(s), certification(s) or documentation delivered to the Port Authority or amounts of any payment(s) made to or due the Port Authority as rental or otherwise hereunder or by reason of the Port Authority having paid any amount(s) to the Lessee whether or not following any audit, anything in this Lease to the contrary notwithstanding.

Section 3. Lessee's Role and Certain of Lessee's Responsibilities Prior to the Principal Term

(a) The Take Your Mark Period

In addition to complying with, observing and performing all of the terms, conditions and other provisions on its part to be complied with, observed and performed throughout the term of this Lease which are not limited in their application to any particular period during the term of this Lease and without limiting the generality thereof, during the Take Your Mark Period and thereafter during the remainder of the term of this Lease if and as provided in this paragraph, the Lessee shall have and perform the following tasks and responsibilities:

(1) The preparation and delivery to the Port Authority for the Port Authority's written approval of a Merchandising and Tenant-Mix Plan. As to each part of the premises to be subleased for retail purposes such plan

shall: (i) show the actual area proposed for each individual subtenant and specific use or uses proposed therefor in such detail as the Port Authority may require; (ii) indicate at least five proposed named retail operators (subtenants) for such area and the proposed rental components and rental ranges (for each such component) as to each such proposed sublease and operator (subtenant) throughout the respective proposed term and the proposed mandated hours of operation for each such operator (subtenant); (iii) set forth those proposed named operators (subtenants), to the extent then identifiable by the Lessee, which qualify or appear to qualify as Disadvantaged Business Enterprises ("DBE's") within the meaning of Federal Aviation Administration Regulations and the requirements of the Port Authority's Office of Business and Job Opportunity; (iv) present the Lessee's projected construction costs to ready such area for operation by each proposed operator (subtenant) to be submitted for the approval of the Port Authority; and (v) give the Lessee's projected sales by each such operator (subtenant) referred to above under clause (ii) per enplaned passenger (as defined in Section 4 hereof) at the CTB for the second annual period of the principal term. Delivery of such Merchandising and Tenant-Mix Plan shall be made within ninety (90) days of the execution of this Lease. The Port Authority shall have thirty days after its receipt of such plan to respond thereto in writing indicating the items to which it objects. Within fifteen days after said response by the Port Authority the Lessee shall forward to the Port Authority a revised Merchandising and Tenant-Mix Plan appropriately reflecting the Port Authority's comments, if any. This process, with such respective time periods, shall repeat itself until the Port Authority's approval is given to such plan, whether or not the Take Your Mark Period ends during the process.

(2) If, as and to the extent specifically requested in writing by the Port Authority, the rendering to the Port Authority of advice with respect to, and the delivery to the Port Authority of the products of, architectural and design planning for, the CTB's landside Departures Level "window-wall", the functional interrelationships among the various areas of the CTB bearing on, and other aspects of, the Lessee's proposed retail development and subsequent management of the respective areas of the premises and, to the extent provided

for in this Lease, the common areas and facilities within the Center Section.

(b) The Take Your Mark Period and the Get Set Period.

In addition to complying with, observing and performing all of the terms, conditions and other provisions on its part to be complied with, observed and performed throughout the term of this Lease which are not limited to their application to any particular period during the term of this Lease and without limiting the generality thereof, during both the Take Your Mark Period and the Get Set Period and thereafter during the remainder of the term of this Lease if and as provided in this paragraph, the following shall be in effect and the Lessee shall have and perform the following tasks and responsibilities:

(1) A. The Port Authority does hereby assign, transfer and set over to the Lessee, effective on the commencement of the term of this Lease, the Old Guard Portfolio subject nevertheless to all of the terms, conditions and provisions therein contained and the provisions of this paragraph (b) and except as to (i) all right, title and interest of the Port Authority in and to amounts and items deposited and which hereafter may be deposited by the lessees under the Old Guard Portfolio as security for the due and timely performance of the respective obligations of such lessees thereunder, such right, title and interest and all rights under the provisions with respect thereto (collectively "reserved security fund rights"), and (ii) all amounts due and which hereafter may be due through the end of the Get Set Period for or in connection with utilities ("reserved utility charges") to remain exclusively with and the exclusive property of the Port Authority, it being understood and agreed that any failure on the part of any respective lessee of the Old Guard Portfolio to perform any obligation on its part to be performed under the respective lease with respect to the replenishment of the security fund and the payment of reserved utility charges as provided therein shall constitute a default or breach under such lease by such respective lessee. As of and after the date on which the principal term of this Lease commences, the reserved security fund rights to the extent, if at all, then existing and not theretofore applied against any default or breach by the pertinent lessee shall be deemed assigned, transferred and set over to the Lessee. The rights, interests and

benefits under the provisions in any agreement forming part of the Old Guard Portfolio vesting in the Port Authority title to property with respect to which the Port Authority may have agreed thereunder to make any payment to a lessee/permittee in the event of termination or revocation of the agreement by the Port Authority upon thirty days' notice, without cause, in accordance with its terms or if the applicable agreement not be extended or a new agreement not be entered into with the lessee/permittee hereby is reserved to the Port Authority and excluded from the foregoing assignment anything herein to the contrary notwithstanding. Further, the provisions of the Old Guard Portfolio with respect to indemnification and maintenance of liability insurance by any lessee/permittee thereunder shall inure to the benefit of both the Port Authority and the Lessee herein, their respective commissioners, directors, officers and employees, and, to the extent necessary to effect the same, the foregoing assignment is hereby made subject hereto. The Lessee does hereby assume, effective on the commencement of the term of this Lease, the performance of and does hereby agree to perform all the terms, provisions, and conditions contained in the Old Guard Portfolio to be performed on the part of the Port Authority (as though the Lessee were the original signatory thereto) other than the provisions with respect to the supply of certain utilities, any obligation of the Port Authority thereunder to repair or rebuild in the event of a casualty or any obligation of the Port Authority to reimburse Host Services of New York, Inc. "the Port Authority Reimbursement Amount" with respect to "the Ramp Work" and "the asbestos removal work" as set forth in subparagraphs (h), (i) and (j) of paragraph 5 of Supplement No. 5 to Lease No. AG-700 dated as of July 10, 1987 which shall remain obligations of the Port Authority on and subject to all of the terms and conditions applicable thereto. Notwithstanding the effective date of such assumption by the Lessee provided in the preceding sentence and without limiting the generality of such provision, the Lessee shall assume the payment obligations of the Port Authority referred to in the second preceding sentence in the event such obligations accrue on or at any time after execution of this Lease. In the event of the termination of this Lease by the Port Authority pursuant to any provision of this Lease which is effective prior to the principal term of this Lease, the Lessee shall be deemed to have assigned, transferred and set over to the Port Authority as of such effective date all right, title

and interest in and to the Old Guard Portfolio and the other agreements (as defined in division B of this subparagraph (1)).

B. The Lessee does hereby assign, transfer and convey to the Port Authority all rentals and other sums (collectively "pre-principal term amounts") due or to become due and which shall accrue at any time until the commencement of the principal term of this Lease either under the Old Guard Portfolio or under any sublease or other subordinate agreement (collectively in this paragraph (b) "other agreements") the Lessee (as sublessor) itself may enter into prior to the commencement of the principal term of this Lease with respect to any portion of the leased premises outside the Center Section (with the specific consent or approval of the Port Authority) and under which any amounts are payable to the Lessee prior to such principal term, all such pre-principal term amounts (whether with respect to the Old Guard Portfolio or other agreements) to be the exclusive property of the Port Authority, it being understood and agreed that any failure on the part of any lessee, sublessee or occupant of any portion of the leased premises to perform any obligation on its part to be performed under its respective agreement during such period shall constitute a breach or default under such agreement by the respective lessee, sublessee or occupant. In addition, notwithstanding that the other agreements may provide for security deposits to be delivered to and held by the Lessee, in the event of any failure on the part of a sublessee or occupant of the Lessee under the other agreements to pay any rentals or other sums due to the Lessee and accruing for any period prior to the principal term of this Lease, as between the Lessee and the Port Authority, such portion of such security deposits shall be paid to the Port Authority upon demand to the extent necessary to cover delinquent pre-principal term amounts, late charges and the Port Authority's costs and expenses incurred in its collection efforts provided the application of the security deposits for any such purpose is not proscribed therein. The Lessee shall direct its lessees, sublessees and occupants in writing to pay all pre-principal term amounts, including but not limited to all rentals and other fees and charges, in the sole name of the Port Authority directly to the Port Authority or, if directed by the Port Authority, to its bank lockbox. Neither such assignment to the Port Authority, such application or payment of such security deposits to the

Port Authority, direction to the sublessees to pay rent and such other amounts to the Port Authority, nor the payment thereof to and acceptance thereof by the Port Authority shall constitute or denote an assumption by the Port Authority of any of the obligations of the Lessee under the subleases, a provision to the foregoing effect to be included in each sublease as matters to be acknowledged and agreed to by each sublessee. The Lessee, at the request of the Port Authority, shall cooperate with the Port Authority in the latter's collection efforts including without limitation the giving of notice of breach of the applicable lease/sublease and the prosecution of suit to terminate such lease/sublease and recover possession of the space sublet thereto if and as requested in writing by the Port Authority, any reasonable out-of-pocket costs incurred by the Lessee in so doing to be reimbursed by the Port Authority upon demand of the Lessee. The Port Authority shall have the right to bring suit in its own name or in the name of the Lessee to collect all amounts due to the Port Authority under this division B. In the event the Lessee receives any pre-principal term amounts, it shall deliver and endorse the same to the Port Authority.

C. Anything above to the contrary notwithstanding, except as otherwise specifically directed or consented to in writing by the Port Authority, the Lessee shall not take any action effective prior to the end of the Get Set Period to terminate any of such Old Guard Portfolio or other agreements with or without cause, to amend or extend any such Old Guard Portfolio or other agreements (which prohibition shall apply through the principal term as well), to waive, surrender, compromise or jeopardize any right or privilege of the Port Authority, or to pursue any remedies or relief to which the Port Authority shall be entitled thereunder or as a matter of law. The Lessee shall take such action with respect to such Old Guard Portfolio and other agreements as the Port Authority may direct in writing except that the Lessee shall not be obligated to pursue extraordinary remedies not expressly provided in the Old Guard Portfolio or such other agreements if in good faith it finds such direction objectionable as a matter of principle and in such case the Lessee shall immediately advise the Port Authority thereof and shall be deemed to have assigned to the Port Authority all such rights and interests necessary in order for the Port Authority to pursue such extraordinary remedies if the Port Authority

deems it advisable. Notwithstanding such rights of the Port Authority with respect to the requirement for its consent or approval and to mandate and direct action by the Lessee, including but not limited to terminating any or all such Old Guard Portfolio and other agreements, whether for cause or without cause, the Lessee shall have no claim against the Port Authority on account thereof. Although the Lessee shall be obligated to bear all costs and expenses associated therewith or arising therefrom, it may include all reasonable third party costs and expenses among its "capitalized costs" eligible for recovery under Section 4 hereof.

D. For the purpose of this division D alone (without having any other consequences than in this division expressly provided, including without limit, the commencement of the principal term), the Port Authority believes the Get Set Date may occur by July 1, 1996 (herein called the "Anticipated Get Set Date). The Port Authority may change such Anticipated Get Set Date one or more times (to advance it or postpone it) by written notice to the Lessee no less than five (5) days prior to the Anticipated Get Set Date then in effect so long as in each case the period between the date notice is given and the changed date is at least of six months' duration and is not inconsistent with the Port Authority's then target date for completion of the Port Authority's work and the aggregate period of postponements resulting from all such changes does not exceed twelve months. On and as of the date (herein referred to in this subparagraph as "the cash reversal date") six months after the Anticipated Get Set Date established under the second preceding sentence, as such Anticipated Get Set Date may have been postponed in accordance with the immediately preceding sentence and as the Anticipated Get Set Date shall be deemed postponed for a period equal to all delays in affording the Lessee access to the Center Section to commence the Lessee's fit-up work as provided in Section 2(a) above due to any cause or condition beyond the reasonable control of the Port Authority (including any cost increases in excess of commercially reasonable amounts) affecting or involving the premises, the CTB, the Airport, or the Port Authority's Work including, without limitation, whether or not similar to such matters as strikes, picketing, boycotts, slowdowns, work stoppages and other labor troubles or disputes, governmental acts or requirements, conditions of supply and demand including

shortages of labor or materials, fire and other casualties, weather and the elements, accidents, acts of God, contract disputes, terrorist threats and other emergencies affecting life or limb, all rentals payable under the Old Guard Portfolio and the other agreements for the period from the Cash Reversal Date through the earliest to occur of (i) the 180th day after the commencement of the Get Set Period, (ii) complete recovery by the Lessee of the Lessee's qualifying costs as provided in clause (ii) below of this subdivision D, or (iii) the end of the Get Set Period (the "cash reversal period"), exclusive of amounts payable thereunder for "pass-through" items (as defined in Section 4(b) below) shall not be the property of the Port Authority anything outside this division D to the contrary notwithstanding but shall be accounted for and distributed/paid monthly as follows in the priority listed:

(i) An amount equal to the Lessee's qualifying costs during the preceding calendar month (other than amounts described in the following clause (ii) ----- to the Lessee;

(ii) An amount equal to the Lessee's actual debt service payments with respect to the Lessee's qualifying costs theretofore financed in accordance with the same cost parameters as set forth in Section 4(b)(4) of this Lease ----- to the Lessee;

(iii) (a) Of the first million dollars of such rentals or portion thereof payable for any part of the first twelve months of the cash reversal period and each successive twelve month period thereafter, if any, during the cash reversal period (each such twelve month period called "a cash reversal annual period") if and when actually received on a cumulative basis from the commencement of a cash reversal annual period to the end of the respective calendar month (during the same cash reversal annual period) for which the distribution/payment is to be made above the sum of the amounts payable under the preceding clauses (i) and (ii) of this division D for the same period

Ex. 2.a.

(b) Of the second million dollars of such rentals or portion thereof payable for

any part of the cash reversal annual period if and when actually received on a cumulative basis from the commencement of a cash reversal annual period to the end of the respective calendar month (during the same cash reversal annual period) for which the distribution/payment is to be made above the sum of the amounts payable under the preceding clauses (i) and (ii) of this division D for the same period

Ex. 2.a.

(c) Of the third million dollars of such rentals or portion thereof payable for any part of a cash reversal annual period if and when actually received on a cumulative basis from the commencement of a cash reversal annual period to the end of the respective calendar month (during the same cash reversal annual period) for which the distribution/payment is to be made above the sum of the amounts payable under the preceding clauses (i) and (ii) of this division D for the same period

Ex. 2.a.

(d) Of the fourth million dollars of such rentals or portion thereof payable for any part of a cash reversal annual period if and when actually received on a cumulative basis from the commencement of a cash reversal annual period to the end of the respective calendar month (during the same cash reversal annual period) for which the distribution/payment is to be made above the sum of the amounts payable under the preceding clauses (i) and (ii) of this division D for the same period

Ex. 2.a.

(e) Of any additional amounts of such rentals or portion thereof payable for any part of the cash reversal annual period if and when actually received on a cumulative basis from the commencement of a cash reversal annual period to the end of the respective calendar month (during the same cash reversal annual period) for which the distribution/payment is to be made above the sum of the

amounts payable under the preceding clauses (i) and (ii) of this division D for the same period

Ex. 2.a.

Anything in this Lease to the contrary notwithstanding, none of the amounts described in the preceding clauses (i) and (ii) of this division D with respect to the cash reversal period shall be included or treated as the Lessee's qualifying costs for the purposes of determining the Lessee's Unamortized Capital Investment or in the calculation of the amount under Section 4(b)(4) below

(2) On or before the fifteenth (15th) day of each calendar month commencing with the beginning of the Take Your Mark Period and through the fifteenth (15th) day after the twenty-fourth full calendar month following the commencement of the principal term, the Lessee shall submit to the Port Authority representative designated in writing by the Aviation Director from time to time for the purpose of receiving the same, the initial such representative to be the General Manager of the Airport, a written report which shall be certified as accurate and complete by the Lessee's chief financial officer and set forth on an accrual basis for the preceding calendar month and cumulatively from the date the Lessee first incurs costs qualifying for inclusion as part of the Lessee's Unamortized Capital Investment under Section 2(d) above through such preceding calendar month the amount of the qualifying costs incurred during the respective periods as aforesaid under the following categories: architectural and engineering consultation, planning and design costs (both compensation and other costs), architectural and engineering field supervision and inspection (both compensation and other costs), executive and management compensation (including fringe benefits) other than for architectural and engineering positions, cost of construction materials, equipment and personal property, legal expenses including attorneys fees, expenses reimbursed to officers, directors, principals, employees, consultants and third parties, on-site personnel (other than architectural and engineering positions) compensation (including fringe benefits), other staff compensation (including fringe benefits), promotional expenses not included under any of the foregoing categories. Promptly after full execution of this Lease, the Lessee shall deliver

to the Port Authority such materials as the Port Authority may require toward establishing to the satisfaction of the Port Authority those costs and expenses actually incurred by the Lessee prior to such execution and includable as part of the Lessee's qualifying costs under the exceptions set forth in clause(i) of Section 2(d) of this Lease.

(3) A. The Lessee, throughout the term of the letting, shall be obligated to sublease (subject to any explicit contrary indication in any Merchandising and Tenant-Mix Plan approved by the Port Authority and then in effect) all parts of the premises (except for seating areas in the Food Court, restrooms adjacent to the Food Court, traffic corridors and mechanical and electric rooms) for retail operations by others (as the Port Authority specifically may approve in writing under specifically approved and executed subleases). At no time during the term of the letting under this Lease unless the Port Authority has explicitly approved in writing specific exceptions after having been furnished such information as it may require and subject to such qualifications, conditions, limitations and restrictions as part of any such approval, shall the Lessee or any affiliate of the Lessee (meaning for the purposes of this Lease any entity that directly or indirectly owns or controls or is owned or controlled by, or under common ownership or control with the Lessee and any entity in which the Lessee or any general or limited partner or shareholder of the Lessee has an ownership interest 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%)) conduct any retail activity in the premises involving the sale or offer by it of goods or services. Without limiting its discretion under this Lease, the Lessee is advised that the Port Authority will not approve such part of any Merchandising and Tenant-Mix Plan which would provide for the Lessee either itself or by conferring upon another the right to, implement, conduct, have any control over or receive any rents or profits with respect to any of the following uses, operations or installations (collectively "the reserved uses") which the Port Authority hereby reserves to itself and its designees exclusively in the CTB except as indicated below: advertising (including, without limitation, static display, broadcast and other), pay

telephones, items available in post offices, ground transportation (including vehicle rentals), hotel and other lodging reservations, vending machines dispensing anything other than products then permitted to be sold on the leased premises under subleases approved by the Port Authority as provided under this Lease, provision of on-airport baggage carts or other on-airport baggage-moving devices, services of any kind or, except as and to the extent expressly approved in writing by the Port Authority, amusements, and public service or airport operation information, messages and announcements. The Lessee acknowledges that although the Port Authority may approve under this Lease including the provisions of Section 1(d) above the operation by the Lessee of automated teller machines (indeed the operation of one such machine in the Center Section is mandated under this Lease), facsimile transmission machines, the rental of portable cellular telephones and other specific retail operations in one or more parts of the leased premises, the Port Authority (and any party specifically authorized by it) may conduct like and competing operations in areas of the CTB outside the leased premises within the sole and absolute discretion of the Port Authority except that as to automated teller machines ("ATM's") only in the event the contingency described in the next sentence materializes, all without releasing the Lessee of any of its obligations under this Lease. In addition, the Lessee agrees that the Port Authority (and any party specifically authorized thereby) may install, operate, maintain and repair within those portions of the leased premises not actually subleased to sublessees with the approval of the Port Authority as required under this Lease, advertising in physical form as well as content, subject only to Port Authority requirements, pay telephones, debit phone card vending and coin (currency) changing machines, facsimile transmission machines and, if the Port Authority determines at any time or from time to time in its sole and absolute discretion that the CTB or any part(s) thereof is not being adequately served by ATM's or a sufficient number of ATM's and so advises the Lessee of such perceived deficiency and does not receive from the Lessee within forty-eight hours thereafter, a commitment by it satisfactory to the Port Authority, to rectify such condition, ATM's. The Port Authority shall have the right to all revenues derived from the reserved uses without compensating the Lessee in any manner on account of such uses or revenues.

B. The Lessee shall sublease the retail areas of the premises in accordance with the Merchandising and Tenant-Mix Plan hereinabove described as approved by the Port Authority. The Lessee shall submit to the Port Authority for its written approval at annual intervals during the principal term (or more frequently if desired by either party) a revised Merchandise and Tenant-Mix Plan in accordance with the same requirements, agreements and procedures as applicable to the original under Section 3(a)(1) above. The Port Authority shall advise the Lessee in writing within twenty days after its receipt of such Merchandising and Tenant-Mix Plan of any elements to which it objects. The Lessee shall sublease the retail areas of the premises in accordance with such new (revised) plan if and when it receives the specific written approval of the Port Authority. Unless and until such new (revised) plan shall have been so approved, the plan approved and then in effect shall continue in effect.

C. Each sublease during the term of the letting under this Lease shall provide that it is and shall be subject and subordinate to this Lease, as the same may be amended, supplemented or extended, that the sublease shall not take effect without the prior written consent of the Port Authority thereto to be embodied in an instrument to be signed by the Port Authority, the Lessee and the applicable sublessee that the Port Authority shall have the right to enforce the sublease directly against the subtenant, that any amendment, supplement or extension of the sublease which does not have the express written approval of the Port Authority shall be void and of no effect whatsoever, and that if this Lease is terminated on any account prior to the expiration of the term of the sublease then the sublease shall terminate simultaneously with such termination of this Lease unless the Port Authority shall notify the sublessee and the Lessee at or prior to such effective date of termination of this Lease that the Port Authority shall and does assume the rights and obligations of the Lessee (sublessor) thereunder from the date of such notice and in the event the Port Authority gives such notice to the sublessee and the Lessee, the Lessee shall deliver to the Port Authority all amounts and items then held as security deposits under the sublease and the rights and obligations and liabilities of the Lessee under said sublease from the date of such notice (but not as to (x) any prior acts or defaults of the Lessee under the

sublease (which shall not be the subject of any claim of whatever kind by the sublessee against the Port Authority or entitle the sublessee to an offset against or deduction from any amounts then or thereafter owed by it under the sublease or to be relieved of any of its obligations under the sublease and the sublessee shall have recourse solely against the Lessee with respect thereto), (y) the application or return of security deposits not actually received in hand by the Port Authority or (z) any prepayment of rent by the sublessee) shall be deemed to have been assigned to and assumed by the Port Authority and said sublessee shall be deemed to have fully attorned to the Port Authority on the foregoing basis for the balance of the term of the subletting under the sublease and to have agreed that the Port Authority, by notice thereof to said sublessee, may assign its rights, title and interest under the sublease to any third party of the Port Authority's choice and as of the effective date of such assignment to such third party the Port Authority shall no longer have any obligation or liability under said sublease. Should any consent instrument provide that the Port Authority's consent may be revoked by it at any time, without cause, on thirty (30) days' prior notice to the Lessee only if the notice of revocation is jointly subscribed thereto by both the Port Authority and the Lessee, the Lessee hereby acknowledges and agrees that the Port Authority shall not be required to request or obtain the Lessee's subscription thereto if (i) any portion of the space subleased under the applicable sublease is located in any part of the premises other than the Center Section and is sought, in whole or in part, by the Port Authority for any use or purpose to directly or indirectly benefit or favorably impact, or to avoid or mitigate any unfavorable impact upon, in the sole judgment of the Port Authority, the CTB or the Airport or the operation or cost of operations thereof, any construction, installation or alteration thereat or any user threof or service provider, then existing or contemplated, provided however, that in no event shall such a space be used at any time thereafter during the remainder of the term of the letting under this Lease for any retail concession for which the Lessee might sublease the same in accordance with this Lease or (ii) any portion of the space subleased under the applicable sublease is located in any part of the premises and is sought, in whole or in part, by the Port Authority for any use or purpose to comply with, contribute to or desirable in connection with, the resolution of any

circumstance arising out of, any requirement of law, rule, regulation, order or directive of any governmental authority having jurisdiction or to avoid potential liability to any third party, including any governmental authority, whether civil, criminal or administrative, or governmental action or decree of any kind whatsoever inimical to the interests of the Port Authority subject however to the same proviso as set forth in the preceding clause (i). The Port Authority also may exercise such right of revocation without the necessity of obtaining the Lessee's subscription thereto and without such revocation affecting this Lease or diminishing the Lessee's obligations hereunder if the sublessee shall fail to observe or perform any of its obligations under its sublease beyond any applicable period of grace after notice as may be provided for in such sublease. Upon the Lessee's receipt of such notice of revocation, the Lessee shall promptly terminate the sublease and cause the sublessee to remove from the space, failure to comply to constitute a breach of this Lease.

D. The Lessee shall see to it that, and each sublease during the term of the letting under this Lease, in addition to providing commitments by the subtenant as elsewhere in this Lease required, shall:

(i) contain restrictions against assignment, sub-subletting, mortgaging or encumbering the subleases or other subordinate agreements or any right, title or interest therein and against changes in ownership or control of the subtenant;

(ii) provide, and the Lessee shall ensure, that the subtenants in their operations pursuant to such subleases shall not charge prices to their customers in excess of "Street Prices" defined as follows:

(aa) If a subtenant conducts a similar business in off-airport location(s), in the Greater New York City-Northern New Jersey Metropolitan Area (herein referred to as "the Metro Area") "Street Prices" shall mean the price regularly charged by the subtenant for the same or similar item in the Metro Area;

(bb) If a subtenant does not conduct a similar business in off-airport location(s) in the Metro Area, "Street Prices" shall mean the average price regularly charged in the Metro Area by similar retailers for the same or similar item; and

(cc) If neither the subtenant nor other similar retailers sell a particular item in the Metro Area, "Street Prices" shall mean the price regularly charged by the subtenant or similar retailers for the same or similar item in any other geographic area, with a reasonable adjustment for any cost-of-living variance between such area and the Metro Area.

Notices in form and substance satisfactory to the Port Authority shall be placed at a Port Authority explicitly approved location in each subtenant's space to the effect that the subtenant guarantees that it subscribes to the foregoing "Street Pricing" policy, such notice to be clearly visible and unobstructed.

(iii) provide, to the extent applicable under this clause (iii), and the Lessee shall ensure, that its subtenants conform to the following requirements as applicable except to the extent any portion of subclauses (aa), (bb), (cc), (dd) or (ff) of this clause is modified by and in accordance with a Port Authority approved Merchandising and Tenant-Mix Plan then in effect:

(aa) first class retail food and beverage service at one or more areas of the premises located within each of the four Concourses of the CTB (those "fingers" emanating in generally a northerly direction from the Terminal Building) shall be made available to the public continuously during the hours, as to each such Concourse, commencing no later than one hour prior to the first scheduled aircraft departure from the respective Concourse and continuing until at least the last actual departure from the same Concourse of a flight scheduled for departure therefrom the same day. Such service also shall be offered in the Food Court and may be offered elsewhere in the premises if in accordance with an extant Merchandising and Tenant-

Mix Plan approved by the Port Authority. At least fifty percent of the subtenants in the Food Court at any one time shall continuously operate their businesses thereat throughout the hours specified above with respect to the aforesaid minimum service to be offered at each Concourse of the CTB;

(bb) first class retail food and beverage service shall be made available to the public "around-the-clock" (for the purposes hereof understood to mean twenty-four (24) hours each and every day without exception) at a facility either in the Food Court or in a centrally located area of that part of the premises situated on the Departures Level (other than any Concourse) accessible to the public without having to pass a security checkpoint in the CTB;

(cc) first class retail newsstands shall be operated in one or more areas of the premises located within each of the four Concourses (not to apply to any Concourse which does not include a portion of the leased premises except during such time or times space is made available for this purpose by the Port Authority in a writing accepted thereon by the Lessee in which event such space shall be deemed part of the leased premises hereunder for such period therein specified and/or subject to the right therein provided the Port Authority to terminate the letting of such space at any time or at or after a specified date without cause or obligation) of the CTB and in a centrally located area of that part of the premises situated on the Departures Level (other than the Concourses) accessible to the public without having to pass a security checkpoint in the CTB, and may be operated elsewhere in the premises if in accordance with an extant Merchandising and Tenant-Mix Plan approved by the Port Authority. For the purpose of this Lease, the term "newsstand" shall be deemed to mean an area and operation in which the subtenant(s) offers for sale newspapers and periodicals, a variety of candies, gum, film, batteries and "HBA" (health and beauty aids) products and such other items as the Lessee and the Port Authority expressly may approve in writing, the subtenant(s) being required at all times to initially have on hand adequate stocks of at least three (on weekends but two) general readership

newspapers regularly circulated in Manhattan and other parts of New York City and to carry at all times an aggregate of at least twenty (20) nationally circulated business, general sports and general readership periodicals. The minimum number of those newsstand operations which shall be open to the public and continuously operating in the premises, that is one in each of the Concourses (subject to the foregoing proviso in the first sentence of this clause (cc)) and in a centrally located off-Concourse area, shall adhere to the same minimum hours as prescribed under clause (aa) above;

(dd) in any instance in which no minimum hours have been set forth above and as to all other subtenants, the subtenants shall be required to be and remain open for business and continuously operate their respective businesses each day at least from 8 a.m. through 8 p.m. or during such other period as the General Manager of the Airport, from time to time by notice to the Lessee, may determine, in his/her sole and absolute discretion, shall properly serve the needs of the public;

(ee) all subtenants must operate their respective businesses so as to maximize their revenues in accordance with business standards observed generally by well-run business enterprises of regional or national scope and open for and conduct business serving the public each and every day during the term of their respective subtenancies, there being no exceptions or modifications of such standards on account of holidays or other circumstances. None of the foregoing provisions of this clause (iii) shall either detract from, vitiate or limit any other requirement of this Lease;

(ff) in the Center Section at least one automated teller machine fully operational twenty-four (24) hours a day with cash in quantities sufficient to meet reasonably anticipated demand and accessible by the public at all times and providing for access at a minimum to at least one of the two largest networks available in the Port District.

(iv) provide, and the Lessee shall ensure, that the subtenant shall:

(aa) use its best efforts in every proper manner to develop and increase the business conducted by it under the sublease;

(bb) not divert, or cause or allow to be diverted, any business from the CTB or the Airport;

(cc) maintain, in accordance with generally accepted accounting practice, during the term of the subletting under the sublease, for one (1) year after the expiration or earlier termination thereof, and for a further period extending until the subtenant shall receive written permission from the Port Authority to do otherwise, records and books of account recording all transactions of the subtenant at, through, or in anywise connected with its operations in the CTB or elsewhere at the Airport, which records and books of account shall be kept at all times within the Port of New York District;

(dd) permit in ordinary business hours during the term of the subletting under the sublease, for one year thereafter, and during such further period as is mentioned in the preceding subdivision (cc), the examination and audit by both the officers, employees and representatives of the Port Authority and those of the Lessee of such records and books of account and also any records and books of account of any company which is owned or controlled by the subtenant, or which owns or controls the subtenant if said company performs services similar to those performed by the subtenant anywhere in the Port of New York District;

(ee) permit the inspection by the officers, employees and representatives of the Port Authority and those of the Lessee of any equipment used by the subtenant, including but not limited to cash registers;

(ff) furnish to the Lessee and, if requested by the Port Authority, to the Port Authority on or before the tenth day of each month following the commencement date of the sublease a sworn statement of all receipts arising out of operations of the subtenant under the sublease for the preceding month, and furnish within ten days after the expiration or sooner termination of the sublease a statement of all receipts arising out of such operations during the term of the subletting under the sublease, within sixty (60) days after such expiration or sooner termination, said statement also shall be certified, at the subtenant's expense, by a certified public accountant and furnished to the Port Authority;

(gg) install and use such cash registers, sales slips, invoicing machines and any other equipment or devices for recording orders taken, or services rendered as may be appropriate to the subtenant's business and necessary or desirable to keep accurate records of its receipts;

(hh) neither exclude any person from participation in, nor deny any person the benefits of, nor otherwise subject any person to discrimination in, the use by the subtenant of the sublet space or in the construction of any improvements or the furnishing of any services at such space on the grounds of race, creed, color, national origin, sex, age, disability or marital status and the subtenant shall use such space in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and any other present or future laws, rules, regulations, orders or directions of the United States of America with respect thereto which from time to time may be applicable to the subtenant's operations at the Airport, whether by reason of agreement between

the Port Authority and the United States Government or otherwise. The subtenant's non-compliance with the provisions of this clause (hh) shall constitute a material breach of the sublease. In the event of the breach by the subtenant of any of the above non-discrimination provisions, the Lessee and the Port Authority each may take appropriate action to enforce compliance; or in the event such noncompliance shall continue for a period of twenty (20) days after receipt of written notice from the Lessee or the Port Authority, the Lessee and the Port Authority each shall have the right to terminate the sublease and the letting thereunder with the same force and effect as a termination under the section of the sublease providing for termination for default by the subtenant in the performance or observance of any other term or provision of the sublease, or may pursue such other remedies as may be provided by law; and as to any or all the foregoing, each of the Lessee and the Port Authority may take such action as the United States may direct. The subtenant shall indemnify and hold harmless the Lessee and the Port Authority from any claims and demands of third persons, including the United States of America, resulting from the subtenant's noncompliance with any of the provisions of this clause (hh) and the subtenant shall reimburse the Lessee and the Port Authority for any loss or expense incurred by reason of such noncompliance. Nothing contained in this clause (hh) shall grant or shall be deemed to grant to the subtenant the right to perform any construction on such sublet space;

(ii) In addition to and without limiting any other term or provision of the sublease, the subtenant shall undertake an affirmative action program as required by 14 CFR part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, sex, age, disability or marital status be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The subtenant shall assure that no person is excluded on these grounds from

participating in or receiving the services or benefits of any program or activity covered by this subpart. The subtenant also shall require that its covered suborganizations provide assurances to the subtenant that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect;

(jj) In addition to and without limiting any other term or provision of the sublease, the subtenant 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. In addition to and without limiting the foregoing, and without limiting the provisions of clauses (hh) or (ii) above or of Sections 31 and 39 of this Lease or Schedule E hereof, the subtenant, in connection with its continuing operation, maintenance and repair of the said space, or any portion thereof, as provided in the sublease, shall throughout the term of the letting under the sublease 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 subtenant, to ensure, to the extent feasible and consistent with cost competitiveness and other considerations properly present in the exercise of good business judgment, maximum opportunities for employment and contracting by minorities and women, and by Minority Business Enterprises ("MBEs") and Women-owned Business Enterprises ("WBEs"). In meeting the said commitment the subtenant shall submit to

the Port Authority for its review and approval the subtenant's said extensive affirmative action program, including the specific affirmative action steps to be taken by the subtenant to meet its aforesaid commitment, within sixty (60) days after the execution of the sublease. The subtenant shall incorporate in its said program such revisions and changes which the Port Authority initially or from time to time may reasonably require. The subtenant throughout the term of the letting under the sublease shall document its efforts in implementing the said program, shall keep the Port Authority fully advised of the subtenant'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.

"Minority" as used herein shall have the meaning as defined in Paragraph II(c) of Part I of Schedule E.

"Minority Business Enterprise" (MBE) as used herein shall have the meaning as defined in the first paragraph of Part II of Schedule E.

"Women-owned Business Enterprise" (WBE) as used herein shall have the meaning as defined in the first paragraph of Part II of Schedule E.

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

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

(ii) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female

contractor associations. The subtenant shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation as called for in this clause (jj) including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

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

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

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

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

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

The subtenant's non-compliance with the provisions of this clause (jj) shall constitute a material breach of the sublease. In the event of the breach by the subtenant of any of the above provisions of this clause (jj) each of the Lessee and the Port Authority may take any appropriate action to enforce compliance; or in the event such non-compliance shall continue for a period of twenty (20) days after receipt of written notice from the Lessee or the Port Authority, the Lessee and the Port Authority each

shall have the right to terminate the sublease and the letting thereunder with the same force and effect as a termination under the section of the sublease providing for termination for default by the subtenant in the performance or observance of any other term or provision of the sublease, or may pursue such other remedies as may be provided by law.

In the implementation of this clause (jj), the Port Authority may consider compliance by the subtenant 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 clause (jj) as effectuating the provisions of this clause (jj). 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 clause (jj) to the extent that such duplication or conflict exists.

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; and

(kk) Furnish good, prompt and efficient service hereunder, adequate to meet all demands therefor at the CTB; furnish said service on a fair, equal and non-discriminatory basis to all users thereof; and, without being construed in derogation of part D (ii) of paragraph (b)(3) of this Section 3, charge fair, reasonable and non-discriminatory prices for each unit of sale or service, provided that the subtenant may make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers; and

(v) contain the following statements:

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

(bb) "Without limiting the generality of the preceding material of this clause (v), this sublease is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23, subpart F. The subtenant agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR part 23, subpart F.

(cc) "The subtenant agrees to include the above statements in any subsequent

concession agreements that it enters and cause those businesses to similarly include the statements in further agreements, the foregoing not to be construed as approval by the Lessee or the Port Authority of any such agreements as required."

(vi) provide for the subtenant to purchase electricity directly from the Port Authority at the same charge which would be made by the public utility supplying electricity to the CTB based on the quantity used solely by the subtenant (among other factors or conditions that would be applied by the utility) but in no event less than the amount which would reimburse the Port Authority for its cost of obtaining and supplying electricity to the subtenant. Payment shall be made by the subtenant when billed therefor by the Port Authority and any failure on the part of the subtenant to do so shall be a breach or default under the sublease with the same effect as a failure to pay rent and shall entitle the Port Authority to withdraw or revoke its consent to the sublease and to cause its termination for cause. Direct billing to any subtenant shall not release the Lessee of its obligation to pay for all electricity supplied pursuant to Section 41(b) of this Lease, including without limitation, that furnished to any such subtenant, except that the Lessee shall be released to the extent of any payment by a subtenant directly to the Port Authority for an item so billed thereby.

E. INTENTIONALLY OMITTED

F. Throughout the term of the letting under this Lease, the Port Authority shall have the right to enforce directly against any subtenant the obligations of such subtenant under its sublease from the Lessee with respect to any part of the premises if, in the opinion of the Port Authority after ten days' written notice is given to the Lessee, the Lessee fails to or inadequately proceeds to do so, all of the Port Authority's costs of such enforcement, including without limitation the cost of providing its own legal counsel and/or of outside legal counsel, shall be reimbursed to the Port Authority by the Lessee as additional rent hereunder upon demand. The Lessee

shall be obligated to enforce all provisions of any such sublease at its sole cost.

G. The Lessee shall employ a full time trained professional staff at all times during the term of the letting under this Lease of sufficient size, expertise, ability, suitability and experience to carry out its responsibilities under this Lease. In addition, during the Get Set Period and the principal term, the Lessee shall employ at the premises on a full-time basis a general manager and one or more assistant general managers of the premises, the employment thereof to be subject to the prior written approval of the General Manager of the Airport, with sufficient authority and support, staff and appropriate equipment, supplies and means to manage and perform the operational, maintenance and repair and other functions and obligations of the Lessee with respect to the premises; to administer those subleases and other agreements with the subtenants and other entities to which the Lessee is a party or by which it is bound relating to the premises, to monitor and compel performance by the above-referenced subtenants of the Lessee and such other entities under said subleases and other agreements relating to the premises and to serve as on-site liaison with the Port Authority, the general manager and assistant general manager(s) each having the power and authority on behalf of the Lessee to resolve all operational issues short of executing any amendment of this Lease and, except as otherwise may be expressly approved in writing in advance by the General Manager of the Airport from time to time as to each instance of unavailability during the principal term, one or the other to be available in person at the premises a minimum time span of sixteen hours each day and to meet with representatives of the Port Authority when and at the place on the Airport designated thereby and to be available at other times by telephone and in an emergency situation to be able to arrive at the Airport by car within two hours after being called. If any management, supervisory or other personnel of the Lessee including without limitation such general manager and assistant general manager(s) or of any contractor or subcontractor, representative or agent of the Lessee is deemed unsatisfactory or does not perform the functions to be performed by the Lessee hereunder in a proper manner and satisfactory to the Port Authority, or in the determination of the Executive Director of the Port Authority has taken any action which constitutes a conflict of interest or which

is inconsistent with the highest level of honesty, ethical conduct or public trust or which the said Executive Director determines is adverse to the public interest or to the best interest of the Port Authority, whichever of the foregoing shall apply as indicated in writing to the Lessee, the Lessee shall remove or cause such other entity to remove any such personnel and replace them with personnel satisfactory to the Port Authority within twenty-four (24) hours, upon notice from the Port Authority. Such managerial and administrative staff will have the use of no less than 1,500 square feet of space in the CTB designated from time to time and provided by the Port Authority for managerial and administrative personnel only solely in connection with the management/administrative functions referred to above. Such space shall not be furnished or equipped by the Port Authority and no representation or promise is made by the Port Authority that it will be suitable for the Lessee's purposes as described above. The Lessee shall pay for electricity, such to be supplied to the premises by the Port Authority and used by the Lessee solely for lighting and the operation of small business machines serving only the aforesaid functions of the Lessee at the leased premises, at the same rates and on the same basis, including under the same limitations and conditions, as applicable generally to tenants of the Port Authority in similar space at the Airport who pay for electricity. Heating and air-conditioning shall also be supplied to the space on the same basis as applicable to electricity as aforesaid but without additional charge or regard as to the payment by others for the same. No other utility or service will be supplied to or for such space by the Port Authority. The Lessee shall take good care of such space and any property of the Port Authority therein, the Lessee to have all of the same obligations with respect to the space and any such property of the Port Authority therein, including without limitation its obligations of indemnity and insurance, as required of it under this Lease with respect to the leased premises. If the Port Authority designates a location to which the Lessee is to relocate in the CTB, the Lessee shall vacate the existing space and remove its property therefrom immediately upon being requested to do so by the Port Authority, leaving such space in at least as good a condition and appearance as when it initially entered the same.

H. On a continuing basis through the end of the principal term, the Lessee shall undertake and

execute, subject to the prior express written approval, as to form, substance and media employed, of the Port Authority, such advertising and promotional programs that shall bring to the attention of the public generally and actual and potential enplaning passengers and their escorts and guests and the aviation and tourist industries in particular through a variety of media also subject to the prior express written approval of the Port Authority, the positive features of the retailing program managed by the Lessee as provided in this Lease and such other information to be presented in such style and format as shall project, consistent with the truth, a desirable image of such retailing program, the CTB and the Airport. The Port Authority shall not have any responsibility with respect to the foregoing matters and shall not bear any part of the costs thereof or with respect thereto.

Section 4. Rentals

For each annual period hereunder the Lessee shall pay as rent to the Port Authority the greater of the base rental or variable rental as hereinafter provided:

(a) Base Rental - The Lessee shall pay to the Port Authority for the period from the day of commencement of the principal term and ending with the last day of the first twelve full calendar months of the principal term (sometimes herein referred to as "the first annual period") and for each of the successive twelve calendar month periods thereafter during the principal term (each such period, including unless the context otherwise implies the first annual period, referred to in this Lease as an "annual period") a rental (herein referred to as "the base rental') equal to the product of thirty cents (herein referred to as "the enplaned passenger rate") and the number of enplaned passengers (as defined and adjusted below) at the CTB during such respective annual periods, as such enplaned passenger rate shall be adjusted hereunder. The base rental shall be payable in twelve equal monthly installments in advance on the first day of each calendar month during each annual period. "Enplaned passenger" shall mean any passenger determined by the Port Authority to have boarded an aircraft at the CTB excluding passengers who disembarked and reboarded the same aircraft with the same flight number for the purpose of continuing their journey.

On a preliminary basis for and during each annual period, the Lessee shall pay on the first day of each calendar month an amount equal to one-twelfth of the product of the enplaned passenger rate in effect as of the date on which such installment is payable and the actual number of enplaned passengers as determined by the Port Authority as hereinafter mentioned for the most recent twelve calendar month period for which the enplaned passenger data is available, provided however that no such monthly installment shall be payable for any particular month in the event that the number of enplaned passengers during such most recent twelve calendar month period is less than Ex. 2.a.

The Port Authority shall determine sixty days after each annual period or further date if required for the Port Authority to obtain such enplaned passenger data, the number of enplaned passengers during the entire preceding annual period and the base rental for such period. If in any annual period there shall be less than Ex. 2.a. enplaned passengers, then, for that annual period no base rental shall be payable but if theretofore paid shall be credited by the Port Authority against the monetary obligations of the Lessee to the Port Authority thereafter first accruing. If the amount of the base rental due for such preceding annual period based on such determination is greater than the total of the interim installments actually paid for such entire annual period, the Lessee shall pay the difference immediately to the Port Authority on demand and, if the reverse be the case, the Lessee shall be credited by the Port Authority with the difference against the monthly rental obligations of the Lessee to the Port Authority thereafter first accruing (or, if at the end of the term, shall be paid to the Lessee within thirty days after such time after deducting all amounts claimed by the Port Authority to be due from the Lessee on any other account under this Lease provided that any such claim shall not be conclusive against the Lessee).

As of the commencement of the principal term and as of the commencement of each successive twelve calendar month period of the principal term following the first annual period, the enplaned passenger rate shall be adjusted to reflect the value of United States of America money as measured by the United States Consumer Price Index for All Urban Consumers, All Items Unadjusted Index 1982-84=100, N.Y., N.Y.-Northern New Jersey, Long Island, NY-NJ-CT published by the Bureau of Labor Statistics of the United States Department of Labor known as and herein called "the Consumer Price Index". Accordingly, the enplaned

passenger rate for the first annual period shall be thirty cents increased by the same percentage increase occurring in the Consumer Price Index from January 1, 1993 to the end of the Get Set Period. For each of the successive annual periods following the first annual period, the enplaned passenger rate shall be the enplaned passenger rate in effect immediately prior thereto as increased or decreased by the same percentage increase or decrease occurring in the Consumer Price Index during the immediately preceding annual period. In the event the Consumer Price Index is not available for the period in question, the Consumer Price Index for the period closest to the desired period shall be used until the Consumer Price Index for the immediately preceding annual period shall become available and then the same shall be applicable to the entire annual period in question. In the event of a change of basis or the discontinuance of the Consumer Price Index (unless it be published by another Department or component of the United States Government), such other appropriate index shall be substituted as may be agreed by the Lessee and the Port Authority as properly reflecting changes in the value of United States money in the Greater New York City Metropolitan Area in a manner substantially similar to the Consumer Price Index. In the event of the failure of the parties to so agree, the Port Authority may select and use such index as it deems appropriate but the foregoing shall not preclude the Lessee from contesting such selection. In no event shall the enplaned passenger rate for the first annual period or for any subsequent annual period be less than thirty cents per enplaned passenger or more than five percent (5%) higher or lower than the enplaned passenger rate it supersedes.

The Lessee hereby acknowledges that the Port Authority's determination as to the actual number of enplaned passengers is based in whole or in part on information supplied to it by various airlines and aircraft operators using the CTB for a portion or all of their flights at the Airport. Accordingly, neither the aforesaid determinations and notices nor the Lessee's conformance to the same, whether or not stated herein or thereon as the "final" statement or words to similar effect, for any of such annual periods shall not release the Lessee from its obligation to pay any amount which may be found thereafter by the Port Authority to be due the Port Authority as base rental.

(b) Variable Rental - After reducing the Lessee's gross receipts (as defined in subparagraph (c) of this Section 4) during each annual period (as defined in paragraph (a) of this

Section 4) by the sum (herein referred to as "the Pre-Sharing Sum") of each of the following items listed numerically in this paragraph (b) in order of priority so listed, each such item to be specifically identified in the pertinent monthly and annual reconciliation reports to be prepared by the Lessee and delivered to the Port Authority hereunder:

(1) all rentals (but not "pass-through" fees and charges, whether or not characterized in any sublease as additional rent) payable but not paid to the Lessee by a sublessee (for all purposes of this Section 4 to include a lessee under any then existing lease in the Old Guard Portfolio) under a sublease (for all purposes of this Section 4 to include any lease then existing under the Old Guard Portfolio) consented to in writing by the Port Authority for and in an amount equal to up to and including the first ninety days of such sublessee's default in payment thereof provided (aa) the Lessee had previously properly included such amount in its gross receipts as theretofore reported to the Port Authority hereunder, and (bb) the Lessee first (x) had commenced an action or proceeded against the particular sublessee by the filing of the required process (the date thereof called "the cutover date") in the appropriate court of record in the State of New York to recover possession of all such sublessee's premises and in such court or elsewhere obtain damages for and arising out of such sublessee's default under or breach of its sublease, (y) had taken all reasonable steps, in the judgment of the Port Authority, to collect all amounts due and payable by the applicable sublessee, it being agreed that without to any extent compromising the foregoing conditions, should the Port Authority determine that the Lessee has not taken all such reasonable steps, the Port Authority shall have the right, at its sole expense, in its own name or in the name of the Lessee, to assume the prosecution of any existing action to collect such amounts and to institute and prosecute such other action toward the same end, all amounts thereafter recovered to be the sole property of the Port Authority without any obligation to account to the Lessee with respect thereto, the rights to all amounts so recovered to be deemed hereby irrevocably and absolutely assigned to the Port Authority and in the event the Lessee receives the same it shall deliver and endorse the same to the Port Authority, and (z) such sublessee had also surrendered possession of its premises to the Lessee, it being understood and agreed that from the cutover date

the Lessee shall not be required to include as part of gross receipts any amounts thereafter payable but not paid by the same sublessee to the Lessee notwithstanding that surrender and recovery of the applicable premises may not have occurred by the cutover date. Amounts recovered by the Lessee prior to the date of the Port Authority's assumption of collection efforts as aforesaid shall be deemed of the same character as the respective sublease components, such as rental, additional rental and special charges, in determining gross receipts during the annual period in which the same are received but should the Lessee recover prior to said date less than all delinquent sums from any applicable sublessee, then the amounts recovered shall be prorated over the various rental, additional rental and special charge components under such sublease; in neither event shall an amount so recovered by the Lessee be includable in gross receipts under this item (1) unless and to the extent the identical amount relating to the delinquent item had been deducted previously pursuant to this item;

(2) the actual reasonable out-of-pocket costs up to a maximum of Ex. 2.a. in any annual period incurred and actually paid to independent third parties by the Lessee in its efforts to collect and for the purpose of collecting due and payable but unpaid gross receipts;

(3) Ex. 2.a. (herein referred to as "the receipts factor") as the same shall be adjusted as of the commencement of the principal term and for the first annual period and as of the commencement of, and for, each annual period thereafter to reflect the percentage increase or decrease in the Consumer Price Index from January 1, 1993 to the commencement of the principal term for the purpose of establishing the receipts factor for the first annual period and in the Consumer Price Index during each annual period thereafter to establish the receipts factor for each immediately succeeding annual period, the receipts factor in no event to be less than the aforesaid original dollar amount and any percentage increase to be no greater than Ex. 2.a. for any annual period;

(4) an amount based solely on the Lessee's qualifying costs financed over a term not to exceed twelve years commencing no later than the start of the principal term and a financing cost (inclusive of all applicable elements such as but without limitation, interest, a

guarantee fee of no more than two percent (2)%) of the original principal amount financed, and a facility fee, the fact of each of such elements, if applicable, to be established to the satisfaction of the Port Authority) not to exceed in the aggregate (x) if the financing rate be fixed, then, the United States Treasury rate on its ten year bonds as of the date next preceding the date of any financing plus three hundred basis points, or (y) if the financing rate be a floating rate, then, the "prime rate" quoted by The Chase Manhattan Bank, N.A. in New York, New York from time to time plus three hundred basis points, such qualifying costs to be amortized in accordance with a financing schedule to be provided to the Port Authority at least thirty days prior to the commencement of the principal term of this Lease, the amortization of principal period, however, to be not less than seven (7) years during the principal term of this Lease and the term of the loan not extending beyond the twelfth anniversary of the principal term of this Lease, with amortization of principal to begin no later than one (1) year after the commencement of such principal term or to be less in any successive twelve (12) month period commencing with the date such amortization begins in accordance herewith than ten percent (10%) of the original principal amount financed regardless of the duration of the term of the financing. Without the same having any relevance to clause (ii) of Section 3(b)(1)D, equity invested by the Lessee under this Lease and meeting the definition of the Lessee's qualifying costs hereunder shall be deemed financed at the financing cost and in accordance with the said financing schedule, subject to the maximum applicable parameter set forth above, applicable hereunder to the funds which the Lessee borrows from time to time from an institutional lender (as defined below) and uses for items within the definition of the Lessee's qualifying costs. If the Lessee does not borrow any funds as aforesaid but utilizes solely its own capital, the financing cost imputed to such equity shall be the lower of the parameters set forth in clauses (x) and (y) of the first sentence of this subparagraph (4). Any refinancing shall be in accordance with this subparagraph (4) except amortization shall begin as of the date of the refinancing, it also being understood that financing cost, as defined above, shall include any refinancing costs as well as all other costs includable under the above parameters applicable to the original financing. The Port Authority accepts that such financing through an institutional lender as provided herein

may involve a guarantee furnished by an investor in or an affiliate of the Lessee (or any other entity of honorable reputation) in connection with or by virtue of which a fee may be charged or imposed or a cost incurred provided such fee or cost is no more than two percent (2%) of the original principal amount financed and such fee or cost together with all other financing costs in the aggregate are within the applicable maximum parameter as to financing provided above. If the Lessee chooses to borrow funds as part of its financing plan, it may borrow only from an institutional lender, meaning any of the following entities having at least two billion dollars in net worth:

(i) institutions, companies or other entities which are subject to the supervision and control of the Banking Department or the Insurance Department of either the State of New York or the State of New Jersey;

(ii) institutions, companies or other entities whose principal activities are subject to the supervision, regulation and control of a department, agency or other governmental authority (however denominated) of any state of the United States having jurisdiction over banks, insurance companies, savings and loan associations or similar entities;

(iii) institutions, companies or other entities whose principal investment activities are subject to the supervision, regulation and control of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board or the Federal Reserve Board (or their successors) or of any other agency, department or instrumentality of the United States of America exercising similar functions or having supervisory and regulatory authority similar to that of the Banking Department or Insurance Department of either the State of New York or the State of New Jersey; or

(iv) pension, retirement or profit sharing plans, trusts or systems whose investments are regulated by (1) the laws of the United States of America or (2) the laws of any state of the United States of America or (3) any public agency of any state

of the United States or (4) any public agency of the United States.

(5) reasonable amounts actually paid to independent third parties by the Lessee for rehabilitation of the leased premises and releasing efforts provided however, the nature of each item is specifically identified by the Lessee to the Port Authority and, as to releasing efforts, specifically approved, in whole or in part, in advance by the Port Authority, acting in its sole discretion, in a writing referring to this provision. The aggregate of such amounts in any of the following annual periods shall not exceed 0 during the first through fifth annual periods, Ex. 2.a. during the sixth through tenth annual periods and during each remaining annual period (subject to prorata reduction for any annual period of less than twelve months), provided however, that should such amounts expended in any annual period be less than the aforesaid respective limits for a particular annual period(s), then the difference, if at all, shall be treated as reserve funds, deposited and maintained by the Lessee for the benefit of the Port Authority in a separate interest bearing bank account and, to the extent permitted in this sentence cumulatively carried forward from annual period to annual period throughout the remainder of the term of the letting under this Lease to be available to the Lessee for its use for such rehabilitation and releasing as is comprehended under this item provided, however, such reserve funds, including interest thereon, shall in no event exceed in any annual period that amount which, when added to the respective annual period limit above specified in this item and an amount ("the Lessee's reserve capital contribution") comprised of the Lessee's own funds or covered by a line of credit (approved in advance by the Port Authority in Ex. 2.a. writing) in favor of the Lessee, originating at even if not drawn down and as the same is reduced by such reasonable amount (as drawn down and used by the Lessee in the prior annual period(s)) for such rehabilitation and releasing items as have been approved in advance in writing by the Port Authority as aforesaid, would bring the aggregate on reserve, including the Lessee's reserve capital contribution, above Ex. 2.a. 0 for any annual period (proratedly reduced for any period of less than twelve months). Any reserve funds, including the Lessee's reserve capital contribution, shall be used only as provided in this item subject to approval by the Port Authority as aforesaid,

the Lessee to draw upon the Lessee's reserve capital contribution only after it has exhausted all other funds herein allowed to be included in such reserve. Ex. 2.a. of any balance remaining in such reserve (excluding any part of the Lessee's reserve capital contribution then not drawn down under such line of credit) at the end of the term of the letting hereunder shall be deemed to belong to the Port Authority and be paid at such time by the Lessee to the Port Authority; and

(6) An amount at the monthly rate of the product of Ex. 2.a. to be paid to the Port Authority as additional rent hereunder monthly in advance during the principal term,

Ex. 2.a.

"Gross receipts" shall mean all monies and the value of other consideration paid or payable to the Lessee, whether as rentals, fees or charges imposed by the Lessee or otherwise, by any party who with the permission of the Lessee shall be conducting business or occupying or using space or entitled to conduct business or occupy or use space in any portion of the premises provided, however, that there shall be excluded from gross receipts amounts ("pass-throughs") received from any such party in payment of charges specifically billed thereto for utilities, promotional materials and services and common area maintenance which are not in excess of amounts reasonably incurred by the Lessee for work performed by its employees or charged to and actually paid by the Lessee to (and not subject to rebates by) independent third parties or the Port

Authority supplying such utilities, promotional materials and services and common area maintenance as established by the Lessee to the satisfaction of the Port Authority, no pass-throughs to be a part of the Lessee's qualifying costs as defined in this Lease.

(c) The Lessee shall not, without the prior written approval of the Port Authority, release or, to the disadvantage of the Port Authority in the Port Authority's sole judgment, modify, any monetary obligation of any sublessee, whether theretofore or thereafter occurring. Notwithstanding the generality of the foregoing, for so long as any particular sublessee continues to pay to the Lessee on a timely basis in accordance with its sublease (and not under protest or subject to any reservation of rights) amounts includable in gross receipts which are specifically identified by both the Lessee and the Port Authority in a signed writing or exchange of correspondence as "the effective rent" under such sublease pursuant to this paragraph (c), the Lessee may conditionally release the sublessee from its obligation to pay minimum rent (or such portion thereof as the Port Authority may specify in such writing or exchange of correspondence) thereafter accruing during the remainder of the term of such sublease but such shorter period if provided in said writing or exchange of correspondence, provided, however, that during any annual period hereunder the amounts so released hereunder in the aggregate as to all sublessees and their subleases shall not exceed two percent (2%) of the gross receipts for the immediately preceding annual period after reducing such gross receipts by the sum of all amounts during such preceding annual period (i) released by the Lessee in accordance with the foregoing provisions of this sentence, and (ii) deducted from gross receipts under items (1) and (2) set forth in paragraph (b) of this Section 4.

(d) (1) Gross receipts and each of the items reducing the same as provided in paragraph (b) of this Section 4 as well as each pass-through item for the preceding month and separately on a cumulative basis for each annual period through the last day of such preceding month shall be reported in writing by the Lessee to the Port Authority on the 20th day of the month following that month in which each annual period commences and on the 20th day of each and every month thereafter during the same annual period and the month immediately following the end of such period, each such report to be subscribed under oath by the chief financial officer of the Lessee (and, upon request of the Port Authority if the Lessee at any time in the past shall have been found by the Port Authority to have inaccurately reported such

information, certified at the Lessee's expense by a certified public accountant acceptable to the Port Authority).

(2) Simultaneously with the delivery to the Port Authority of each such report, the Lessee shall pay variable rentals monthly to the Port Authority, if any shall then be due in accordance with this Section 4 and based on the following:

Gross receipts on a cumulative basis for the period from the commencement of the then current annual period through the last day of the month in the same annual period for which the applicable report is being made first shall be reduced by the aggregate of:

(i) the sums allowed for the same period under items (1) and (2) set forth in paragraph (b) of this Section,

(ii) by the product of 1/12th of the sum of the amounts allowed for the same period under items (3) and (4) set forth in said paragraph (b) and (times) the number of months for which such cumulative figures are then required to be provided,

(iii) the actual amounts applied and allowed for the same period (subject to the dollar limitation for the then current annual period) under item (5) set forth in said paragraph (b), and

(iv) by the product of Ex. 2.a. times the number of months in an annual period for which such cumulative figures are then required to be provided;

the result of the foregoing calculation referred to herein as the "Net Gross Receipts";

then, to the extent, if at all, that Net Gross Receipts, if

Ex. 2.a.

(aa) the base rental installments on a cumulative basis actually paid for the same annual period in accordance with paragraph (a) of this Section 4, and

(bb) all amounts theretofore paid as variable rental for the same annual period,

the Lessee shall pay such excess to the Port Authority.

Within such forty-five (45) days following each annual period the Lessee shall deliver to the Port Authority a statement of gross receipts and of each of the items reducing the same as provided in paragraph (b) of this Section 4 as well as of each of the pass-through items for the preceding annual period certified at the Lessee's expense by a certified public accountant reasonably acceptable to the Port Authority and when the Port Authority shall determine the actual number of enplaned passengers during such preceding annual period and notify the Lessee thereof, the rental payable for such period shall be reconciled against the rental paid for the same period and, if any deficiency exists, the Lessee shall pay the same to the Port Authority forthwith but, if the reverse be the case, the Lessee shall be credited by the Port Authority for any such annual rental overpayment against the monthly rental obligations of the Lessee to the Port Authority thereafter first accruing (or, if at the end of the term, shall be paid to the Lessee within thirty days after such term after deducting all amounts claimed by the Port Authority otherwise to be due from the Lessee on any other account under this Lease provided that any such claim shall not be conclusive against the Lessee).

(e) Notwithstanding that the variable rental hereunder is measured by a percentage of a certain portion of gross receipts or that the Lessee shall be entitled to certain portions of gross receipts, no partnership relationship or joint venture between the Port Authority and the Lessee is created or intended to be created by this Lease.

(f) The computation of rentals and of reductions from gross receipts of amounts of every kind and description in the determination of the Net Gross Receipts shall be individual to each annual period and without relation to any other annual period. The implications of the foregoing principle shall include without limitation the concept that except as expressly

provided in this Section 4, no amounts shall be carried over from one annual period to another whether or not sufficient gross receipts were in fact realized and actually paid to the Lessee or to the Port Authority, as the case may be, to cover all amounts under this Section.

(g) The Lessee at all times shall maintain, in accordance with generally accepted accounting practice, during the term of the letting under this Lease, for one (1) year after the expiration or earlier termination thereof, and for a further period extending until the Lessee shall receive written permission from the Port Authority to do otherwise, records and books of account recording all amounts the Lessee shall have received in any way connected with the Airport, which records and books of account shall be kept at all times within the Port of New York District provided, however, on the condition that the Lessee shall pay to the Port Authority all travel costs and expenses, as determined by the Port Authority, for the Port Authority auditors and other representatives in connection with any audit at locations outside the Port of New York District, the Lessee may maintain said records and books and make them available to the Port Authority, when requested, at the Lessee's office in Boston, Massachusetts theretofore identified to the Port Authority. The Lessee shall permit in ordinary business hours during the term of the letting under this Lease, for one year thereafter, and during such further period as is mentioned in the preceding sentence, the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account and also any records and books of account of any company which is owned or controlled by the Lessee or which owns or controls the Lessee, if said company performs services similar to those performed by the Lessee anywhere in the Port of New York District;

(h) The Lessee shall use its best efforts in every proper manner to contribute to the development and increase of the business derived from retail operations in or from the leased premises and the gross receipts to be realized therefrom hereunder. The Lessee shall not divert, or cause or allow to be diverted, from the CTB or the Airport any retail business or gross receipts arising therefrom hereunder.

Section 5. <u>Use</u>

It is recognized and understood by the parties hereto, that the Lessee shall not itself conduct or provide

retail activity at the leased premises or make any commercial or other use thereof of any kind whatsoever, but shall use the premises and be obligated, as hereinabove in this Lease set forth, to enter into subleases or other subordinate agreements with operators, subject to the consent of the Port Authority and in accordance with this Lease, calling for such operators to conduct and provide those retail activities permitted under this Lease and more specifically under such subleases and other subordinate agreements in the respective portions of the leased premises as then approved therefor by the Port Authority hereunder. With the exception of the rights of the Port Authority (and any party specifically authorized by the Port Authority) described in this Section, the use(s) to which each part of the leased premises may be put and the particular retail operation that may be conducted therein shall be restricted to the respective uses and retail operations specified in the Port Authority approved Merchandising and Tenant-Mix Plan or applicable Port Authority approved sublease or other subordinate agreement, in effect from time to time in accordance with the provisions of this Lease.

Section 6. Compliance with Governmental Requirements

(a) The Lessee shall comply with all laws and ordinances and governmental rules, regulations and orders now or at any time during the term of this Lease which as a matter of law are applicable to or which affect the premises or use or occupancy of, or operations at, the premises hereunder, its interests in and under this Lease and any amounts derived by it from or amounts payable by it to the Port Authority hereunder, and the Lessee shall, in accordance with and subject to the provisions of Section 31 of this Lease, make any and all non-structural improvements, alterations or repairs of the premises that may be required at any time hereafter by any such present or future law, rule, regulation, requirement, order or direction. Notwithstanding the preceding sentence or any other provision of this Lease to the contrary, if any such requirement or mandate to comply does not arise out of or is not related to, directly or indirectly, in whole or in part, the operations, conduct or business of the Lessee or any of its subtenants or their respective directors, officers, employees, agents or representatives, and would entail costs and expenses for items of a capital nature, then the Port Authority and not the Lessee shall undertake such compliance, reserving however its right to contest the applicability of the requirement to itself, and, in

such event, all of the costs of the Port Authority as calculated by it generally, including a percentage thereof, as estimated by it, to cover unallocable costs shall be amortized on a straight line basis over the useful life of the items involved, as determined by the Port Authority, effective as of the date of the Port Authority's expenditure therefor and the amount so amortized from said effective date through the end of the principal term of this Lease ("the payment period") shall be paid by the Lessee to the Port Authority as additional rent hereunder, in equal monthly installments in advance during the payment period out of the Lessee's gross receipts during each annual period at the same level of priority as the Lessee's capital recovery under item "(4)" of Section 4(b) of this Lease and for the purpose of said Section 4(b).

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

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

(d) (i) Since the Port Authority has agreed in the Basic Lease, as hereinafter defined, to conform, to the extent that the Port Authority finds its practicable so to do, to the enactments, ordinances, resolutions and regulations of the City of New York and its various departments, boards and bureaus relating to the construction and maintenance of buildings and structures and to health and fire protection, which would be applicable if the Port Authority were a private corporation, the Lessee and any subtenant hereunder shall comply with all such enactments, ordinances, resolutions and regulations except in cases where the Port Authority either notifies the Lessee that it (or its subtenant) need not comply with or directs it (or its subtenant) not to comply with any such enactments, ordinances, resolutions or regulations.

(ii) The Lessee shall, for the Port Authority's information, deliver to the Port Authority promptly

after receipt of any notice, warning, summons, or other legal process for the enforcement of any such enactment, ordinance, resolution or regulation, a true copy of the same. Any direction by the Port Authority to the Lessee not to comply with any such enactment, ordinance, resolution or regulation shall be given only pursuant to a resolution duly adopted by the Board of Commissioners of the Port Authority or by an authorized committee of its Board and if any such direction is given by the Port Authority to the Lessee, the Port Authority, to the extent that it may lawfully do so, shall indemnify and hold the Lessee harmless from and against all claims, actions, damages, liabilities, fines, penalties, costs and expenses suffered or incurred by the Lessee as a result of non-compliance with such enactment, ordinance, resolution or regulation.

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

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

Section 7. Rules and Regulations

(a) The Lessee covenants and agrees to observe and obey (and to require its officers, employees, contractors, agents, representatives, guests, invitees, subtenants and those doing business with it to observe and obey) the existing Rules and Regulations of the Port Authority and such reasonable future Rules and Regulations and amendments and supplements to existing Rules and Regulations for the government of the conduct and operations of the Lessee and others on the premises as may from time to time during the letting be promulgated by the Port Authority for reasons of safety, health, preservation of property, sanitation or for the maintenance of good order and the orderly appearance of the premises, the CTB and the Airport. The

obligation of the Lessee to require such observance and obedience on the part of its guests, invitees and business visitors shall obtain only while such persons are on the premises. The Port Authority agrees that except in cases of emergency, it will give notice to the Lessee of every such future rule or regulation adopted by it at least 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 either by delivery of a copy, or by making a copy available at the office of the Secretary of the Port Authority.

Section 8. Various Obligations of the Lessee

(a) The Lessee shall conduct its business at the premises and require its subtenants to conduct their business operations hereunder at the premises in an orderly and proper manner, so as not to unreasonably annoy, disturb or be offensive to others at or off the Airport and to keep the sound level of its and their operations to a minimum. Under no circumstances, however, shall the Lessee maintain or operate, or permit to be maintained or operated, any loudspeaker or other device in such manner as to be audible to anyone outside the leased premises or, if maintained or operated within any particular store or retail activity, to anyone not within such particular store or retail activity. The Lessee shall take and require its subtenants to take all reasonable measures to eliminate vibrations originating on the premises tending to damage any equipment, structure, building or portion of a building which is on the premises, or is a part thereof, or is located elsewhere on or off the Airport.

(b) The Lessee shall use its best efforts to conduct its business and require its subtenants to conduct their operations at the premises in a safe and careful manner. The Lessee in its operations hereunder shall follow the best practices of developers and managers of first class regional retail shopping centers in the United States and shall require its subtenants to follow the best practices of similar tenants of such centers.

(c) The Port Authority shall have the right to object to the Lessee regarding the conduct, demeanor and appearance of the officers, employees, agents, representatives, contractors, guests and invitees of the Lessee and those of the

Lessee's subtenants whereupon the Lessee will take all steps reasonably necessary to remove the cause of the objection. If requested by the Port Authority the Lessee shall supply and shall require its employees and those of its subtenants to wear or carry badges or other suitable means of identification, which shall be subject to the prior and continuing approval of the General Manager of the Airport.

(d) The Lessee shall not allow to collect or accumulate at the premises and shall remove from the premises and the Airport or otherwise dispose of in a manner approved by the General Manager of the Airport all garbage, debris, and other waste materials (whether solid or liquid) arising out of occupancy or use of or operations at the premises. Any such waste materials which may be temporarily stored shall be kept by the Lessee and its subtenants hereunder in suitable garbage and waste receptacles, the same to be made of metal or other suitable material, and equipped with tightfitting covers, and be of a design safely and properly to contain whatever material may be placed therein. No facilities of the Port Authority shall be used at any time or to any extent without its prior consent in writing. The Lessee shall use extreme care when effecting removal of all such waste materials, and shall effect such removal at such times and by such means as first approved or as prescribed by the Port Authority. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or deposited into or upon the waters at or bounding the Airport.

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

(f) In addition to compliance by the Lessee and the Lessee requiring its subtenants hereunder to comply with all laws, ordinances, governmental rules, regulations and orders now or at any time in effect during the term of the letting hereunder

which as a matter of law are applicable to the operation, use or maintenance of the premises or the business of the Lessee or operations of the subtenants of the Lessee under this Lease (the foregoing not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them), the Lessee agrees and shall see that all operations at the premises or under this Lease shall be conducted with the highest degree of safety and care and the Lessee and all its subtenants shall operate, use and maintain the premises in accordance with the highest standards and in such manner that there will be at all times a minimum of air pollution, water pollution or any other type of pollution emanating from, arising out of or resulting from the operation, use or maintenance of the premises. The Port Authority hereby reserves the right from time to time and at any time during the term of this Lease to require the Lessee, and the Lessee agrees to design and construct at its sole cost and expense such reasonable structures, equipment, devices and other facilities as may be necessary or appropriate to accomplish the objectives as set forth in the first sentence of this paragraph. All locations, the manner, type and method of construction and the size of any of the foregoing shall be determined by the Port Authority. The Lessee shall submit for Port Authority approval its plans and specifications covering the required work and upon receiving such approval shall proceed diligently to construct the same. The obligations assumed by the Lessee under this paragraph (f) shall continue throughout the term of this Lease and shall not be limited, affected, impaired or in any manner modified by the fact that the Port Authority shall have approved any construction application and supporting plans, specifications and contracts covering construction work and notwithstanding the incorporation therein of the Port Authority's recommendations or requirements and notwithstanding that the Port Authority may have at any time during the term of this Lease consented to or approved any particular procedure or method of operation which the Lessee may have proposed or the Port Authority may have itself prescribed the use of any procedure or method. The agreement of the Lessee to assume the obligations under this paragraph (f) is a special inducement and consideration to the Port Authority in entering into this Lease with the Lessee. Notwithstanding any of the foregoing provisions of this Section, or any other provision of this Lease to the contrary, if any such requirement or mandate to comply does not arise out of or is not related to, directly or indirectly, in whole or in part, the operations, conduct or business of the Lessee or any of its subtenants or their respective directors, officers, employees, agents or representatives, and would entail

costs and expenses for items of a capital nature, then the Port Authority and not the Lessee shall undertake such compliance, reserving however its right to contest the applicability of the requirement to itself, and, in such event, all of the costs of the Port Authority as calculated by it generally, including a percentage thereof, as estimated by it, to cover unallocable costs shall be amortized on a straight line basis over the useful life of the items involved, as determined by the Port Authority, effective as of the date of the Port Authority's expenditure therefor and the amount so amortized from said effective date through the end of the principal term of this Lease ("the payment period") shall be paid by the Lessee to the Port Authority as additional rent hereunder, in equal monthly installments in advance during the payment period out of the Lessee's gross receipts during each annual period at the same level of priority as the Lessee's capital recovery under item "(4)" of Section 4(b) of this Lease and for the purpose of said Section 4(b).

(g) In any situation in which the sale of food and/or beverages is permitted hereunder, the Lessee shall require, in connection with any preparation, packaging, handling, storage, delivery and dispensing of such food and/or beverages, compliance with the following:

(1) Employees shall wear clean, washable uniforms and employees shall wear caps or nets. The employees shall be clean in their habits and shall thoroughly wash their hands before beginning work and immediately after each visit to the toilet and shall keep them clean during the entire work period. No person affected with any disease in a communicable form or who is a carrier of such disease shall work or be permitted to work.

(2) All food and beverages shall be clean, fresh, pure, of first-class quality and safe for human consumption.

(3) The premises and all equipment and materials used shall at all times be clean, sanitary, and free from rubbish, refuse, dust, dirt, offensive or unclean material, flies and other insects, rodents and vermin. All apparatus, utensils, devices, machines and piping used shall be constructed so as to facilitate the cleaning and inspection thereof and shall be properly cleaned after each period of use (the interval between cleanings, however, never to exceed eight hours) with hot water and a suitable

soap or detergent and shall be rinsed by flushing with hot water. Where deemed necessary by the Port Authority, final treatment by live steam under pressure or other sterilizing procedure shall be used. All trays, dishes, crockery, glassware, cutlery, and other equipment of such type shall be cleaned and sterilized immediately before using same.

(4) All packing materials, including but not limited to wrappers, stoppers, caps, enclosures and containers, shall be clean and sterile and shall be so stored as to be protected from dust, dirt, flies and other insects, rodents, vermin, unsanitary handling and unclean materials.

(5) It is intended that the standards and obligations imposed by this paragraph (g) shall be maintained or complied with in addition to compliance with all applicable governmental laws, ordinances and regulations, and in the event that any of said laws, ordinances and regulations shall be more stringent than such standards and obligations, such laws, ordinances and regulations shall be complied with.

(h) The Lessee shall provide for and continuously maintain on a twenty-four hour basis adequate, safe, unimpeded direct access, as may be required by the Port Authority from time to time, through the Center Section between the Departures Level (Second Floor) of the CTB at the point where it meets each escalator/stairway to and from the Arrivals Level (First Floor) of the CTB and each portal of or pedestrian passage point to or from the leased premises on the Arrivals Level as well as between each such portal or passage point.

Section 9. <u>Prohibited Acts</u>

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

(b) The Lessee shall not create nor permit to be caused or created upon the premises, any unusual, noxious or objectionable vapors, odors or smokes.

(c) The Lessee shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of any drainage and sewerage system, water system, ventilation, air-conditioning and heating systems, communications system, elevators and escalators, electrical system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses and other utility and other systems, if any, installed or located on, under, in or adjacent to the premises now or in the future.

(d) The Lessee shall not do or permit to be done any act or thing upon the premises (1) which will invalidate or conflict with any fire insurance, extended coverage or rental insurance policies covering the premises or any part thereof, or the Airport, or any part thereof, or (2) which in the opinion of the Port Authority, may constitute an extra-hazardous condition, so as to increase the risks normally attendant upon the operations contemplated under subleases approved by the Port Authority hereunder. The Lessee shall promptly observe, comply with and execute and cause the execution, observance and compliance by its subtenants with the provisions of any and all present and future rules and regulations, requirements, orders and directions of The National Board of Fire Underwriters and the Fire Rating Organization of New York, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the use, occupancy or operations of or at the premises, and the Lessee shall, subject to and in accordance with the provisions of Section 31, hereof, make any and all non-structural improvements, alterations or repairs of the premises required at any time hereafter by any such present or future rule, regulation, requirement, order or direction. If by reason of any failure on the part of the Lessee or any such subtenant to comply with the provisions of this paragraph, any fire insurance rate, extended coverage or rental insurance rate on the premises or any part thereof, or on the Airport or any part thereof, shall at any time be higher than it would be if the premises were properly used for the purposes permitted hereunder and under such approved subleases, then the Lessee shall pay to the Port Authority, as an item of additional rental that part of all insurance premiums paid by the Port Authority which shall have been charged because of such violation or failure.

(e) The Lessee shall not dispose of nor permit any one to dispose of any waste material (whether liquid or solid) by means of the toilets, manholes, sanitary sewers or storm sewers in the premises or on the Airport except after

treatment in installations or equipment included in plans and specifications submitted to and approved by the Port Authority.

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

(g) The Lessee shall not operate or permit others to operate any engine or any item of automotive equipment on the premises or the CTB 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 in writing by the Port Authority.

(h) 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 equipment or device (other than fax equipment and automated teller machines) for the furnishing to the public of service of any kind including, without limitation, telephone pay stations.

(i) The Port Authority, by itself or by its 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.

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

(k) The Lessee shall not use or permit the use of the premises for the sale of tickets for air or ground transportation of persons, baggage or other property.

(l) The Lessee shall not fuel or defuel or permit the fueling or defueling of any automotive vehicle or other equipment on the premises without the prior approval of the General Manager of the Airport.

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

(n) The Lessee shall not itself or permit any subtenant of it to paint, inscribe or decorate or place, affix or apply anything on or to any glass or glass frame or support which is part of the Food Court atrium or on or to the exterior of any demising element separating the premises from other areas of the CTB or the Airport except as may be expressly approved by the Port Authority in writing.

(o) The Lessee shall not place any additional lock on or change any lock or the operational (including security) mechanism of or with respect to any door at the perimeter of the premises or any part of the CTB to which it may be afforded access by the Port Authority in the performance by the Lessee of its obligations under this Lease and shall not permit any subtenant of it to do so.

Section 10. Maintenance, Repair, Replacement and Property Insurance

(a) The Lessee shall at all times keep and maintain in a clean and orderly condition and appearance and well lit the premises and the public corridors and restrooms on those portions of the Departures Level and Arrivals Level of the Center Section shown in cross-hatching on Exhibit A hereto (collectively "the Center Section Common Area") and all fixtures, equipment and personal property which are located therein. The Lessee shall keep the restrooms of the premises and of the Center Section Common Area continually stocked with supplies of toilet tissue, sanitary napkins, soap, towels and odor suppressors in sufficient quantities and of a quality and kind at least equal to that to be found elsewhere in the public restrooms of the CTB from time to time.

(b) The Lessee shall repair, replace or rebuild and repaint and refinish all or any part of the premises and the Center Section Common Area, other than any repair, replacement or rebuilding necessitated solely by a casualty affecting the structural components of the premises or any portion of a building system within the premises, exclusive of escalators, to the extent it serves either one or more other parts of the CTB exclusively or any part of the premises and one or more other parts of the CTB, which may be damaged or destroyed by the acts or omissions of the Lessee, any subtenant of the Lessee or the employees, officers, contractors, agents, representatives, customers, guests or invitees of the Lessee or of any subtenant of the Lessee hereunder or of other persons doing business with the Lessee or any subtenant of the Lessee hereunder.

(c) Except for damage or destruction occurring under circumstances set forth in paragraphs (b) and (h) of this Section and not excepted therefrom thereunder and except for reasonable wear and tear (but not obsolescence) which does not adversely affect the efficient or proper utilization thereof, the Port Authority shall, as necessary for the preservation of the building, maintain and make all repairs and replacements to the structural supporting frame and roof of the building, the exterior of the exterior walls, excluding doors of the premises or Center Section Common Area (any door, including any appurtenant security device, whether affixed or in proximity thereto, allowing access from the premises or the Center Section Common Area to any area of the Airport such as the aircraft ramp only under conditions subject to the control of the General Manager of the Airport, to be maintained, repaired and replaced (if damaged or destroyed beyond repair in the sole judgment of the said General Manager) by the Port Authority with the costs thereof to be paid by the Lessee to the Port Authority upon demand), screens and glass (the cleaning only of the exterior surface of such glass, however, to be the obligation of the Port Authority), Port Authority artwork and all elements of the Food Court atrium above an imaginary line extending horizontally from the suspended ceiling of the Departures Level including without limitation, skylight lamps and the relamping thereof.

(d) With respect to all other parts of the premises and the Center Section Common Area including, without limitation thereto, the building walls, partitions, floors, ceilings, doors, escalators, screens, sash, glass (to the extent not included in the Port Authority's obligations pursuant to the

preceding paragraph), the electrical, mechanical, plumbing, cooling, heating, steam, water, communications, gas, and other systems, and their pipes, wires, mains, lines, tubes, conduits, equipment and fixtures, the Lessee shall take good care of the premises and the Center Section Common Area so that at the expiration or termination of the term and at all times during this Lease, the same will be in as good condition as at the commencement hereof or, in the case of improvements or alterations made or fixtures installed subsequent thereto, then as of the date such improvements, alterations or fixtures were so made or installed, respectively, except for reasonable wear and tear (but not obsolescence) which does not adversely affect the efficient or proper utilization thereof. To that end and regardless of the cause of the condition requiring the same, the Lessee shall carry on periodic inspections, perform all necessary preventive maintenance including but not limited to painting, make all necessary repairs and replacements and do all necessary rebuilding with respect to the same, all of which shall be in quality equal to the original in materials and workmanship.

(e) The Lessee shall not use or permit any subtenant of it hereunder to use any cleaning materials having a harmful or corrosive effect, on any part of the premises or the Center Section Common Area. The Lessee promptly shall remove or cause its subtenant so to remove all oil, gasoline, grease, lubricants and other inflammable liquids and substances and all liquids or substances having a corrosive or detrimental effect on the surface of the premises or the Center Section Common Area which may leak or be spilled thereon.

(f) In the event the Lessee fails to commence so to maintain, clean, repair, replace or paint within a period of ten (10) days after notice from the Port Authority so to do, or within such longer period as reasonably required to commence the same or fails diligently to continue to completion the repair, replacement, rebuilding or painting of all of the premises and the Center Section Common Area required to be repaired, replaced, rebuilt or painted by the Lessee under the terms of this Lease, the Port Authority may, at its option, and in addition to any other remedies which may be available to it, maintain, repair, replace, rebuild or paint all or any part of the premises and the Center Section Common Area included in the said notice, and the cost thereof shall be payable by the Lessee upon demand.

(g) The obligation of the Lessee as set forth in paragraph (b) of this Section (in the event that damage or

destruction is covered by any contract of insurance under which the Port Authority is the insured and to the extent the same is not subject to a deductible or like provision) 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 limit or void the Port Authority's rights thereunder, then this release shall be void and of no effect; and provided further that this release shall be void and of no effect if and to the extent that such damage or destruction is covered under the Port Authority's self-insurance plan as hereinafter provided in paragraph (k) of this Section.

(h) In the event that as a result of the sinking or settling of the ground, or as the result of a casualty, the premises or the Center Section Common Area is damaged or destroyed (without fault of the Lessee or any of its subtenants or their respective employees, customers, contractors, agents, representatives, officers, guests, invitees, or persons doing business with either any such subtenant or the Lessee hereunder other than with respect to the structural components of the premises and any portion of a building system within the premises, exclusive of escalators, to the extent it serves either one or more other parts of the CTB exclusively or any part of the premises and one or more other parts of the CTB) so as to render it untenantable or unusable in whole or part, then

(i) if, in the opinion of the Port Authority, the necessary repairs, restoration or rebuilding, can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair, restore or rebuild with due diligence and no rental shall be abated, whether or not the work of repair, restoration or rebuilding is actually completed within the said ninety days; or

(ii) if, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage or if twenty-five percent (25%) or more of the CTB or the premises requires repair, rebuilding or restoration, then the Port Authority shall have the following options: (1) to proceed with due diligence to repair or to rebuild as necessary (no abatement of rental to occur); or (2) by written notice to the Lessee, to terminate the letting as to the damaged portion of the premises without any abatement of rental therefor and if such option is exercised by the Port Authority and affects a substantial part of

the premises, the Lessee shall have the right within thirty (30) days after receipt of such notice, on fifteen (15) days' written notice to the Port Authority, to terminate this Lease as to the balance of the premises; or (3) to cancel this Lease and terminate the letting as to the entire premises. In the event the Port Authority elects to exercise option "(3)" above, the Port Authority shall be obligated to pay to the Lessee the Lessee's Unamortized Capital Investment (as defined in Section 2(d) of this Lease) less any amount to which the Lessee, whether or not it actually obtains such insurance, would be entitled under an all-risk insurance policy with any major insurance company covering such Unamortized Capital Investment at 100% of full replacement cost and without deductibles.

(i) The Lessee shall be the insurer of the Port Authority against the risk of loss or theft of or damage to any Port Authority fixtures, equipment and personal property which are a part of or are located in or on the premises or the Center Section Common Area except such art piece presently commissioned and contemplated to be installed (suspended from the ceiling beams of the Food Court Atrium) by the Port Authority and shall promptly replace or repair the same within five (5) days of such loss, theft or damage.

(j) Nothing herein contained shall relieve the Lessee of its obligations under Section 31 hereof to secure the Port Authority's written approval before installing any fixtures in or upon or making any alterations, decoration, additions or improvements in the premises or the Center Section Common Area.

(k) Subject to the availability of such insurance, the Port Authority shall in the name of the Port Authority, and for its benefit only, throughout the term keep the entire premises insured to the extent of at least eighty percent (80%) of the insurable value thereof, if the same are not protected from the peril of fire by a sprinkler system and at least ninety percent (90%) of the full insurable value thereof if so protected, such insurable value throughout the term to be as determined by the Port Authority at the time or times of insuring, against damage or loss by fire, windstorm, cyclone, tornado, hail, explosion, riot, civil commotion, aircraft, vehicles and smoke, under the Standard Form of Fire Insurance Policy of the State of New York and the form of extended coverage endorsement prescribed as of the effective date of the said insurance by the rating organization having jurisdiction. The Port Authority hereby reserves the right, exercisable at any time

during the term of this Lease, to self-insure the premises either in whole or in part under its self-insurance plan against any and all of the risks enumerated in this paragraph (k), and if and at such time as it shall do so it will give the Lessee at least sixty (60) days' prior written notice to such effect.

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

(m) Notwithstanding anything to the contrary in this Section 10 and in addition to the Lessee's obligations as to any items within the leased premises or the Center Section Common Area, the Lessee's responsibilities under this Section as to gas system piping, domestic hot and cold water system piping, sanitary system piping, chilled and hi-temp water system piping, communication system conduits, cabling and other elements thereof, all equipment, duct work and pipes from mechanical equipment rooms to the leased premises and the Center Section Common Area, and electrical system panels, conduits, transformers, panels, cabling and other elements thereof to the extent lying outside the leased premises or the Center Section Common Area shall commence from and extend to the point where they first begin to be, or cease to be, as the case may be, for or metered for the sole and exclusive benefit of the leased premises or the Center Section Common Area.

(n) In the event of a partial or total destruction of the premises, the Lessee shall immediately remove such property and/or debris from the premises or the portion thereof destroyed as directed by the Port Authority and if the Lessee does not promptly so remove, the Port Authority may remove such property to a public warehouse for deposit or retain the same in its own possession and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, second to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority upon demand.

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

(a) (1) The Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal expenses incurred in connection with the defense of) all claims and demands of third persons including but not limited to claims and demands for death or personal injuries, or for property damages, arising out of any default of the Lessee in performance or observance of any term or provision of this Lease, or out of the use or occupancy of the premises by the Lessee or by others with its consent or out of any of the acts or omissions of the Lessee, its officers, employees, contractors, agents, representatives, guests, invitees and business visitors, or other persons on the premises or the Center Section Common Area or of any subtenant hereunder, its officers, employees, contractors, agents, representatives, guests, invitees and business visitors, on the premises, or arising out of the acts or omissions of the Lessee or a subtenant thereof or their respective officers, agents, representatives, and employees elsewhere at the Airport including claims and demands of the City of New York from which the Port Authority derives its rights in the Airport for indemnification arising by operation of law or through agreement of the Port Authority with the said City. The foregoing commitments of the Lessee shall have no application, notwithstanding explicit language to the contrary, with respect to claims or demands of third persons arising out of criminal acts by guests, invitees or business visitors of the Lessee or any of its subtenants occurring solely in the Center Section Common Area or in that portion of the Center Section retail area shown solely in stipple on Exhibit MP attached hereto.

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

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

own name as insured and including the Port Authority as an additional insured shall maintain and pay the premiums on a policy or policies of Commercial General Liability Insurance, including products liability, premises-operations, completed operations and liquor liability, and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in not less than the limit set forth below, and Comprehensive Automobile Liability Insurance covering owned, non-owned and hired vehicles, and providing automatic coverage for newly acquired vehicles, covering bodily injury, including death and property damage liability, and providing for coverage in not less that the limit set forth below. All the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the 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 and 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 endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering all indemnity obligations assumed by the Lessee under this Lease.

	Minimum Limits
Commercial General Liability: Combined single limit per occurrence for death, bodily injury and property damage liability	$5,000,000
Comprehensive Automobile Liability: Combined single limit per occurrence for death, bodily injury and property damage liability	$2,000,000

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

(d) All insurance coverages and policies required under this Lease may be reviewed by the Port Authority for adequacy of terms, conditions and limits of coverage at any time and from time to time during the term of the letting hereunder. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the 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.

(e) As to the insurance required by the provisions of this Lease a certified copy of the policies or a certificate or certificates, evidencing the existence thereof, or binders, shall be delivered by the Lessee to the Port Authority upon within thirty (30) days after execution of this Lease and delivery thereof by the Lessee to the Port Authority. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. In the event a binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid, unqualified provision or endorsement that the policy may not be cancelled, terminated, or materially changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each such copy or certificate shall contain an additional endorsement providing that the insurance carrier shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority. Any renewal policy shall be delivered to the Port Authority at least thirty (30) days prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of this Lease. The aforesaid insurance shall be written

by a company or companies approved by the Port Authority, the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to the form or substance or if any of the carriers issuing such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new and satisfactory policy in replacement, the Port Authority covenanting and agreeing not to act unreasonably hereunder. If the Port Authority at any time so requests, a copy of each of the policies shall be delivered to the Port Authority, certified in a manner and by an authorized representative of the carrier, acceptable to the Port Authority.

Section 12. Signs

(a) Except with the prior written approval of the Port Authority, the Lessee shall not erect, maintain or display or permit another to erect, maintain or display any sign at or on the premises or at or on any other portion of the Airport outside the premises. Interior signs affecting public safety and security shall be in accordance with established Port Authority standards.

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

Section 13. Additional Rent and Charges

(a) 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 Lease or as a result of an act or omission of the Lessee contrary to the said conditions, covenants and agreements, the Lessee agrees to pay the sum or sums so paid

or the expense so incurred, including all interest, costs, damages and penalties, and the same may be added to any installment of rent thereafter due hereunder, and each and every part of the same shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rent as set forth in Section 4 of this Lease.

(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 a 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 the 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 actually used in the performance thereof, shall likewise be prima facie evidence against the Lessee that the amount of such charge was necessary and reasonable.

Section 14. 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 Lease, and for the doing of any act or thing which the Port Authority may be obligated or have the right to do under this Lease 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 any subtenant hereunder or for the benefit of others than the Lessee at the Airport, to maintain existing and future sewerage, utility, mechanical, electrical and other systems and to enter upon the premises at any time in the case of emergency and otherwise 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 Airport otherwise not conveniently accessible; provided, however, that in the exercise of such rights of access, repair, alteration or new construction the Port Authority shall not unreasonably interfere with the use and occupancy of the premises by the Lessee's subtenants approved by the Port Authority as provided in this Lease.

(c) In the event that any property of the Lessee or any subtenant 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, repair or replacement of any such system, the Lessee shall move such property, as directed by the Port Authority, in order that access may be had to the system or part thereof for its inspection, maintenance, repair or replacement, 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 the premises nor to any property of the Lessee or of any other person located therein or thereon (other than those occasioned by the affirmative acts of the Port Authority, its employees, agents and representatives).

(e) At any time and from time to time during ordinary business hours within the six (6) months next preceding the expiration of the letting, the Port Authority, for and by its agents and employees, whether or not accompanied by prospective lessees, occupiers or users of the premises, shall have the right to enter thereon for the purpose of exhibiting and viewing all parts of the same.

(f) If, during the last month of the letting, the majority of the subtenants of the Lessee shall have removed all or substantially all of their property from the premises, the

Port Authority may immediately enter and alter, renovate and redecorate the premises.

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

Section 15. 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"), the Lessee and its subtenants 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, 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 and its subtenants.

(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 Lease for the expiration of the term of the letting. No taking by or conveyance to any governmental authority as described in paragraph (a) above, nor any delivery by the Lessee nor taking by the Port Authority pursuant to this Section, shall be or be construed to be an eviction of the Lessee or a breach of this Lease or to be made the basis of any claim against the Port Authority for damages, consequential or otherwise.

(c) In the event that the taking 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 Lease 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 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.

(e) In the event that the taking at any one time or from time to time in the aggregate covers fifteen (15%) percent or more of the total usable floor area forming a part of the premises, then the Lessee and the Port Authority shall each have the option exercisable by notice given within thirty (30) days after the effective date of such taking to terminate the letting hereunder with respect to the premises not taken, 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.

(f) In the event that the taking at any one time or from time to time in the aggregate covers twenty-five (25%) percent or more of the aircraft gates of the CTB, then the Port Authority shall have the option exercisable by notice given within thirty (30) days after the effective date of such taking to terminate the letting hereunder with respect to the entire premises as of the date of the taking, and such termination shall be effective as if such date were the original date of expiration of this Lease.

Section 16. <u>Assignment and Sublease</u>

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

thereunder or any part thereof without the prior written consent of the Port Authority.

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

(c) If without prior written consent of the Port Authority, the Lessee assigns, sells, conveys, transfers, mortgages, pledges or sublets in violation of paragraphs (a) and (b) of this Section or if the premises are used or occupied by any person without the consent of the Port Authority, the Port Authority may collect rent from any assignee, sublessee or anyone who claims a right under this Lease or letting or who uses or occupies the premises, and the Port Authority shall apply the net amount collected to the rental herein reserved; but no such collection shall be deemed a waiver by the Port Authority of the covenants contained in paragraphs (a) and (b) of this Section or an acceptance by the Port Authority of any such assignee, sublessee, claimant, user or occupant as Lessee, nor a release of the Lessee by the Port Authority from the further performance by the Lessee of the covenants contained herein.

(d) Any consent granted by the Port Authority to any assignment or subletting or to any sublease pursuant to the provisions hereof shall not be construed or deemed to release, relieve or discharge any succeeding assignee, successor or transferee of the Lessee or any other person claiming any right, title or interest in this Lease from the requirement of obtaining the prior written consent of the Port Authority in the event it wishes to sell, convey, transfer, mortgage, pledge, sublet or assign this Lease or any part thereof, or any rights created thereby or the letting hereunder or any part thereof; and such assignee, successor or transferee or other person claiming any right, title or interest in this Lease shall not sell, convey, transfer, mortgage, pledge, sublet or assign this Lease or any part thereof, or any rights created thereby or the letting thereunder or any part thereof without such prior written consent of the Port Authority.

(e) No part of the premises shall be used for any purpose not expressly specified in a particular sublease approved by the Port Authority in writing as provided under this Lease.

Section 17. Restrictions on Transfers of Interest or Creation of Additional Interests in Lessee or Any of its Affiliates; Termination of Letting

(a) The Lessee hereby covenants, represents and warrants to the Port Authority, knowing that the Port Authority is relying on such covenants and the accuracy of such representations and warranties, that the Lessee is a limited partnership formed and existing under the laws of the State of Delaware having, as of the date of this Lease, MarketPlace LaGuardia Inc., a corporation organized and existing pursuant to the laws of the State of Massachusetts, as the sole general partner and having, as of the date of this Lease, the sole limited partner identified on Schedule "LP" attached to this Lease and hereby made a part hereof, that said Schedule LP accurately sets forth and identifies as of the date of this Lease the general partner and all of the limited partners and shareholders of the various respective entities having any direct or indirect beneficial interest in the Lessee, that as of the date of this Lease there were issued and outstanding 100 shares of the common stock of MarketPlace LaGuardia, Inc., the only class or type of security of said corporation, including a security convertible into an equity security, that of such shares 20 shares were held beneficially and of record solely by Robert M. Weinberg and 80 shares were held beneficially and of record solely by HDZ MarketPlace Limited Partnership, a limited partnership formed and existing under the laws of the State of Massachusetts having, Halperin, Denny and Zook, Inc., a Massachusetts corporation, with only the individuals shown on Schedule LP as its sole shareholders of record and beneficially, as its sole general partner, and having only the entities shown on Schedule LP as its limited partners, that the documents delivered to the Port Authority covering the formation of the Lessee and of the other limited partnerships, including their respective "Certificates of Limited Partnership", and the formation of the said general partner of the Lessee, of MarketPlace Development Inc., a Massachusetts corporation, and of Halperin, Denny and Zook, Inc., under their respective "Certificates of Incorporation" or "Articles of Organization" are as of the date of this Lease true, correct and complete and final copies of the documents effecting such formations and reflecting their present status, respectively, pursuant to the respective laws indicated in said Schedule LP, including filing and publication requirements thereunder; and that the Lessee shall promptly advise the Port Authority in a supplemental writing

addressed to the Port Authority's Director of Aviation and prominently marked thereon above the body of any text "PROMPTLY BRING THIS TO YOUR LAW DEPARTMENT'S ATTENTION" of any change in the information or documents which are the subject of this paragraph (a) and detail each such change and furnish a copy of each document effecting such change. The representations and warranties aforesaid, which shall be deemed to include any material submitted in or with each such supplemental writing, shall be deemed continuing representations and warranties of the Lessee hereunder as modified by and as of each such further submission.

(b) The occurrence of any one or more of the following events shall be and shall be deemed an event giving rise to a right of termination of this Lease and of the letting under this Lease by the Port Authority pursuant to Section 18 below:

(1) Excepting only those respective limited partners and general partners and shareholders identified on Schedule LP hereto having solely the nature and amount of their respective interests indicated thereon, any individual, corporation, partnership or other entity in its own right or in any representative capacity as to any particular entity identified on Schedule LP shall have, own, obtain or hold or have any right to have, own, obtain or hold any partnership interest, in whole or in part, direct or indirect, in the Lessee (including any other partnership entity (limited or general) identified on Schedule LP) or any holding or ownership of any equity security, including a security convertible into an equity security, of the Lessee or said general partner of the Lessee or of any other corporate entity identified on Schedule LP or by agreement or consent, or by transfer, sale, assignment, appointment, merger, consolidation, operation of law or otherwise, or shall be or become or be admitted as, or have any right to be or become or to be admitted as, a partner of the Lessee or shareholder of the said general partner of the Lessee or of any other corporate entity indicated on Schedule LP, whether directly from the Lessee or the said general partner of the Lessee or of any other partnership entity (limited or general) indicated on Schedule LP or by agreement or consent, or by transfer, sale, assignment, appointment, merger, consolidation,

operation of law or otherwise unless the Port Authority shall have given its prior written consent thereto; or

(2) Any individual, corporation, partnership or other entity other than one identified on Schedule LP in its own right or in any representative capacity shall have, own, obtain or hold or be granted a pledge, security interest, lien or other encumbrance, claim or right in or against any part or all of the partnership interest of any partner, including a general partner as such, of the Lessee or of any other partnership entity (limited or general) indicated on schedule LP, or in any equity security, including a security convertible into an equity security, of the said general partner of the Lessee or of any other corporate entity indicated on Schedule LP unless the Port Authority shall have given its prior written consent thereto; or

(3) Any partner, including a general partner as such, of the Lessee or of any other partnership entity (limited or general) indicated on Schedule LP shall cease to be a partner, including a general partner as such, of the Lessee or of any other partnership entity (limited or general) indicated on Schedule LP for any cause or reason whatsoever, and, without limiting the foregoing, whether by removal, withdrawal, dissolution, merger, consolidation, operation of law or otherwise and notwithstanding that the same may or may not be pursuant to or in accordance with the Lessee's partnership agreement or the partnership agreement of any other partnership entity indicated on Schedule LP or the corporate documents of said general partner of the Lessee or of any other corporate entity indicated on Schedule LP unless the Port Authority shall have given its prior written consent thereto; or

(4) Without limiting the above and in addition thereto, there shall be or occur any change in the ownership of the Lessee or of the said general partner of the Lessee or of any other entity indicated on Schedule LP contrary to the representations and warranties made in and under paragraph (a) of this Section.

The foregoing rights of termination shall be in addition to all other rights of termination the Port Authority has under this Lease and the failure of the Port Authority to exercise any right of termination under this paragraph (b) at any time in which it may have such right shall not affect, waive or limit its right to exercise said right of termination at any subsequent time.

Section 18. Termination by the Port Authority

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

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

(2) By order or decree of a court the Lessee shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of the Lessee, seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) days after the entry thereof, any notice of cancellation shall be and become null, void and of no effect; or

(3) By or pursuant to, or under authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer having jurisdiction, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of the Lessee, and such possession or control shall continue in effect for a period of thirty (30) days; or

(4) The Lessee shall voluntarily substantially abandon, desert or vacate the premises or discontinue its activities with respect to the leased premises, 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 other than the Port Authority having jurisdiction thereof, from conducting its activities with respect to the premises, regardless of the fault of the Lessee; or

(5) Any lien is filed against the premises because of any act or omission of the Lessee or any of its subtenants and shall not be discharged or bonded against within ten (10) days after the Lessee has received notice thereof; or

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

(7) A petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute shall be filed against the Lessee and shall not be dismissed within ninety (90) days after the filing thereof; or

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

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

(10) The Lessee shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Lease on its part to be kept, performed, or observed, within ten (10) days after receipt of notice of default thereunder from the Port Authority (except where fulfillment of its obligation requires activity over a period of time, and the Lessee shall have commenced to perform whatever may be required for fulfillment within ten (10) days after receipt of notice and

continues such performance without interruption except for causes beyond its control);

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

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

(d) No waiver by the Port Authority of any default on the part of the Lessee in performance of any of the terms, covenants or conditions hereof to 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.

(e) The rights of termination described above shall be in addition to any other rights of termination provided in this Lease 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 Lease 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. The Lessee particularly acknowledges that as part of said equitable rights and remedies the Port Authority shall be entitled to restrain by injunction any violation or attempted or threatened violation of any covenants, conditions or other provisions of this Lease.

Section 19. Right of Re-entry

The Port Authority shall, as an additional remedy upon the giving of a notice of termination as provided in Section 18 hereof, have the right to re-enter the premises and every part thereof upon the effective date of termination without further notice of any kind, and may regain and resume possession either with or without the institution of summary or any other legal proceedings or otherwise. Such re-entry, or regaining or resumption of possession, however, shall not in any manner affect, alter or diminish any of the obligations of the Lessee under this Lease, and shall in no event constitute an acceptance of surrender.

Section 20. 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 21. Survival of the Obligations of the Lessee

(a) In the event that the letting shall have been terminated in accordance with a notice of termination as provided in Section 18 hereof, or the interest of the Lessee cancelled pursuant thereto, or in the event that the Port Authority has re-entered, regained or resumed possession of the premises in accordance with the provisions of Section 19 hereof, all the obligations of the Lessee under this Lease shall survive such termination or cancellation, or re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of the letting under this Lease, and the amount or amounts of damages or deficiency shall become due and payable to the Port Authority to the same extent, at the same time or times and in the same manner as if no termination, cancellation, re-entry, regaining or resumption of possession had taken place. The Port Authority may maintain separate actions each month to recover the damage or deficiency then due or at its option and at any time may sue to recover the full deficiency less the proper discount, for the entire unexpired term.

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

(1) The amount of the total of all annual rentals (as though the base rental hereunder, as adjusted for increases of five percent (5%) each year in the Consumer Price Index, shall at all times be payable under this Lease and as though variable rental each annual period shall at all times be at the highest level payable during any annual period prior to the effective date of termination) less the installments thereof payable prior to the effective date of termination except that the credit to be allowed for the installment payable on the first day of the month in which the termination is effective shall be prorated for the part of the month the letting remains in effect on the basis of the actual number of days in said month, and

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

Section 22. Reletting by the Port Authority

The Port Authority upon termination or cancellation pursuant to Section 18 hereof, or upon any re-entry, regaining or resumption of possession pursuant to Section 19 hereof, may occupy the premises or may relet the premises, and shall have the right to permit any person, firm or corporation to enter upon the premises and use the same. Such reletting may be of part only of the premises or a part thereof together with other space, and for a period of time the same as or different from the balance of the term hereunder remaining, and on terms and conditions the same as or different from those set forth in this Lease. The Port Authority shall also, upon termination or cancellation pursuant to the said Section 18, or upon its re-entry, regaining or resumption of possession pursuant to the said Section 19, have the right to repair or to make structural or other changes in the premises, including changes which alter the

character of the premises and the suitability thereof for the purpose of the Lessee under this Lease, without affecting, altering or diminishing the obligations of the Lessee hereunder. In the event either of any reletting or of any actual use and occupancy by the Port Authority (the mere right of the Port Authority to use and occupy not being sufficient however) there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the said premises or portion thereof during the balance of the letting as the same is originally stated in this Lease, or from the market value of the occupancy of such portion of the premises as the Port Authority may during such period actually use and occupy, all expenses, costs and disbursements incurred or paid by the Port Authority in connection therewith. No such reletting shall be or be construed to be an acceptance of a surrender.

Section 23. Remedies to be Non-Exclusive

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

Section 24. Surrender

(a) The Lessee covenants and agrees to yield and deliver peaceably to the Port Authority possession of the premises on the date of cessation of the letting, whether such cessation be by termination, expiration or otherwise, in as good condition as at the commencement of the term of the letting hereunder or, in the case of improvements or alterations made or fixtures installed subsequent thereto, then as of the date such improvements, alterations or fixtures were so made or installed, respectively, except for reasonable wear and tear (but not the result of any delay or failure to maintain and repair hereunder) which does not adversely affect the efficient or proper utilization thereof.

(b) If at such date of cessation of the letting the Lessee shall fail to remove any personal property or trade

fixtures affixed to the premises in any way whether permanent or temporary (removable, however, without any damage to the premises) on or before the termination or expiration of the letting, the Port Authority may remove such property to a public warehouse for deposit or retain the same in its own possession, and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, second to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority upon demand.

Section 25. 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 Lease.

Section 26. Effect of Basic Lease

This Lease and the letting hereunder shall, in any event, terminate with the termination or expiration of the Basic Lease with the City of New York which covers the premises, such termination to be effective on such date and to have the same effect as if the term of the letting had on that date expired. The rights of the Port Authority in the premises are those granted to it by the Basic Lease, and no greater rights are granted or intended to be granted to the Lessee than the Port Authority has power thereunder to grant.

Section 27. Removal of Property

All personal property (including trade fixtures) removable without damage to the premises, which are installed by the Lessee or any subtenant in or on the premises shall be deemed to be and remain the property of the Lessee or its subtenant, as the case may be. All such property may at the Lessee's option be

removed by the Lessee or its subtenant from the premises at any time during the term of this Lease and shall be removed at or before the expiration or other termination of the term of this Lease. Any such property remaining on the premises thereafter shall be deemed to be abandoned to the Port Authority.

Section 28. Brokerage

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

Section 29. Limitation of Rights and Privileges Granted

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

(b) The premises are let to the Lessee and the Lessee takes the same subject to all the following: (i) easements, restrictions, reservations, covenants and agreements, if any, to which the premises may be subject, and 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, light, power, telegraph, telephone, steam, or transportation services and of the City of New York and State of New York; (iii) permits, licenses, regulations and restrictions, if any, of the United States, the City of New York or State of New York or other governmental authority.

Section 30. Notices

Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally

delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by certified or registered mail. Said designated officer or representative of the Port Authority and the Lessee and their respective officers shall be as set forth in this Lease. The Lessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Lessee designates its representative named on the first page of this Lease as its representative upon whom notices and requests may be served and its address given on the first page of this Lease as its office where notices and request may be served. The Port Authority hereby designates its Executive Director, as its representative upon whom notices and requests may be served, and its office at One World Trade Center, New York City, New York 10048. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the certified or registered mailing thereof.

Section 31. Construction by the Lessee

Except as expressly provided herein, the Lessee shall not (and shall cause its subtenants not to) erect any structures, make any improvements or do any other construction work on the premises or alter, modify, or make additions or improvements or repairs to or replacements of any structure now existing or built at any time during the letting, or install any fixture (other than trade fixtures removable without damage to the freehold, any damage to be immediately repaired by the Lessee) without the prior written approval of the Port Authority with respect to an application therefor made by the Lessee and in the event any construction, improvement, alteration, modification, repair, replacement or addition, is made without such approval, then upon reasonable notice so to do, the Lessee will remove the same, or at the option of the Port Authority cause the same to be changed to the satisfaction of the Port Authority. In case of any failure on the part of the Lessee to comply with such notice, the Port Authority may effect the removal or change and the Lessee shall pay the cost thereof to the Port Authority. As part of such approval the Port Authority may provide such conditions and requirements as it deems advisable in its sole and absolute discretion. Approval by the

Port Authority shall not create any liability on the part of the Port Authority, whether to the Lessee or any third party.

(i) Without limiting any of the terms and conditions of this Lease, the Lessee understands and agrees that it shall put into effect and cause its subtenants to put into effect prior to the commencement of any construction work an affirmative action program and Minority Business Enterprise (MBE) program and Women-owned Business Enterprise (WBE) program in accordance with the provisions of Schedule E attached hereto and hereby made a part hereof, all references therein to "the Lessee" shall be deemed to include "each subtenant". The provisions of said Schedule E of this Lease shall be applicable to the Lessee's and each subtenant's contractor or contractors and subcontractors at any tier of construction as well as to the Lessee itself and the Lessee shall include and cause its subtenants to include the provisions of said Schedule E within their respective construction contracts so as to make said provisions and undertakings the direct obligation of each subtenant and the applicable construction contractor or contractors and subcontractors at any tier of construction. The Lessee shall and shall require each subtenant and each said contractor, and subcontractor to furnish to the Port Authority such data, including but not limited to compliance reports relating to the operation and implementation of the affirmative action, MBE and WBE programs called for hereunder as the Port Authority may request at any time and from time to time regarding the affirmative action, Minority Business Enterprises and Women-owned Business Enterprises programs of the Lessee and its subtenants and their respective contractor, contractors, and subcontractors at any tier of construction, and the Lessee shall and shall also require that its subtenants and their respective contractor, contractors and subcontractors at any tier of construction make and put into effect such modifications and additions thereto as may be directed by the Port Authority pursuant to the provisions hereof and said Schedule E to effectuate the goals of affirmative action and Minority Business Enterprise and

(ii) In addition to and without limiting any terms and provisions of this Lease, the Lessee shall provide and shall cause its subtenants to provide in their contracts and all subcontracts covering the construction work or any portion thereof, that:

(aa) The contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or martial 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;

(bb) 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;

(cc) 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;

(dd) The contractor will include the provisions of subparagraphs (aa) through (cc) 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;

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

Section 32. Place of Payments

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

Section 33. Construction and Application of Terms

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

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

Section 34. Non-liability of Individuals

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

Section 35. Quiet Enjoyment

The Port Authority covenants and agrees that as long as it remains the lessee of the Airport the Lessee, upon paying all rentals hereunder and performing all the covenants, conditions and provisions of this Lease on its part to be performed, shall and may peacefully and quietly have and enjoy

the premises free of any act or acts of the Port Authority except as expressly agreed upon in this Lease.

Section 36. Force Majeure

The Port Authority shall not be liable for any failure, delay or interruption in performing any of its obligations hereunder due to causes or conditions beyond the control of the Port Authority. Further, the Port Authority shall not be liable unless the failure, delay or interruption shall result from failure on the part of the Port Authority to use reasonable care to prevent or reasonable effort to cure such failure, delay or interruption.

Section 37. Ingress and Egress

(a) The Lessee, its subtenants, contractors, suppliers of material and furnishers of service, shall have the right of ingress and egress between the premises and a city street or public way outside the Airport by means of existing roadways used in common with others having rights of passage within the Airport, provided, however, that the Port Authority may from time to time substitute other reasonably equivalent means of ingress and egress.

(b) The use of all roadways shall be subject to the Rules and Regulations of the Port Authority which are now in effect or which may hereafter be promulgated for the safe and efficient operation of the Airport. In addition to the rights of closure granted above, the Port Authority may, at any time, temporarily or permanently close, or consent to or request the closing of, any such roadway and any other area at the Airport presently or hereafter used as such, so long as a means of ingress and egress reasonably equivalent to that provided in paragraph (a) above is concurrently made available to the Lessee. The Lessee hereby releases and discharges the Port Authority, its successors and assigns, of and from any and all claims, demands or causes of action which the Lessee may now or at any time hereafter have against any of the foregoing, arising or alleged to arise out of the closing of any street, roadway or other area used as such whether within or outside the Airport, provided, that the Port Authority makes available to the Lessee a means of ingress and egress reasonably equivalent to that provided in paragraph (a).

Section 38. Non-Discrimination

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

(b) The Lessee shall include the provisions of paragraph (a) of this Section in every agreement or concession it may make pursuant to which any person or persons, other than the Lessee, operates any facility at the Airport providing services to the public and shall also include therein a provision granting the Port Authority a right to take such action as the United States may direct to enforce such covenant.

(c) The Lessee's non-compliance with the provisions of this Section shall constitute a material breach of this Lease. In the event of the breach by the Lessee of any of the above non-discrimination provisions the Port Authority may take appropriate action to enforce compliance; or in the event such noncompliance shall continue for a period of twenty (20) days after receipt of written notice from the Port Authority, the Port Authority shall have the right to terminate the Lease and the letting hereunder with the same force and effect as a

termination under Section 18 of this Lease, or may pursue such other remedies as may be provided by law; and as to any or all the foregoing, the Port Authority may take such action as the United States may direct.

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

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

Section 39. Affirmative Action

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

Section 40. The Lessee's Additional Ongoing Affirmative Action-Equal Opportunity Commitment

(a) In addition to and without limiting any other term or provision of this Lease, the Lessee shall not and shall cause its subtenants not to discriminate against employees or

applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and shall itself and cause its subtenants to 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 Sections 3 and 39 and Schedule E hereof, it is hereby agreed that the Lessee shall itself and shall require its subtenants to commit to the Port Authority in connection with (i) their respective continuing operation, maintenance and repair of, and operations at, the premises, or any portion thereof, including without limitation all purchasing, procurement and subcontracting opportunities associated with the conduct of their respective functions and/or operations under this Lease or the subleases, including without limitation the purchase of equipment, supplies, labor and other services, and (ii) every sublease or agreement hereunder for concessions or consumer services in the premises, throughout the term of the letting hereunder to use good faith efforts to implement an extensive program of affirmative action, including specific affirmative action steps to be taken by the Lessee and each of its subtenants, to provide to the maximum extent feasible and consistent with the exercise of good business judgment, including, without limitation, the consideration of cost competitiveness, for meaningful participation as to clause (i) matters and meaningful interest in the business to be operated in any portion of the premises under the applicable sublease or agreement to ensure maximum opportunities for contracting and for ownership of said business of concessions and consumer services by minorities and women, and, as to clause (ii) matters, by Minority Business Enterprises and Women-owned Business Enterprises. "Meaningful participation" shall mean that at least twelve percent (12%) of the total dollar value of such purchases and subcontracts is from Minority Business Enterprises and that at least five percent (5%) of the total dollar value of such purchases and subcontracts is from Women-owned Business Enterprises. "Meaningful interest" shall mean that at least twenty percent (20%) in the aggregate of all gross dollar sales and other receipts generated in each annual period of this Lease from retail activities under all subleases and other subordinate

agreements hereunder by businesses which are approved by the Port Authority as the parties to such subleases and other subordinate agreements and which are owned, controlled and actually managed and operated by Disadvantaged Business Enterprises. In meeting the said commitments the Lessee agrees to submit and require its subtenants to submit to the Port Authority for its review and approval the said extensive affirmative action programs, including the specific affirmative action steps to be taken by each of the Lessee and each of its subtenants to meet their respective aforesaid commitments, within ninety (90) days after the execution of this Lease or the approval by the Port Authority of each sublease, as the case may be. The Lessee shall incorporate in its said program and require each subtenant to incorporate in its program such revisions and changes which the Port Authority initially or from time to time may reasonably require. The Lessee and each subtenant throughout the term of the letting hereunder or of the applicable sublease or subordinate agreement shall document its efforts in implementing the respective program, shall keep the Port Authority fully advised of the Lessee's progress in implementing the respective program and shall supply to the Port Authority such information, data and documentation with respect thereto as the Port Authority may from time to time and at any time request, including but not limited to annual reports.

(c) (1) "Minority" as used herein shall have the meaning as defined in Paragraph II(c) of Part I of Schedule E.

(2) "Minority Business Enterprise" (MBE) as used herein shall have the meaning as defined in the first paragraph of Part II of Schedule E.

(3) "Women-owned Business Enterprise" (WBE) as used herein shall have the meaning as defined in the first paragraph of Part II of Schedule E.

(4) "Disadvantaged Business Enterprise" (DBE) as used herein shall have the meaning as defined in paragraph (d) below.

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

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

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

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

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

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

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

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

(6) Good faith efforts to realize meaningful interest by DBEs shall include at least the following:

(i) Actively and affirmatively soliciting interest from DBEs including circulation of solicitations to DBE contractor associations. The party shall maintain records detailing the efforts made including the names and addresses of all DBEs contacted

and, if any such DBE is not selected individually or as a joint venturer, the reasons for such decision.

(ii) Making information available to DBEs in sufficient time for review by them and a decision made as to their involvement.

(iii) Utilizing the list of eligible DBEs maintained by the Port Authority or seeking them from other sources.

(iv) Encouraging the formation of joint ventures, partnerships or other similar arrangements, where appropriate, to ensure that the DBE can meet its obligations hereunder.

(d) To qualify for certification by the Port Authority as a DBE, a firm must be:

(1) a small business concern; and

(2) owned and controlled by one or more socially and economically disadvantaged individuals; and

(3) actually managed and operated by one or more of the socially and economically disadvantaged individuals who control it.

With respect to a corporation, "control" as used in this paragraph shall mean legal and beneficial ownership by one person, firm or corporation, or a group acting in concert, of a majority of the issued and outstanding shares of the capital stock and voting rights of another corporation. With respect to a person or firm other than a corporation, "control" as used in this paragraph shall mean the power to direct the management and policies of such person or firm, whether by legal or beneficial ownership or otherwise.

Determination of Business Size:

(1) The size standards established by the SBA in 13 CFR Part 121, as revised on May 25, 1988, are used for making size determinations.

(2) No retail firm is considered small if, including its affiliates, it averaged annual

gross sales in excess of $30 million over the previous three fiscal years.

(3) All affiliates of a firm, as well as the firm itself, are considered when determining gross sales earned or number of persons employed. Affiliation exists if one firm controls or has the power to control the other, or a third party or parties controls or has the power to control both firms:

Socially and Economically Disadvantaged Individuals:

(1) Any person having a current 8 (a) certification from the Small Business Administration is considered to be socially and economically disadvantaged.

(2) The Port Authority makes a "rebuttable presumption" that individuals in the following groups who are citizens of the United States (or lawful permanent residents) are socially and economically disadvantaged:

(i) Portuguese: (a person of Portuguese, Brazilian, or other Portuguese culture or origin, regardless of race);

(ii) Black (a person having origins in any of the Black racial groups of Africa);

(iii) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);

(iv) American Indian and Alaska Native (a person having origins in any of the original peoples of North America); or

(v) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands).

The Port Authority will generally assume that business owners who fall into one of these groups are socially and economically disadvantaged. Their disadvantaged status will not generally be investigated unless a third party challenge is made.

(3) Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis. For example, a disabled Vietnam veteran, an Appalachian white male, or another person may claim to be disadvantaged. If such individual requests that his or her firm be certified as a DBE, the Port Authority, as part of the certification process, will determine whether the individual is socially and economically disadvantaged under the criteria established by the Federal Government. These owners must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

The Port Authority has compiled a list, which may be supplemented and revised from time to time by the Port Authority, to indicate the firms the Port Authority determines satisfy the criteria for DBE certification. Such list shall be made available upon request. The Port Authority makes no representation as to the financial responsibility of such firms, their technical competence to perform, nor any other performance-related qualifications. Only listed DBEs and such firms not so listed but certified by the Port Authority as DBEs hereunder will count toward the DBE goals.

Certification of DBEs hereunder shall be made by the Office of Business and Job Opportunity of the Port Authority. To utilize a firm not so listed, there must be submitted to the Port Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be required by the Port Authority from time to time. All such requests shall be in

writing addressed to the Office of Business and Job Opportunity, The Port Authority of New York and New Jersey, One World Trade Center, 63 East, New York, NY 10048. Eligibility for certification shall only be made in writing over the name of the Director in charge of the Office of Business and Job Opportunity. The determination of the Port Authority shall be final and binding on the applicant. For inquiries or assistance please contact Mr. John Alexander at (212) 435 6513.

(e) With respect to the matters falling under clause (i) of paragraph (b) of this Section 40:

(1) It is agreed that the Lessee/contractor/sublessee shall develop on-the-job training opportunities and/or participate in training programs including upgrading programs and apprenticeship and trainee programs relevant to its respective employment needs.

(2) The Lessee/contractor/sublessee shall employ and train all operations, maintenance and other personnel required for the performance of the applicable matter. In addition to the training of the initial personnel staff, the Lessee/contractor/sublessee shall train replacement personnel as needed to meet staffing requirements.

(3) The Lessee/contractor/sublessee shall also place in effect a testing program whereby personnel within a specific job classification are tested initially and periodically retested for proficiency within that job classification. With concurrence by the Port Authority, certain job classifications may be exempted from such testing or retesting.

(4) Lessee/contractor/sublessee shall provide all instructors, literature, training aids, and equipment necessary to train personnel. The Lessee/

contractor/sublessee shall provide sufficient classroom and on-the-job training for personnel to ensure their competence. The training shall provide at least three (3) months of on-the-job training for all personnel. Personnel will be required to pass the testing program appropriate to their positions prior to assuming those positions on a full time basis. The Lessee/ contractor/sublessee shall administer such tests and retrain personnel as needed.

(5) The Lessee/contractor/sublessee shall document its efforts in implementing the said program, shall keep the Port Authority fully advised of the Lessee's/ contractor's/sublessee'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. Such material shall include but is not limited to providing the Port Authority within a month following the commencement of the term of this Lease and any sublease, as the case may be, and whenever thereafter requested by the Port Authority a list of skilled and unskilled positions and supervisory and management positions required to complete and sustain performance.

(f) The Lessee's non-compliance with the provisions of this Section shall constitute a material breach of this Lease. In the event of the breach by the Lessee of any of the above provisions the Port Authority may take any appropriate action to enforce compliance; or in the event such non-compliance shall continue for a period of twenty (20) days after receipt of written notice from the Port Authority, the Port Authority shall have the right to terminate this Lease and the letting hereunder with the same force and effect as a termination under the Section of this Lease providing for termination for default by the Lessee in the performance or observance of any other term or provision

of this Lease, or may pursue such other remedies as may be provided by law.

(g) 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.

(h) 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.

Section 41. Services to the Lessee and/or the Lessee's Subtenants

(a) Except as provided in this Section 41 the Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Lease or the use and occupancy of the premises hereunder.

(b) The Port Authority shall sell, furnish and supply to the Lessee and the Lessee's subtenants in reasonable quantities and to the extent of the capability of existing or upgraded (as and to the extent provided for in Schedule W) facilities for use on and in the Center Section Common Area and the Lessee agrees to take and to cause its subtenants to take from the Port Authority and pay for electricity of the same voltage, phase and cycle as supplied to by the public utility (presently 60 cycle, alternating current, three phase, 4 wire 277/480 volts), through existing wires, conduits and outlets, if any, at the same charge which would be made by such public utility for the same quantity used under the same conditions and in the same service classification as if the Lessee and its subtenants purchased such electricity directly from the said public utility but in no event less than an amount that would reimburse the Port Authority for its cost of obtaining and supplying electricity to the Lessee and its subtenants hereunder;

charges shall be payable by the Lessee and its subtenants when billed and the quantity of electricity consumed shall be measured by the meter or meters installed and maintained for such purpose by the Port Authority; provided, however, that if for any reason, any meter or meters fail to record the consumption of electricity, the consumption during the period such meter or meters are out of service will be considered to be the same as the consumption for a like period either immediately before or after the interruption as elected by the Port Authority. The Lessee and its subtenants shall be solely responsible for transforming the electricity supplied to such voltage, phase and frequency as it desires, for the distribution and handling of such electricity within and the Center Section Common Area and for making all connections and tie-ins to the point or points in the CTB designated by the Port Authority (such responsibilities of the Lessee and its subtenants as applicable as to distribution and handling and making connections and tie-ins collectively in this Section 41 called "the Post PA Connection"). The Port Authority shall not permanently discontinue the supply of electricity except upon fifteen (15) days' notice to the Lessee and unless a supply of electricity of the same voltage, phase and cycle shall be available from another supplier and upon any such discontinuance the Lessee and its subtenants shall be at liberty to contract or otherwise arrange for the supply of such current after the expiration of said fifteen (15) days by any other person, firm or corporation. The obligation of the Lessee and its respective subtenants to purchase and pay for electricity consumed at space leased by the Lessee to a subtenant and all other obligations of the Lessee and its respective subtenants under this paragraph (b) related to subtenant space shall be joint and several.

(c) The Port Authority agrees to sell, furnish and supply to the Lessee for use on the premises and in the restrooms of the Center Section Common Area domestic cold water (of the character furnished by the City of New York) in reasonable quantities through existing pipes, mains and fittings and the Lessee agrees to take such water from the Port Authority and to pay the Port Authority therefor an amount equal to that which would be charged by the municipality or other supplier of the same (whether or not representing a charge for water or other services measured by water consumption) for the same quantity, used under the same conditions and in the same service classification as if the Lessee purchased such water directly from the municipality or other supplier plus the cost to the Port Authority of supplying such water which shall not be less than

ten percent (10%) nor in excess of fifty percent (50%) of the amount charged but in no event less than an amount which would reimburse the Port Authority for its costs of obtaining and supplying cold water to the Lessee hereunder. The charge therefor shall be payable by the Lessee when billed and the quantity of water consumed shall be measured by the meter or meters installed and maintained for such purpose by the Port Authority; provided, however, that if for any reason, any meters or meters fail to record the consumption of water, the consumption during the period such meter or meters are out of service will be considered to be the same as the consumption for a like period immediately before or after the interruption, as elected by the Port Authority. The aforesaid provision as to the Post PA connection obligation of the Lessee with respect to electricity shall apply under this paragraph as though cold water was referred to therein rather than electricity.

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

(e) In the event the Port Authority shall provide extermination service for the premises and the Center Section Common Area, the Lessee agrees to utilize the same and to pay its share of the reasonable cost thereof upon demand. This paragraph does not impose any obligation on the Port Authority to furnish such service.

(f) The Port Authority agrees to sell, furnish and supply to the Lessee for use on the premises and in the restrooms of the Center Section Common Area domestic hot water in reasonable quantities at a temperature of approximately 130°F. to be metered through a meter or meters installed and maintained for such purpose by the Port Authority, such water to be paid for by the Lessee at the rate of Seventy Dollars and No Cents ($70.00)

per one thousand cubic feet, said charge being subject to adjustment in accordance with the following provisions:

As used in this paragraph:

(i) "Index" shall mean the Consumer Price Index - All Items for New York City published by the Bureau of Labor Statistics of the United States Department of Labor.

(ii) "Adjustment Year" shall mean as the context requires the calendar year 1997 and every third calendar year thereafter throughout the term of the letting.

(iii) "Anniversary Year" shall mean as the context requires the calendar year 1997 and every third calendar year thereafter throughout the term of the letting.

(iv) "Percentage Increase" shall mean the percentage of increase in the Index for each Anniversary Year equal to a fraction the numerator of which shall be the Index for such Anniversary Year less the Index for the preceding Adjustment Year and the denominator of which shall be the Index for such Adjustment Year.

The aforesaid charge for domestic hot water shall be increased following the close of each Anniversary Year by an amount equal to the product obtained by multiplying the said charge by the Percentage Increase for such Anniversary Year.

In the event the Index is not available by January 15th next following the Anniversary Year upon which any adjustment called for herein is based, such Index for the latest available twelve-month period ending during the preceding calendar year shall be used. In the event the Index shall hereafter be converted to a different standard reference base or otherwise revised or The United States Department of Labor shall cease to publish the said Index, then for the purposes hereof there shall be substituted for the Index such other Index properly reflecting changes in the value of current United States money in a manner similar to that established in the Index used in the latest adjustment as the Port Authority may in its discretion determine.

The aforesaid provision as to the Post PA Connection obligation of the Lessee with respect to electricity shall apply under this paragraph as though hot water was referred to therein rather than electricity.

(g) The Lessee shall be required to make separate arrangements with The Brooklyn Union Gas Company for the direct supply of and the payment for gas and for the installation of meters for recording consumption. However, as shown in Schedule W the Port Authority gas distribution piping availability shall be at a point on the arrivals level of the Center Section.

(h) The Port Authority's obligation to provide or continue any service or utility hereunder shall be limited by the safe and efficient operating capacity of the existing equipment, systems, piping systems, tie-ins, wires and conduits serving the CTB and no approval given by the Port Authority to the erection by the Lessee of any improvement or to the installation of any fixtures or equipment shall be deemed to impose upon the Port Authority any obligation to increase the said operating capacity of any existing or presently contemplated equipment, systems, piping systems, tie-ins, wires or conduits.

(i) Without limiting or affecting any other term or provision of this Lease, the Lessee shall be solely responsible for the operation of all equipment, systems, piping systems, tie-ins, utilities, lines and connections, mechanical, electrical, communications and other systems serving any and all parts of the premises or the Center Section Common area and shall do all preventive maintenance and make all repairs, replacements, rebuilding and painting necessary to keep such systems (whether same involves structural or non-structural work) in the condition they were in when made or installed except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the CTB or adversely affect the efficient or proper utilization or appearance of any part of the premises or the Center Section Common Area, the physical extent (as described in Section 10(m) above of the Lessee's responsibilities under this paragraph (i) with respect to the systems referenced in said Section 10(m) to be as described therein. In the event the Lessee retains a maintenance contractor for such work it shall secure the Port Authority's prior approval for said proposed contractor. Notwithstanding the foregoing and without otherwise limiting the generality thereof, the Lessee's obligations hereunder shall extend to and include cleaning of the

supply and exhaust louvers on the premises and the Center Section Common Area. To the extent necessary for the Lessee to have the benefit of any warranties and guarantees under existing contracts covering items and systems identified in this paragraph (i) in fulfilling its obligations hereunder and on condition that such contracts permit it and the Port Authority's interests are not adversely affected in any way and to any extent, the Port Authority shall enable the Lessee to have recourse to such warranties and guarantees.

(j) Without in anywise limiting the Lessee's other obligations under this Lease, the Lessee shall supply, replace, install, repair, maintain and keep clean all grease traps in all drainage pipes exclusively used in operations at the premises whether such pipes are located on the premises or elsewhere at the CTB. The Lessee shall also keep clean, repair and maintain (other than structurally) all kitchen exhaust ducts including the replacement of all filters where such ducts are exclusively used by it in such operations and whether such ducts are located on the premises or elsewhere at the CTB.

(k) Subject to all of the terms and provisions of this Lease, including the provisions of this paragraph, the Port Authority shall, without additional charge, heat the respective areas of the premises to an even and comfortable working temperature from October 1 through April 30 on such days and during such hours as such respective areas are open for the conduct of retail business serving the public.

The Port Authority has installed an air-cooling system which will provide service for the part of the CTB in which the premises is located. Without limiting the generality of rights of entry upon the premises elsewhere in this Lease reserved to the Port Authority, the Port Authority shall have, for itself, its officers, employees, agents, representatives, contractors and subcontractors, the right to enter upon the premises at all times to construct, install, maintain, replace, repair or improve the air-cooling system or any part thereof. The Port Authority shall furnish without charge air-cooling sufficient to maintain the respective areas of the premises (except for storage and locker room areas) to a comfortable temperature from May 1 through September 30 on such days and during such hours as such respective areas are open for the conduct of retail business serving the public. Such air-cooling shall be furnished subject to all the provisions of this

Lease (including the remaining provisions of this Section 41) and in accordance with the following:

(1) If the air-cooling on the premises can be controlled by mechanisms within the premises or portions thereof, the Lessee shall shut off the air-cooling before closing and leaving any particular portion of the premises at any time for any period. The Port Authority shall have the right to enter the premises for the purpose of observing the Lessee's compliance with the provisions hereof and the Port Authority may lock, seal or install any timing device on or in connection with any air-cooling control mechanism so as to provide that each portion of the premises shall only be air-cooled during the hours and days stipulated hereunder.

(2) If the Lessee in accordance with this Lease erects any partitions or makes any improvements, which partitions or improvements stop, hinder, obstruct or interfere with the cooling of the air or the heating of the premises, then no such action by the Lessee shall impose any obligation on the Port Authority to install facilities, fixtures or equipment for air-cooling or for heating additional to those presently existing or presently contemplated or to increase the capacity or output of existing or presently contemplated facilities, equipment or fixtures and the Lessee shall not in any such event be relieved of any of its obligations hereunder because a comfortable temperature is not maintained. No approval given by the Port Authority to the erection of partitions or the making of any improvements shall be or be deemed to be a representation that the work approved of will not stop, hinder, obstruct or interfere with either the cooling of the air or the heating of the premises or any portion thereof.

(3) The Lessee shall not waste or dissipate the air-cooling or heating service by any act or omission including but not limited to the permitting of outside doors or windows to remain open. Without otherwise affecting the Port Authority's rights or remedies in the event of any breach by the Lessee of its obligations under this subdivision the Port Authority shall have the right to discontinue the said

heating or air-cooling service during any period of such waste or dissipation and any failure of the Port Authority to supply any such service under such conditions shall not affect any of the Lessee's obligations under this Lease. It is hereby understood further that the installation by the Lessee of any equipment which itself requires air-cooling or which requires additional quantities of air-cooling at the portion of the premises where such equipment is installed, or the concentration in any portion of the premises of such a number of people so as to require additional quantities of air-cooling, shall not impose any obligation on the Port Authority to increase the capacity or output of initially existing facilities, equipment or fixtures for the supply of chilled water and the Lessee shall not in any such event be relieved of any of its obligations hereunder.

(4) The Port Authority may at its option furnish the air-cooling either in whole or partially by installing complete units on the premises and no such installation on the premises shall be construed to be an eviction of the Lessee or shall be grounds for any diminution or abatement of the rental payable hereunder.

(l) If any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, makes or increases any charge, fee or rent on the Port Authority for any service, system or utility now or in the future supplied to or available to the premises and/or the Center Section Common Area or to any occupants or users thereof or to the CTB (including but not limited to any sewer rent or charge for the use of sewer systems), the Lessee shall, at the option of the Port Authority exercised at any time and from time to time by notice to the Lessee, pay and, as to electricity, cause its subtenants as applicable to pay, in accordance with the said notice, such charge, fee or rent or increase thereof (or the portion thereof allocated by the Port Authority to the premises and the Center Section Common Area or subtenant space or the operations therein) either directly to the governmental body, authority or agency or to the public utility or directly to the Port Authority.

(m) The Lessee understands that the Port Authority by its officers, employees, agents, representatives or

contractors or by the furnishers of utilities or other services to the premises and the Center Section Common Area or to others at the Airport shall have the right to temporarily discontinue the supply of any of the above services in order to allow repair, alterations, changes or improvements in the premises or elsewhere at the Airport including all systems for the supply of services for the benefit of the Lessee or for the benefit of others than the Lessee at the Airport.

(n) The Port Authority shall be under no obligation to supply services if and to the extent and during any period that the supplying of any such service or the use of any component necessary therefor shall be prohibited or rationed by any federal, state or municipal law, rule, regulation, requirement, order or direction and if the Port Authority deems it in the public interest to comply therewith even though such law, rule, regulation, requirement, order or direction may not be mandatory on the Port Authority as a public agency. The Port Authority shall not be obligated to perform or furnish any service whatsoever in connection with the premises at any time while the Lessee or any of its subtenants wastes any of the said services or shall be in default under this Lease or has breached any of the provisions of this Lease after the period, if any, herein granted to cure such default shall have expired and the Port Authority may cease performance and all services with respect to any subtenant space if the subtenant wastes any service or fails to pay the Port Authority for electricity as provided above in this Section. If by operation of this Section any service for which the Lessee has agreed to pay a flat sum is discontinued for any period of the letting, the Lessee shall be relieved of its obligation to pay for such service for any such period or if any such service is supplied during fewer hours or in lesser amounts than agreed during any period of the letting, the Lessee shall be relieved proportionately of its obligation to pay for any such service for any such period.

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

Section 42. Condition of Premises; No Representations, etc. in Any Respect; Changes in the CTB

(a) The Lessee hereby acknowledges that it has not relied upon any representation or statement of the Port Authority or its Commissioners, officers, employees or agents as to the condition of the premises or the Center Section Common Area and that neither the Port Authority nor anyone on its behalf has made any statement, promise or representation concerning the premises or the suitability therefor or any matter related thereto or projected traffic or enplaned passengers in the CTB, projected volumes of business or other economic or business projections or the like or had any understandings with the tenants comprising the Old Guard Portfolio. The Lessee, prior to the execution of this Lease, has thoroughly examined the premises and determined them to be suitable for operations hereunder and the Lessee hereby agrees to accept the premises in the condition it is in as of the commencement of the term of the letting hereunder except that with respect to the Center Section in the condition such area, including the Center Section Common Area, will be in upon substantial completion of the Port Authority Work described in Schedule W. Without limiting any obligation of the Lessee to conduct operations hereunder at the time and in the manner stated elsewhere in this Lease, 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 any operations hereunder so that there is possibility of injury or damage to life or property. It is hereby understood and agreed that whenever reference is made in this Lease to the condition of the premises as of the commencement of the term hereof, the same shall be deemed to mean the condition of the premises as of the date of this Lease, and as to the improvements made and the alteration work performed during the term of this Lease in the condition existing after the completion of the same.

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

Section 43. Late Charges

If the Lessee should fail to pay any amount required under this Lease when due to the Port Authority, including without limitation any payment of basic, percentage or other rental or any payment of utility or other charges, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Lease. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this Section with respect to such unpaid amount. Each late charge shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rental as set forth in Section 18 of this Lease. 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 Lease, including without limitation the Port Authority's termination rights set forth in Section 18 of this Lease, or (ii) any obligations of the Lessee under this Lease. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charges then, in such event, each such late charge payable under this Lease shall be payable instead at such legal maximum.

Section 44. Security Deposit

(a) Upon each of (i) the execution of this Lease by the Lessee and delivery thereof to the Port Authority and (ii) the Get Set Date, the Lessee shall deposit with the Port Authority a sum equal to half of the Security Amount designated in Section 45 below, either in cash or bonds of the United States of America, or of the State of New York, or of the State of New Jersey, or of The Port Authority of New York and New Jersey, having a market value of the level of the Security Amount then required under this Lease, as security for the full, faithful and prompt performance of and compliance with, on the part of the Lessee, all of the terms, provisions, covenants and conditions of this Lease on its part to be fulfilled, kept, performed or observed.

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

(c) In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Lessee. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Lease on the part of the Lessee. With respect to any bonds deposited by the Lessee, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Lessee, to sell the same in whole or in part, at any

time and from time to time, with or without prior notice, at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Lessee. The Lessee hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Lessee. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Lessee. Any balance remaining shall be retained in cash toward bringing the deposit to a sum equal to the level of the Security Amount then required under this Lease (from and after the Get Set Date, the full Security Amount). In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have declined below the level of the Security Amount then required under this Lease the Lessee shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times to the full level of the Security Amount then required under this Lease, and such additional deposits shall be subject to all the conditions of this Section.

(d) After the expiration or earlier termination of the letting under this Lease as the said letting may have been extended, and upon condition that the Lessee shall then be in no wise in default under any part of this Lease, as this Lease may have been amended or extended (or both), and upon written request therefor by the Lessee, the Port Authority will return the deposit to the Lessee less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Lessee of this Lease or any part thereof. The Lessee agrees that it will not assign or encumber the deposit. The Lessee may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(e) The Lessee may at any time during the term of the letting under this Lease offer to deliver to the Port Authority, as security for all obligations of the Lessee under this Lease, a clean irrevocable letter of credit in favor solely of the Port Authority and issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York District in the amount of Two Hundred Twenty-five Thousand Dollars and No Cents ($225,000.00) until the Get Set Date increased to Four Hundred Fifty Thousand Dollars and No Cents ($450,000.00) as of and from the Get Set Date. The form and terms of such letter of credit, as well as the institution issuing it, shall be subject to the prior and continuing approval of the Port Authority. Such letter of credit shall provide that it shall continue throughout the term of the letting under this Lease and for a period of not less than six (6) months thereafter; such continuance may be by provision for automatic renewal or by substitution of a subsequent satisfactory letter. Upon notice of cancellation of a letter of credit the Lessee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in accordance with paragraph (a) of this Section or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof without statement of default and thereafter the Port Authority will hold the same as security under paragraph (a) of this Section. Failure to provide such a letter of credit at any time during the term of the letting, valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Lease on the part of the Lessee. Upon acceptance of such letter of credit by the Port Authority, and upon request by the Lessee made thereafter, the Port Authority will return the security deposit theretofore made under and in accordance with the provisions of paragraph (a) of this Section. The Lessee shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the letting and fulfillment of the obligations of the Lessee under this Lease. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Lessee on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to its full amount. The reasonable charge by the banking institution for the issuance by such institution of the letter of credit

hereunder shall be includable in the Lessee's qualifying costs as defined in paragraph (d) of Section (2) hereunder.

(f) The Lessee represents that its I.R.S. Employer Identification Number is 04-3245394.

Section 45. Definitions, Etc.

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

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

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

(c) The term "letting" shall mean the letting under this Lease for the original term stated herein, and shall include any extension thereof.

(d) The term "General Manager of the Airport" shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said General Manager by this Lease; but until further notice from the Port Authority to the Lessee it shall mean the General Manager (or the temporary or acting General Manager) of the Airport for the time being, or his/her duly designated representative or representatives.

(e) The terms "governmental authority", "governmental board" and "governmental agency" shall mean federal, state, municipal and other governmental authorities,

boards and agencies of any state, nation or government, except that it shall not be construed to include The Port Authority of New York and New Jersey, the lessor under this Lease.

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

(g) The term "Security Amount" shall be the sum of Four Hundred Fifty Thousand Dollars and No Cents ($450,000.00).

(h) The term "subtenant's or operator's unamortized capital investment" shall mean for purposes of this Lease, the amount of the subtenant's or operator's initial capital investment (as further limited below) in the space sublet to it under a sublease specifically approved in writing by the Port Authority containing this provision and setting such limit as to such investment for the purposes of this provision as also shall be so approved, after deducting therefrom an amount equivalent to an allowance for depreciation and amortization. Such allowance will be computed on a straight-line basis over a period as specified in the sublease.

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

For purposes of this paragraph (h), such investment in the space sublet to the sublessee or the operator shall be equal to the sum of: (1) the amounts paid by it to independent contractors for work actually performed and labor and materials actually furnished in connection with the initial construction of its space; and (2) the payments made and expenses incurred by such subtenant or operator in connection with such construction, for engineering, architectural, professional and consulting services and the supervision of construction, provided, however, that such payments and expenses pursuant to this item (2) shall not exceed a percentage included in such Port Authority approved sublease of the amounts described in item (1); in each case, as the above-mentioned amounts, payments and

Section 47. Entire Agreement

This Lease consists of the following: Sections 1 through 47, inclusive, Schedules A, W, CB, E and LP and Exhibits A, A-1 and MP.

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 Lease.

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

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By

(Title) DEPUTY DIRECTOR FOR AVIATION

(Seal)

ATTEST:

~~Secretary~~ Clerk

MARKETPLACE LAGUARDIA LIMITED PARTNERSHIP

By: MARKETPLACE LAGUARDIA, INC. General Partner

By:

(Title) President

(Corporate Seal)

APPROVED:
Form | Terms

Notary authorization not accepted 9/23/99 - ok

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

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

On the 23 day of September, 1994, before me came Gerald P. Fitzgerald, to me known, who, being by me duly sworn, did depose and say that he resides at Flushing, NY that he is the Deputy Dir of Aviation of The Port Authority of New York and New Jersey, one of the corporations described in, and which executed the foregoing instrument; that he knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Commissioners of the said corporation; and that he signed his name thereto by like order.

Jacqueline White
(notarial seal and stamp)

JACQUELINE WHITE
Notary Public, State of New York
No. 4737769
Qualified in Suffolk County
Commission Expires May 31, 1995

STATE OF MASSACHUSETTS)
) ss.
COUNTY OF SUFFOLK)

On the 20th day of September, 1994, before me personally came William C. Coleman, to me known, who being by me duly sworn, did depose and say, that he resides at 104 Plain Road, Wayland, MA

that he is the President of **MARKETPLACE LAGUARDIA, INC., general partner of MARKETPLACE LAGUARDIA LIMITED PARTNERSHIP**, the entity referred to as the Lessee in the foregoing instrument; ~~that he knows the seal of the said MarketPlace LaGuardia, Inc.~~; JR ~~that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of the said MarketPlace LaGuardia, Inc.~~; that he signed his name thereto by like order; that said execution was made as general partner of and on behalf of **MARKETPLACE LAGUARDIA LIMITED PARTNERSHIP**.

John E. Rattigan, Jr.
(notarial seal and stamp)

JOHN E. RATTIGAN, JR.
NOTARY PUBLIC - MA.
MY COMMISSION EXPIRES
OCTOBER 3, 1997

Schedule A
Central Terminal Building
Existing Tenant Listing

Ag #	Tenant	Agmt Type	Status	Locations				
				East Wing	West Wing	Concourse:		
						A	B	C
AG-700	Host Services of NY	Lease	09/30/94	3	3			
AG-720	Airport Book Shops	Lease	30 day		1			
AG-740	Paradies Airport Shops	Lease	12/31/94		1			
AG-896	Fenton Hill American	Permit	30 day			1		
AG-920	American Express (ATM)	Permit	30 day		1			
AG-921	Angelo & John DiCicco	Permit	30 day	1	1			
AG-982	Paradies Airport Shops	Lease	30 day	1				
AGA-005	Natural Energy Unltd	Permit	30 day			1	1	1
AGA-060	Host Services of NY	Permit	30 day			1		1
AGA-092	Tele-Trip Company	Permit	30 day		1			
AGA-113	Hudson County News	Lease	30 day		1	2	1	2
AGA-158	Natural Energy Unltd	Lease	04/30/99					
AGA-159	Fenton Hill American	Lease	04/30/99					
AGA-160	Host-Honore JV	Lease	04/30/99					
AGA-245	New York Switch	Permit	30 day		1			
AGA-258	Angelo DiCicco	Permit	30 day					
AGA-321	Fenton Hill American	Permit	30 day			1		

SEQ
URC

SCHEDULE V

GENERAL DESCRIPTION OF PORT AUTHORITY WORK

IN THE LGA CENTRAL TERMINAL BUILDING - CENTER SECTION

Listed below is a summary description of the work the Port Authority will perform in the Center Section of the Central Terminal at LaGuardia Airport. The work is as and to the extent set forth and described in and qualified entirely by contract documents for proposed preliminary Contract LGA-110.105, a copy of which has been provided to the Lessee, as such documents hereafter may be modified and supplemented by and within the discretion of the Port Authority. Some of the work will be outside portions of the leased premises and the Center Section Common Area and, to the degree that it is, shall not be deemed a part of the Port Authority's obligation under the Lease nor be the basis for any claim or demand against the Port Authority whatsoever or release the Lessee from any of the Lessee's obligations under the lease.

1. General

   - Interior renovation, including the abatement of asbestos, of certain parts of the Center Section of the Central Terminal Building.
   - Removal of existing escalators and existing freight and passenger elevators.
   - Installation of two passenger and two freight elevators arranged in open hoistways connecting all levels from the basement to the 4th floor.
   - Installation of certain sprinkler and smoke-purge systems.
   - Certain modifications of mechanical and electrical systems.
   - Compliance with ADA requirements.
   - Installation of new escalators from the 1st to the 2nd floors.

2. Basement Level

   - Removal and replacement of existing fire stair and limited alteration of existing tenant spaces and modification of utilities, as required to accommodate new passenger and freight elevators and escalators pits and to accommodate other modifications in the building areas used by the Port Authority above the Basement Level.

JED
WCC

3. Arrivals Level

- o Removal of existing interior walls, flooring and ceiling finishes and related equipment, except for specified fire stairs, and electrical substation. Renovate and reconfigure certain areas for public restrooms including the construction of such restrooms, legally required provisions for handicapped persons and exits, and for the Lessee to develop as dining space and for food services.

- o Removal of existing escalator and installation of two sets of up and down escalators connecting the Arrivals and Departures Levels.

- o Extension of Arrivals Level to align with existing airside window wall (north wall). The work includes a new window wall, exit doors, flooring and related construction.

- o Public circulation spaces, including food court dining area, provided with certain new interior finishes and lighting.

- o Addition of a buffer zone (raised bulkhead) with landscaping, flag poles, stairs, etc. along the exterior side of curtain wall (north wall).

4. Departures Level

- o Complete replacement of existing curtain wall (north wall) with a new curtain wall approximately 14,000 sq. ft.

- o Alteration of existing window wall along south side of building. Work includes glazing and door replacement, addition of doors, metal panel walls, signage and related construction.

- o Removal of all existing interior walls, flooring and ceiling finishes and related equipment, except for specified fire stairs, and Port Authority required utility spaces. Certain renovated areas reconfigured with a new lease demising wall. Center Section Common Area to have new finishes, sprinklers and lighting.

- o Structural floor slabs - approximately 7,000 sq. ft. - to be removed to accommodate an open well arrangement with provisions for guard railings and vertical circulation. Existing structural framing members (column and girders) to remain and be reclad with new finishes. Miscellaneous structural steel framing as required for structural integrity.

SED
ucl

- o Existing escalators, wells and elevator shafts shall be closed off.
- o Replacement of public restrooms.

5. Third Floor

- o Removal of tenant spaces and structural floor slab for new well opening and circulation corridor lobby. Work also includes certain demising walls, finishes, ceilings, sprinklers and modified mechanical and electrical systems to suit redesign generally of the Center Section.
- o Removal of existing escalators, the addition of structural floor slabs and fire stair.
- o Removal of existing public restrooms including finishes, lighting, plumbing equipment, and replacement.
- o Alteration of existing mechanical rooms for new equipment, ductwork, and louvers.

6. Intermediate Level

- o Alteration of existing spaces for the addition of a fire stair, smoke purge, ventilation, louvers, etc.
- o Removal of existing toilet facilities.

7. Fourth Floor (Observation Deck and Restaurant)

- o Removal of roof slab and secondary structural members to accommodate addition of new skylights over interior well opening. Modifications to existing conditions as required for structural integrity.
- o Modifications of existing restaurant spaces to suit new passenger and freight elevators, and of certain mechanical, plumbing, and electrical systems.

SED
ucc

EXHIBIT CB

LaGuardia Airport
Central Terminal Building

Capital Budget

Ex. 2.a.

EXHIBIT CB

LaGuardia Airport
Central Terminal Building

Capital Budget

Ex. 2.a.

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 31 of Port Authority Lease No. AGA-317 (herein called the "Lease") with MARKETPLACE LAGUARDIA LIMITED PARTNERSHIP. The provisions set forth in this Part I are similar to the conditions for bidding on federal government contracts adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

The Lessee as well as each bidder, contractor 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 clause entitled "Equal Employment Opportunity" and conditions set forth herein (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 Lessee's Contractor's workforce at the construction site are as follows:

30% Minority, All Skilled Trades
40% Minority, Laborers
6.9% Female, All Skilled Trades
6.9% Female, Laborers

SED
WER

In the Event that during the performance of this contract the Office of Federal Contract Compliance establishes different goals for the New York City area the Lessee/Contractor shall be deemed bound to such different goals and this Section shall be deemed amended to substitute such goals for the goals set forth above. These goals are applicable to all the Lessee's/Contractor's construction work performed in and for the premises. The term "Contractor" hereinafter shall include the Lessee should the Lessee or an affiliate thereof be the contractor.

The 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 goals shall be a violation of the contract and, where the contractor is the Lessee, the Lease. Compliance with the goals will be measured against the total work hours performed.

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

(c) As used in these specifications:

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

(2) "Minority" includes:

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

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

JEO
UCL

(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:

JED
MCC

(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.

SED
ACC

(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 EEO 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 decisions including specific review of these items with on-premises supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at the premises. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

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

(9) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students 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 other areas of a Contractor's workforce.

SED
WEC

(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 at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

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

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

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

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

(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.

SEB
UCC

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific minority group of women is 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 action steps, at least as extensive as those standards prescribed in Paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, the Lessee shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g. 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 was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

SED
UCL

(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/WOMEN-OWNED BUSINESS ENTERPRISES

As a matter of policy the Port Authority requires the Lessee and the Lessee shall itself and shall require the general contractor or other construction supervisor and each of the Lessee's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction work pursuant to the provisions of this Schedule I. 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 I. "Meaningful participation" shall mean that at least twelve percent (12%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and that at least two percent (2%) of the total dollar value of the construction contracts (including subcontracts) are for the participation of Women-owned Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following.

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

SED
UCL

(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.

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

SEO

For the Port Authority

Initialled:

For the Lessee

General Partner: (1%) MarketPlace LaGuardia, Inc., a Massachusetts corporation authorized to do business in the State of New York. The corporation's address is 50 Federal Street, Boston, Massachusetts 02110. Its shareholders are Robert M. Weinberg, 30 Williston Road, Brookline, Massachusetts (20%) and HDZ MarketPlace Limited Partnership, a Massachusetts limited partnership, 500 Boylston Street, Boston, Massachusetts (80%). The corporation's officers and directors are the following:

Robert M. Weinberg (Chairman and Director)
William C. Coleman (President and Director)
William J. LaPoint (Treasurer)
Paul McGinn (Vice President)
John E. Rattigan, Jr. (Clerk)

Steven S. Fischman (Director)
John D. Halpern (Director)
Stephen R. Karp (Director)
Stephen R. Weiner (Director)

Limited Partner: (99%) MarketPlace Development Limited Partnership, a Delaware limited partnership with its principal office at 50 Federal Street, Boston, Massachusetts 02110. The partnership's sole general partner is MarketPlace Development, Inc., a Massachusetts corporation. (The ownership and officers of this corporation are the same as MarketPlace LaGuardia, Inc.)

The Limited Partners of MarketPlace Development Limited Partnership and the ownership shares (rounded to the nearest 1%) are as follows:

Robert M. Weinberg (15%)
William C. Coleman (5%)
The Palladion Limited Partnership (20%)
HDZ MarketPlace Limited Partnership (60%)

The Palladion Limited Partnership (a Delaware limited partnership) and HDZ MarketPlace Limited Partnership (a Massachusetts limited partnership) are investment limited partnerships organized by a Boston venture capital firm, Halpern, Denny & Zook, Inc. ("HDZ"), 500 Boylston Street, Boston, Massachusetts, a Delaware corporation whose shareholders are John D. Halpern, George P. Denny III and Christopher J. Zook. HDZ is the general partner of each of the investment partnerships. The limited partners* of the investment partnerships are as follows:

Palladion:

Stephen R. Karp
Stephen R. Weiner

Big Wave, N.V. (a Netherlands Antilles corporation wholly owned by Jean Pigozzi, an investor who has an address at One West 67th Street, New York, N.Y. 10023)

Halpern, Denny & Zook Limited Partnership, a Massachusetts limited partnership whose general partner is HDZ and whose limited partners are:

John D. Halpern
George P. Denny III
Christopher J. Zook
David P. Malm
William J. LaPoint

HDZ MarketPlace:

Stephen R. Karp
Stephen R. Weiner
Steven S. Fischman
Big Wave, N.V.
Halpern, Denny & Zook Limited Partnership II, a Massachusetts limited partnership whose general partner is HDZ and whose limited partners are:

John D. Halpern
George P. Denny III
Christopher J. Zook
David P. Malm
William J. LaPoint

*Please note that where an individual is shown as a limited partner of the HDZ partnerships (Palladion, HDZ MarketPlace and Halpern, Denny & Zook Limited Partnership), the limited partner may be such individual or a trust for the benefit of the spouse and/or children of such individual.

SED
WC

Central Terminal Building, LaGuardia Airport

Retail Sublease

between

MarketPlace LaGuardia Limited Partnership

and

_____

Central Terminal Building, LaGuardia Airport
Retail Sublease

This instrument is a Sublease between **MarketPlace LaGuardia Limited Partnership**, a Delaware limited partnership (the "Landlord") and _____, a _____ corporation (the "Tenant").

The parties to this instrument hereby agree with each other as follows:

ARTICLE I
DEFINITIONS AND ATTACHMENTS

Section 1.1 Basic Data.

Each reference in this Sublease to any of the following subjects shall incorporate the data or definition specified below:

Date:	_____, 1998
Landlord:	MarketPlace LaGuardia Limited Partnership
Landlord's Address:	50 Federal Street Boston, Massachusetts 02110
Address for Payment of Rental:	As directed by Landlord
Address of Payment of Electric and Water Charges:	Port Authority of New York and New Jersey P.O. Box 17309 Newark, NJ 07194
Landlord's Counsel:	Palmer & Dodge LLP One Beacon Street Boston, Massachusetts 02108 Attention: John E. Rattigan, Jr.
Tenant:	_____
Tenant's Taxpayer Identification Number:	_____
Tenant's Address:	_____
Tenant's Trade Name:	_____
Tenant's Guarantor:	_____
Premises:	That portion of the Retail Area shown on **Schedule A** hereto and designated thereon as Location ____, containing approximately ____ square feet.
Retail Area:	That portion of the Terminal leased to Landlord under the Prime Lease as such area may be reduced or enlarged from time to time by Landlord in its sole discretion.

Restricted Radius:	[# of miles], as provided in Section 8.8
Permitted Use:	[Describe use and standard of quality]
Operating Hours:	_____, subject to change as provided in Section 4.1.
Term:	_____ calendar months (plus the initial partial calendar month, if any, following the Commencement Date) beginning on the Commencement Date established pursuant to Section 3.1.
Commencement Date:	As determined in Section 3.1.
Scheduled Commencement Date:	_____
Time Estimated for Completion of Tenant's Work:	_____(__) days
Fixed Minimum Rent:	$_____ (payable $_____ per month)
Percentage Rental Rate:	_____ percent (_____%)
Percentage Rent Breakpoint:	$_____
Security Deposit:	$_____
Initial Promotional Contribution:	[$2 psf]
Annual Promotional Contribution:	[$3 psf], subject to annual CPI increases determined in the manner provided in Section 6.4 herein.

Tenant's Required Insurance Coverage:

A. Commercial General Liability Insurance (written on an occurrence coverage form) with:

(i) Minimum Limits of Liability:

• General Aggregate (per location)	*$5,000,000
***[$10,000,000 if Permitted Use contemplates sale of alcoholic beverages]**	
• Each Occurrence	$5,000,000
• Products/Completed Ops	$5,000,000
• Personal Adv. Injury	$1,000,000
• Fire Damage	$500,000
• Medical Expense	$5,000

(ii) Coverage Extensions:

- Severability of Interest Clause
- Contractual Liability including all oral and written contracts
- Punitive Damages covered where permissible by law

B. Workers' Compensation and Employers' Liability, with:

(i) Limits of Liability:

- Bodily Injury by Accident - $100,000 each accident
- Bodily Injury by Disease - $500,000 policy limit
- Bodily Injury by Disease - $100,000 each employee

(ii) Coverage Extensions:

- Longshore & Harborworkers' Compensation Act, if any basis
- Maritime Coverage, if any basis
- Voluntary Compensation Coverage

C. Property Coverage: All Risk Property coverage including flood and earthquake, with:

(i)	Valuation:	Replacement Cost with agreed amount endorsement
(ii)	EDP Coverage:	If Any
(iii)	Boiler & Machinery Coverage:	If Any
(iv)	Deductibles:	$5,000 or as approved by Landlord

D. Automobile Liability and Physical Damage with:

(i)	Limits of Liability:	$2,000,000 – Combined Single Limit for Bodily Injury and Property Damage
(ii)	Covered Vehicles	"Any Auto" including all owned, non-owned, leased and hired cars

[Tenant's Additional Required Insurance: Liquor Law Liability (on occurrence basis) with: limits of liability of $10,000,000 per occurrence.]

Section 1.2 <u>Additional Defined Terms</u>.

As used herein, the following terms shall have the meanings specified below:

(a) "Airport" means LaGuardia Airport, New York City, New York.

(b) "Common Areas" means those areas and facilities in the Terminal which may be furnished by Landlord or the Port Authority for the common use of Landlord, tenants and other occupants of the Retail Area, and others entitled thereto, their officers, agents and employees, including, without limitation, all loading docks and areas, delivery passages, pedestrian corridors, food courts, ramps, stairways, escalators, elevators, comfort stations or rest rooms, management and other similar areas. Landlord reserves the right, in its sole discretion, to designate, change, reduce or enlarge such areas, facilities or improvements from time to time.

(c) "Consumer Price Index" or "C.P.I." means the "Consumer Price Index for all Urban Consumers – (CPI-U), All Items Unadjusted Index (1982-84 = 100) N.Y., N.Y. – Northern New Jersey, Long Island, NY – NJ-CT" published by the U.S. Department of Labor, Bureau of Labor Statistics. If publication of the Consumer Price Index is discontinued, Landlord shall select whatever index published by the United States Department of Labor at that time is most nearly comparable as a measure of changes in the cost of living in the metropolitan New York City area, or, if such index is not available, a comparable index or statistics on the purchasing power of the consumer dollar published by a responsible financial periodical shall be selected by Landlord in substitution therefor.

(d) "Default Rate" means an annual rate of interest equal to the lesser of the maximum rate of interest for which Tenant may lawfully contract in New York, or four (4) percentage points over the rate announced from time to time by Chase Manhattan Bank at its main office in New York City as its "prime rate."

(e) "Lease Year" shall have the following meaning: the first Lease Year shall mean the period from the Commencement Date through the end of the calendar year in which the Commencement Date occurs; thereafter Lease Year shall mean each succeeding calendar year (or any partial calendar year at the end of the Term).

(f) "Port Authority" means the Port Authority of New York and New Jersey, One World Trade Center, Manhattan, New York, New York, landlord under the Prime Lease, and its successors and assigns.

(g) "Premises Delivery Date" means that date on which Landlord delivers notice to Tenant that Landlord's Work in the Premises (as described on **Schedule B** attached hereto) is substantially complete and that the Premises are available to Tenant to commence Tenant's Work.

(h) "Prime Lease" means the lease dated September 19, 1994 between the Port Authority (as landlord) and Landlord (as tenant), covering certain premises in the Terminal, as such lease may be amended from time to time.

(i) "Retail Common Areas" means those portions of the Common Areas which are located near the Retail Area and which Landlord is obligated, under the Prime Lease, to maintain and repair.

(j) "**Schedule A**" means **Schedule A (Location of Premises)** attached hereto and made a part hereof. Nothing in **Schedule A** shall be treated as a representation or warranty that the Premises shall be precisely of the dimensions or shapes shown thereon, it being the intention of the parties only to show diagrammatically rather than precisely on **Schedule A** the layout of the Premises; similarly, the use designations, and the names of specific tenants, tenant mixes or airlines, if any, reflected on **Schedule A** are for convenience only and are not to be treated as a representation or warranty that the indicated portions of the Terminal will be put to, or remain available for, any such use. Tenant hereby acknowledges that, in entering into this Sublease, Tenant has not relied on any information shown or reflected on **Schedule A** except for the approximate location of the Premises.

(k) "Taxes" shall mean all real estate taxes, ad valorem taxes and assessments, general and special assessments, user fees (including, for example, without limitation, any fire user or similar fee), taxes on Landlord's gross receipts, or any other tax imposed upon or levied against Landlord on account of its leasehold interest in the Retail Area or against real estate or upon lessees or lessors of real estate as such (rather than persons generally) with respect to the Retail Area, together with the reasonable costs (including fees of attorneys, consultants, and appraisers) of any negotiation, contest, or appeal pursued by Landlord in an effort to reduce the same.

(l) "Terminal" means the building currently known as the Central Terminal Building at the Airport.

Section 1.3 <u>Attachments</u>.

The following documents attached hereto or delivered separately to Tenant, as well as all drawings and documents prepared pursuant thereto, are hereby made a part hereof:

Schedule A	-	**Plan Showing the Retail Area and Location of Premises**
Schedule B	-	**Construction**
Schedule C	-	**Certificate of Vote**
Schedule D	-	**Nondiscrimination Requirements**
Schedule E	-	**Contractor Bid Conditions**
Schedule F	-	**Rules and Regulations for the Retail Area**
Schedule G	-	**Port Authority Consent to Sublease**
Schedule H	-	**Guaranty of Sublease**
[Schedule I	-	**Approved Menu]**

ARTICLE 2
PREMISES

Section 2.1 Demise.

(a) Landlord hereby subleases to Tenant, and Tenant hereby subleases from Landlord, the Premises for the Term and at the Rental hereinafter described. Landlord grants to Tenant and its agents, employees and (where such areas are open to the public) its customers, a non-exclusive license to use, in common with others entitled thereto during the Term, the Common Areas, subject to the exclusive control and management thereof at all times by Landlord and the Port Authority and subject to the right of Landlord to designate and change from time to time the portions so to be used, and subject, further, to the rights of Landlord set forth in Section 9.6.

Tenant agrees that Landlord shall have the right to place in the Premises (but in such manner as not unreasonably to interfere with Tenant's use of the Premises) utility lines, telecommunication lines, shafts, pipes and the like, for the use and benefit of Landlord and other tenants and occupants of the Terminal, and to replace and maintain and repair such lines, shafts, pipes and the like, in, over and upon the Premises; Landlord shall endeavor, to the extent commercially practicable, to place any such lines, shafts, pipes and the like above the finished ceiling, within columns or risers, or otherwise not visible within the usable area of the Premises. Such lines, shafts, pipes and the like, shall not be deemed part of the Premises under this Sublease. Tenant shall have no rights with respect to the land or improvements below the floor slab or above the interior surface of the ceiling of the Premises.

(b) This Sublease and Tenant's rights hereunder are and at all times shall remain subject and subordinate to the Prime Lease, as it may be amended, supplemented or extended from time to time. This Sublease shall not take effect without the prior written consent of the Port Authority, except Tenant agrees that if it takes possession of the Premises for any period prior to receipt of such consent it will perform all of its obligations hereunder as fully as if such Sublease was in effect during such period. Tenant hereby agrees to execute the Port Authority's consent to sublease, in the form attached hereto as Schedule G, and return the same to Landlord within five (5) days after receipt of a request for execution of such consent by Tenant. Failure by Tenant to fully execute and deliver such consent in a timely manner shall be an Event of Default under this Lease. Any amendment, supplement, extension or other modification of this Sublease shall be subject to and require the express written approval of the Port Authority thereto and, in the event such consent has not been obtained, such amendment, supplement, extension or other modification shall be, and be deemed to be, void and of no force or effect whatsoever. The Port Authority shall have the right (but not the obligation) to enforce the terms and conditions this Sublease, directly, against Tenant to the same extent as if the Port Authority were Landlord hereunder. Tenant agrees not to take any action or permit any condition to exist within the Premises (or in any other area in the Terminal used or controlled by Tenant) which would cause Landlord to be in default of its obligations under the Prime Lease.

This Sublease shall terminate simultaneously with the termination for any reason whatsoever of the Prime Lease, unless the Port Authority shall notify Tenant and Landlord at or prior to such effective date of termination of the Prime Lease that the Port Authority shall and does assume the rights and obligations of Landlord hereunder from the date of such notice. In the event the Port Authority gives such notice to Tenant and Landlord, the rights, obligations and liabilities of Landlord under this Sublease from the date of such notice (except with respect to (i) any prior acts or defaults of Landlord under this Sublease, which shall not be the subject of any claim of whatever kind by Tenant against the Port Authority or entitle Tenant to an offset against or deduction from any amounts then or thereafter owed by it under this Sublease or to be relieved of any of its obligations under this Sublease and Tenant shall have recourse solely against Landlord with respect thereto, (ii) the application or return of any Security Deposit not actually received in hand by the Port Authority or (iii) any prepayment of Rental by Tenant) shall be deemed to have been assigned to and assumed by the Port Authority and Tenant shall be deemed to have fully attorned to the Port Authority on the foregoing basis for the balance of the term of the subletting and to have agreed that the Port Authority may further assign its rights and interest under this Sublease to any third party of the Port Authority's choice and as of the effective date of such assignment to such third party the Port Authority shall no longer have any obligation or liability under this Sublease.

In the event that the Port Authority notifies Landlord that it has revoked its consent to this Sublease or elected to terminate this Sublease without cause, Landlord may terminate this Sublease without cause upon thirty

(30) days' written notice to Tenant. Termination of this Sublease shall not relieve Tenant of any liabilities or obligations under this Sublease which shall have accrued on or prior to, or which shall take effect on, the effective date of termination. Termination of this Sublease shall have the same effect as though such date were the scheduled expiration of the Term specified in Section 1.1 and shall create no obligation on the part of the Landlord or the Port Authority.

In the event that under the provisions of Section 1(e) of the Prime Lease, the Port Authority terminates the Prime Lease with respect to a portion of the Retail Area, and such portion includes any portion of the Premises, and as a consequence thereof the Port Authority revokes its consent to this Sublease (or as to a portion of the Premises) then Landlord agrees to pay to Tenant an amount equal to the Subtenant's unamortized capital investment in the Premises (prorated on a square foot basis if less than all of the Premises are involved). The Subtenant's unamortized capital investment shall be calculated as provided in Section 45(h) of the Prime Lease, with (i) amortization being calculated on a straight-line basis over the initial term of this Sublease and (ii) expenses for engineering, architectural, professional and consulting services and the supervision of construction being limited to thirty percent (30%) of the costs of work actually performed and labor and materials actually furnished in connection with the construction of the Premises. Such payment will be made after submission to and approval by the Port Authority of necessary evidence of such expenditures as provided in the Prime Lease and will be made either directly by the Port Authority or by Landlord promptly upon receipt from the Port Authority.

Section 2.2 Relocation.

[For Concourse Locations Only.] Landlord reserves the right, upon not less than sixty (60) days' notice, to require Tenant to relocate the Premises, at Tenant's expense, to an alternate location designated by Landlord.

ARTICLE 3
TERM

Section 3.1 Commencement Date.

If Section 1.1 specifies a fixed Commencement Date, the Term shall commence on and the Commencement Date shall be the fixed Commencement Date; otherwise, the Commencement Date shall be the earlier to occur of the following:

(a) The day on which Tenant opens for business to the public in the Premises with the permission of Landlord, or

(b) The day which is the number of days specified in Section 1.1 as Time Estimated for Completion of Tenant's Work after the Premises Delivery Date.

Landlord and Tenant agree, upon demand of the other, to execute a declaration setting forth the Commencement Date.

Section 3.2 Termination.

(a) This Sublease shall terminate on the scheduled expiration of the Term specified in Section 1.1 without the necessity of, and Tenant hereby waives all rights to, any notice to terminate, vacate or quit the Premises.

(b) Tenant 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 or Landlord obtains possession of the Premises in any lawful manner.

(c) Tenant covenants and agrees to surrender possession of the Premises upon termination of this Sublease (whether by termination, expiration or otherwise) in as good condition as at the commencement of the Term hereunder (or in the case of improvements or alterations made or fixtures installed subsequent thereto, then as of the date such improvements, alterations or fixtures were made or installed) except for reasonable wear and tear

(but not the result of any delay or failure to maintain and repair hereunder) which does not adversely affect the efficient or proper utilization thereof.

If upon such termination Tenant shall fail to remove any personal property or trade fixtures (which Tenant is allowed under the terms hereto to remove) affixed to the Premises in any way, whether permanent or temporary (removable, however, without any damage to the Premises) on or before the date of termination, Landlord may remove such property to a public warehouse for deposit or retain the property in its own possession, and sell the property at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, second to any sums owed by Tenant to Landlord, with any balance remaining to be paid to Tenant, or may dispose of such property as waste; if the expenses of such removal, storage and sale shall exceed the proceeds of sale, Tenant shall pay such excess to Landlord upon demand. Tenant hereby agrees to reimburse Landlord for the cost of the removal or disposal of any improvements to the Premises that incorporate, reflect or display Tenant's trade name, trademark, trade dress, copyright or service mark, after the expiration or termination of the Term.

Section 3.3 Holding Over.

Any holding over by Tenant after the expiration of the Term with the written consent of Landlord shall be on a month-to-month basis, terminable by either party on thirty (30) days' notice, and shall be at the same Rental specified herein (prorated on a monthly basis) and shall otherwise be on the terms and conditions set forth herein, so far as applicable. Any holding over without the written consent of Landlord shall be treated as a tenancy at sufferance and shall be on the terms and conditions set forth herein, so far as applicable, except that (i) the Fixed Minimum Rent payable hereunder for each month during the holdover period shall be equal to twice the monthly installment of Fixed Minimum Rent payable during the last full month of the Term, (ii) the installments of Percentage Rental payable hereunder for each such month shall be equal to one-sixth ($1/6^{th}$) of the average Percentage Rental payable hereunder for the last three (3) Lease Years of the Term, or if the Term is less than three (3) Lease Years, then such installments shall be equal to one-sixth ($1/6^{th}$) of the Percentage Rental payable hereunder for the last complete Lease Year preceding expiration of the Term, and (iii) all Additional Rental payable hereunder shall be payable at twice the rates in effect for the last month of the Term. All payments of Fixed Minimum Rent, Percentage Rental, and Additional Rental shall be prorated on a daily basis for the period of any such holdover.

ARTICLE 4
USE

Section 4.1 Prompt Occupancy and Use; Operating Hours.

The Premises shall be used for the Permitted Use only and for no other purpose whatsoever. Tenant shall, at its expense, procure any and all governmental licenses and permits, including, without limitation, any approvals of the Port Authority required for the conduct of Tenant's business on the Premises and shall, at all times, comply with the requirements of each such license and permit. In no event shall Tenant install, maintain, operate or permit any vending machine or device designed to dispense or sell food, beverages, tobacco, tobacco products or merchandise of any kind or any equipment or device for the furnishing to the public of service of any kind.

The Premises shall be occupied as of the Commencement Date and shall thereafter be continuously and uninterruptedly occupied during the Operating Hours on each and every calendar day during the Term (specifically including Sundays and legal holidays) for the Permitted Use except during periods of alterations or renovations to the Premises approved by Landlord in accordance with the provisions of this Sublease governing Tenant improvements, construction and alterations. Tenant agrees that Landlord may change the Operating Hours from time to time by notice to Tenant, which in all events shall be consistent with the requirements of the Prime Lease. Tenant's operating hours are subject to Port Authority's operating rules for the Terminal and applicable federal, state and local laws.

Tenant acknowledges that: (i) certain tenants of the Retail Area may from time to time not be required to be open for business during Operating Hours; (ii) Tenant's continuous use and occupancy obligations under this Section 4.1 are a material inducement for Landlord to enter into this Sublease and but for such continuous use and occupancy agreement, Landlord would not have entered into this Sublease; (iii) Tenant's required operation of th

Permitted Use in the Premises is necessary for Landlord to maintain a proper mix of products, services and specific merchandise in the Retail Area and is integral to the proper and successful operation of the Retail Area and the Terminal; and (iv) in entering into this Sublease, Tenant has not relied upon, nor has Landlord made any express or implied warranties to Tenant with respect to, the leasing of other space within the Retail Area or the Port Authority's operations within the Terminal, and that Tenant's obligations hereunder are in no way conditioned or dependent upon the leasing of other space in the Retail Area or the Port Authority's operations within the Terminal.

Section 4.2 Tenant's Trade Name.

Tenant will conduct its business in the Premises under the name set out in Section 1.1 as Tenant's Trade Name or a revised trade name approved in advance by Landlord in writing and under no other trade name.

FOR FRANCHISE TENANTS ONLY:

Tenant represents and warrants to Landlord that Tenant has been granted the right to use such trade name at the Premises for the entire term of this Sublease, pursuant to a Franchise Agreement or license agreement (the "Franchise Agreement") with _____ ("Franchisor"). At Landlord's request, Tenant agrees to provide Landlord with a copy of the Franchise Agreement and reasonable evidence that such agreement remains in full force and effect. Tenant agrees that the termination of Tenant's right to use Tenant's Trade Name at the Premises or to conduct an operation at the Premises of the type then conducted by or under license from Franchisor under Tenant's Trade Name, shall constitute a material breach of Tenant's obligations under this Sublease. Landlord may conclusively rely on notice from Franchisor of the termination of the Franchise Agreement or Tenant's right to do business under Tenant's Trade Name.

ARTICLE 5
RENTAL

Section 5.1 Rentals Payable.

Tenant agrees to pay to Landlord as rental ("Rental") for the Premises, the following:

(a) the Fixed Minimum Rent; plus

(b) the Percentage Rental; plus

(c) Tenant's Proportionate Share of Operating Costs; plus

(d) all additional sums, charges or amounts of whatever nature to be paid by Tenant to Landlord under this Sublease.

All sums referred to in the preceding clauses (c) and (d) and all charges for electricity and other utilities utilized by Tenant at the Premises which charges are payable by Tenant directly to the Port Authority or other provider, are referred to in this Sublease as "Additional Rental."

Section 5.2 Fixed Minimum Rent.

Fixed Minimum Rent shall be payable in equal monthly installments of one-twelfth ($1/12^{th}$) of such annual sum, in advance, on the first day of each full calendar month during the Term. On the Commencement Date, Tenant shall also pay any prorated Fixed Minimum Rent for the period from the Commencement Date to the first day of the first full calendar month in the Term. In the event that any Lease Year is less than a period of twelve calendar months, the Fixed Minimum Rent shall be appropriately prorated.

Section 5.3 Percentage Rental.

During the Term, Tenant shall pay Percentage Rental in accordance with the terms of this Section 5.3. Percentage Rental shall be due and payable on a monthly basis or before the tenth (10th) day following the end of each calendar month during the Term. Each monthly payment of Percentage Rental shall be equal to (a) the Percentage Rental Rate multiplied by the amount by which the Tenant's year-to-date Gross Sales during such Lease Year exceed the Percentage Rent Breakpoint less (b) the sum of the Percentage Rental payments made previously by Tenant with respect to such Lease Year.

As soon as practicable after the end of each Lease Year (but in no event later than 45 days after the end of such Lease Year), the Percentage Rental paid or payable with respect thereto shall be adjusted between Landlord and Tenant. Tenant shall pay any underpayment to Landlord simultaneously with the delivery of the annual statement of Gross Sales required by Section 5.5. Provided that Tenant is not then in default under any of the terms or covenants of this Sublease, any overpayment shall be credited against Rental subsequently due (or, if such adjustment is to be made after the expiration of the Term, any overpayment shall be paid to Tenant).

For the purposes of calculating Percentage Rental: (i) each Lease Year during the Term shall be considered an independent accounting period and the amount of Gross Sales in any Lease Year shall not be carried over into any other Lease Year; and (ii) in the event any Lease Year is less than a period of twelve calendar months (for example, in the first and last Lease Years during the Term) the Percentage Rent Breakpoint(s) shall be reduced by multiplying the breakpoint by a fraction, the numerator of which is the number of days in such Lease Year and the denominator of which is 365.

Section 5.4 "Gross Sales" Defined.

"Gross Sales" means the actual sales prices of all goods, wares and merchandise sold, leased, licensed or delivered and the actual charges for all services performed by Tenant, in, at, from, or arising out of the use of the Premises, whether for wholesale, retail, cash, credit, or otherwise, without reserve or deduction for inability or failure to collect. Gross Sales shall include, without limitation, sales and services (i) where the orders therefor originate in, at, from or arising out of the use of the Premises, whether delivery or performance is made from the Premises or from some other place, (ii) made or performed by mail, telephone, or telegraph orders to or from the Premises, (iii) made or performed by means of mechanical or other vending devices in the Premises, and (iv) which Tenant, in the normal and customary course of its business, would credit or attribute to its operations at the Premises or any part thereof. Gross Sales shall also include any so-called "retail display allowances" or other promotional or advertising income received by or credited to Tenant on account of displays, promotions, advertising or other activities at the Premises. Any deposit not refunded shall be included in Gross Sales. Each installment or credit sale shall be treated as a sale for the full price in the month during which such sale is made, regardless of the time when Tenant receives payment therefor and without deduction for any fee payable to the credit issuer.

The following shall not be included in Gross Sales: any exchange of merchandise between stores of Tenant where such exchange is made solely for the convenient operation of Tenant's business and not for the purpose of consummating a sale made in, at or from the Premises, or for the purpose of depriving Landlord of the benefit of a sale which would otherwise be made in or at the Premises, returns to shippers or manufacturers, cash or credit refunds to customers on transactions (not to exceed the actual selling price of the item returned) otherwise included in Gross Sales, sales of trade fixtures, machinery and equipment after use thereof in the conduct of Tenant's business, and amounts collected and paid by Tenant to any government for any sales with respect to sales or services included in Gross Sales.

Section 5.5 Statements of Gross Sales.

Tenant shall deliver to Landlord: on or before the **tenth (10th)** day following each calendar month during the Term (including the **tenth (10th)** day of the month following the expiration or sooner termination of the Term) a written statement (on the form required by Landlord detailing Gross Sales for each day during the applicable period) certified by the chief financial officer of Tenant showing the amount of Gross Sales for such calendar month and for the year to date, as determined in accordance with the provisions of this Sublease and with generally accepted

accounting principles (including in its first report the amount of Gross Sales for the fractional calendar month, if any, at the commencement of the Term).

In addition, Tenant shall deliver to Landlord (i) within ten (10) days after the close of each calendar year and after the expiration or sooner termination of the Term, a statement of Gross Sales, as determined in accordance with generally accepted accounting principles, for the preceding calendar year, such annual statement to be certified by an independent certified public accountant or by the chief financial officer of Tenant, (ii) as and when such statement is furnished to the taxing authority, copies of any sales tax, franchise tax, income tax or other statement furnished to any federal, state or local taxing authority showing the amount of Tenant's sales from the Premises, whether or not such statement is required to list all income which is included within Gross Sales and (iii) not later than sixty (60) days after the expiration or earlier termination of this Sublease, a statement certified by an independent certified public accountant of all Gross Sales arising out of Tenant's operations at the Premises during the Term. If Tenant operates at more than one location within the Terminal, all statements of Gross Sales will be broken down by location. If Tenant shall fail to deliver such certified annual statement to Landlord within said period, Landlord shall have the right thereafter to employ an independent certified public accountant to examine such books and records, including, without limitation, all records required by Section 5.6, as may be necessary to certify the amount of Tenant's Gross Sales for such calendar year, and Tenant shall pay to Landlord the cost of such audit, as Additional Rental, upon demand.

Section 5.6 <u>Tenant's Records</u>.

Tenant agrees that the business upon the Premises shall be operated so that a duplicate sales slip, invoice or non-resettable cash register receipt, serially numbered, or such other device for recording sales as Landlord approves, shall be issued with each sale or transaction, whether for cash, credit or exchange. During business hours, Landlord, the Port Authority and their employees and representatives shall have the right to inspect the operation of all equipment used by Tenant, including, but not limited to, cash registers.

Tenant will keep, in accordance with generally accepted accounting principles, and preserve during the Term hereof and thereafter until otherwise notified by the Port Authority, original or duplicate books and records which shall disclose all information required to determine and verify Gross Sales ("Tenant's Records"). Tenant's Records shall be kept in a single location (at all times within the Port of New York District), either on the Premises or at Tenant's Address specified in Section 1.1. For purposes of this Sublease, Tenant's Records shall mean the gross income, franchise, sales and occupation tax returns with respect to each calendar year and all pertinent original sales records; pertinent original sales records shall include, without limitation: (i) cash register tapes, including tapes from temporary registers; (ii) serially numbered sales slips; (iii) the originals of all mail orders at and to the Premises; (iv) the original records of all telephone orders at and to the Premises; (v) the original records showing that merchandise returned by customers was purchased at the Premises by such customers; (vi) memorandum receipts or other records of merchandise taken out on approval; (vii) such other sales records, if any, which would normally be examined by an independent accountant pursuant to accepted auditing standards in performing an audit of Tenant's sales; and (viii) the records specified in (i) to (viii) above of any permitted concessionaires or licensees of Tenant. Landlord, the Port Authority, their agents and accountants, shall have the right to make any examination or audit of Tenant's Records (including the records of any company which is owned or controlled by Tenant, as well as the records of any company which owns or controls Tenant selling goods or performing services similar to those sold or performed by Tenant in the Port of New York District) which Landlord or the Port Authority may desire at any time during business hours during the Term of this Sublease and thereafter until otherwise notified by the Port Authority. Tenant will make such records available to Landlord within forty-eight (48) hours of Landlord's request, or immediately upon the Port Authority's request. If such audit shall disclose a liability in any calendar year for Percentage Rental in excess of the Percentage Rental previously paid for such calendar year, Tenant shall promptly pay such liability, together with interest thereon at the Default Rate from the time such payment should have been made. Should any such liability for Percentage Rental equal or exceed three percent (3%) of the Percentage Rental previously paid for such calendar year, Tenant shall, in addition, promptly pay the cost of audit.

Landlord agrees that all information gained from Tenant's Records, financial statements, inspections or audits furnished to or conducted by or on behalf of Landlord shall be confidential and shall not be disclosed other than to carry out the purposes hereof, provided, however, that Landlord shall be permitted to divulge such information to the Port Authority, lender or prospective lender, any prospective purchaser of the Retail Area or

Landlord's rights therein or investor in Landlord or in connection with any administrative or judicial proceeding in which Landlord is involved and where Landlord is required to divulge such information.

Section 5.7 Payment of Rental.

Tenant shall pay all Rental when due and payable, without any setoff, deduction or prior demand therefor whatsoever. If any payment of Rental is not made within ten (10) days after the due date, there shall be added thereto, as Additional Rental to compensate Landlord for the inconvenience, administrative burden and expense created thereby, an amount equal to ten percent (10%) of the amount due, making the total Rental due including the Additional Rental, one hundred ten percent (110%) of the Rental that would otherwise be due, which will continue thereafter as the Rental due so long as said Rental, including the Additional Rental, remains unpaid, due and payable; if any Rental is not paid within thirty (30) days after the due date, Tenant shall, in addition to the foregoing late charge, pay interest at the Default Rate on all Rental (but not late charges) from the due date until paid. Such late charge and interest on overdue Rental shall be in addition to, and not in limitation of, Landlord's other rights and remedies in the event of such late payment. In the event that the interest and late charges which would be required to be paid by Tenant under this Section exceed the maximum interest and late charges which may be permitted by the laws of the state of New York, the interest obligation of Tenant shall be that amount which, when added to the applicable late charges, equals such maximum permitted amount.

Any Additional Rental due shall be payable, unless otherwise provided herein, with the next monthly installment of Fixed Minimum Rent. Rental and statements required of Tenant shall be paid and delivered to Landlord at Landlord's Address or at such other place as Landlord may, from time to time, designate by notice to Tenant. No payment by Tenant or acceptance by Landlord of a lesser amount than shall be due from Tenant to Landlord shall be treated as other than a payment on account, nor shall any endorsement or statement on a check for a lesser amount, or upon any letter accompanying such check, that such lesser amount is payment in full, be deemed an accord and satisfaction or given any effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant.

Tenant agrees to make all Rental payments to the "Address for Payment of Rental" set out in Section 1.1, or to such other address as may be specified by Landlord by written notice. (Tenant hereby acknowledges that in the event that the payment of Rental or any other sums payable under this Sublease is to be made directly to the Port Authority, such payment and acceptance by the Port Authority of such amounts shall not constitute an assumption by the Port Authority of any or all of the obligations of Landlord under this Sublease.)

Section 5.8 Security Deposit.

Landlord acknowledges receipt from Tenant of the Security Deposit, the same to be held as security for the performance by Tenant of all obligations imposed upon Tenant under this Sublease. If Tenant shall faithfully perform all such obligations, then the Security Deposit shall be returned to Tenant upon expiration of the Term. Otherwise, Landlord shall be entitled to apply the Security Deposit, pro tanto, against any damages (including estimated damages) which it may sustain by reason of Tenant's failure to perform such obligations, but such application shall not preclude Landlord from recovering greater damages if the same can be established. If Landlord applies any of the Security Deposit as aforesaid, Tenant shall, upon demand, pay to Landlord the amount so applied to be added to the Security Deposit in order that the Security Deposit shall be at all times equal to the amount specified in Section 1.1. Landlord shall, unless otherwise required by law, have no obligation to pay interest on the Security Deposit and shall have the right to commingle the same with Landlord's other funds. If Landlord conveys Landlord's interest under this Sublease, the Security Deposit, or any part thereof not previously applied, may be turned over by Landlord to Landlord's grantee, and, if so turned over, Tenant agrees to look solely to such grantee for the proper application and return thereof in accordance with the terms of this Section 5.8. Tenant agrees that Tenant will not assign, encumber or pledge, attempt to assign, encumber or pledge the moneys deposited herein as security, and that neither Landlord, nor its successors and assigns, shall be bound by any such assignment, encumbrance or pledge, attempted assignment, attempted pledge, or attempted encumbrance.

The Port Authority shall not be responsible to Tenant for the return or application of any such Security Deposit, whether or not it succeeds to the position of Landlord hereunder, unless such Security Deposit shall have been received in hand by the Port Authority.

ARTICLE 6
OPERATING COSTS; PROMOTIONAL COSTS

Section 6.1 *Tenant to Pay Proportionate Share of Operating Costs.*

In each calendar year Tenant will pay Landlord, as Additional Rental, Tenant's Proportionate Share of Landlord's Operating Costs (as defined in Section 6.2). The provisions of this Section 6.1 shall apply to any partial calendar year, but Tenant's Proportionate Share of Operating Costs for such partial calendar year shall be subject to a pro-rata adjustment based on the number of days in such partial calendar year. Such proportionate share shall be paid by Tenant in monthly installments in such amounts as are estimated by Landlord for each calendar year, each such installment being due on the first day of each calendar month. From time to time during any calendar year, Landlord, in exercise of its good faith judgment, may revise its estimate of the Operating Costs for such calendar year and provide Tenant with a statement explaining in reasonable detail the basis for such revised estimate. Thereafter the monthly installments on account of Tenant's Proportionate Share of Operating Costs shall be appropriately adjusted in accordance with the revised estimate so that by the end of such calendar year, the total payments of Tenant's Proportionate Share of Operating Costs shall equal Tenant's Proportionate Share of the amount of such revised estimate. Within one hundred twenty (120) days after the end of each calendar year, Landlord shall deliver to Tenant a statement of Operating Costs for such year and Tenant's Proportionate Share thereof paid or payable with respect thereto shall be adjusted between Landlord and Tenant. Tenant shall pay Landlord, or, provided that Tenant is not then in default under any of the terms or covenants of this Sublease (and subject to Landlord's right to offset against amounts owing from Tenant), Landlord shall credit Tenant's account of (if such adjustment is at the end of the Term) pay Tenant, as the case may be, within thirty (30) days of receipt of such statement, such amounts as may be necessary to effect such adjustment. Failure of Landlord to provide the statement called for hereunder within the time prescribed shall not relieve Tenant of any of its obligations hereunder.

Section 6.2 "Landlord's Operating Costs" Defined.

The term "Landlord's Operating Costs" means the costs and expenses incurred by Landlord in operating and maintaining the Retail Area and Retail Common Areas in a manner which Landlord deems reasonable and appropriate and in the best interests of the Retail Area. Landlord's Operating Costs shall include, without limitation, all costs and expenses of operating, maintaining, repairing, lighting, signing, cleaning, and painting the Retail Area and Retail Common Areas; maintenance of sprinkler, electrical, plumbing and mechanical systems serving the Retail Area and Retail Common Areas, removal of trash and debris from the Retail Common Areas, costs and expenses of inspecting and depreciation of machinery and equipment used in the operation and maintenance of the Retail Area and Retail Common Areas and personal property taxes and other charges incurred in connection with such equipment; the cost of maintaining signage and other materials aimed at directing passengers to any portion of the Retail Area or to other areas in the Terminal or informing passengers in the Retail Area of flight times or similar information; costs and expenses incurred in the rental of music program services and loudspeaker systems, including furnishing electricity therefor; costs of providing energy to light, heat, ventilate and air-condition the Retail Common Areas; cost of water; services, janitorial services (including costs of materials and equipment) if any, furnished by Landlord for non-exclusive use of all tenants; costs of providing any receiving and delivery services for the use of tenants (if provided); costs and expenses of personnel providing services in connection with the operation, maintenance, repairing, cleaning and protection of the Retail Area and the Retail Common Areas (including amounts incurred for wages, salaries and other compensation for services, payroll, social security, unemployment and similar taxes, workmen's compensation insurance, disability benefits, pensions, hospitalization, retirement plans and group insurance, uniforms and working clothes and the cleaning thereof, tools and equipment used by such personnel, and expenses imposed on Landlord or its agents pursuant to any collective bargaining agreement); any Taxes imposed on Landlord with respect to the Retail Area and the Retail Common Area; and Landlord's insurance costs, which shall include all premiums paid by Landlord for all insurance obtained by Landlord with respect to the Retail Area and Retail Common Areas, including, without limitation, the fire and extended coverage insurance carried by Landlord pursuant to Section 11.5, liability insurance for personal injury, death and property damage, insurance against theft or other casualties, fidelity bonds for personnel, insurance against liability for defamation and claims of false arrest occurring on and about the Retail Area and Retail Common Areas, and plate glass insurance for any glass in the Retail Area or Retail Common Areas for which Landlord (and not an individual subtenant is responsible; and any insurance (such as rent insurance) required by the Port Authority to be maintained by Landlord. Any such costs and expenses incurred which are capital expenditures (as determined in accordance with generally accepted

accounting principles) shall be amortized over the depreciable life of the applicable capital item and only the allocable portion of such expenditure shall be included in the calculation of Operating Costs. Such costs and expenses shall not include any costs and expenses, the responsibility for payment of which lies with the tenant under any sublease of space within the Retail Area. Such costs and expenses shall not include depreciation (other than depreciation as above specified), nor the items described in Section 6.3 or Section 6.4 herein.

Section 6.3 **Commercial Rent Tax.**

Tenant agrees to be responsible for and to make payment of any commercial rent tax, occupancy tax, or other similar tax resulting from the use or occupancy of commercial real estate (referred to herein as "Commercial Rent Tax") directly to the taxing authority.

In the event that and to the extent that Landlord incurs any Commercial Rent Tax on account of Tenant's use and occupancy of the Premises, Tenant agrees to be responsible for and to reimburse Landlord the full amount of such tax.

Section 6.4 **Tenant Participation in Promotional Activities.**

Tenant agrees to participate fully with the marketing, advertising and promotional programs for the Retail Area sponsored by Landlord. Tenant shall pay, as Additional Rental, (i) the Initial Promotional Contribution, such amount to be payable within thirty (30) days after Landlord bills Tenant for same, whether such billing occurs prior to or after Tenant's initial opening for business in the Retail Area; and (ii) for each year during the term hereof, the Annual Promotional Contribution (or a pro rata portion thereof for any partial year) such amount to be paid in equal monthly installments on the first day of each calendar month, subject to annual C.P.I. increases provided below. Landlord will use the Annual Promotional Contribution and the Initial Promotional Contribution solely for marketing and advertising the Retail Area and providing services to patrons of the Retail Area which are intended to enhance such patrons' impressions of the Retail Area or make using the Retail Area more convenient. The failure of any other tenant or occupant of space within the Retail Area to participate in advertising for the Retail Area or make promotional contributions to Landlord shall not relieve Tenant of any of its obligations under this Section 6.4.

On January 1 of each full or partial calendar year during the Term, the Annual Promotional Contribution shall increase to an amount equal to the Annual Promotional Contribution for the immediately preceding calendar year, increased by the preceding year's cost of living determined by reference to the Consumer Price Index.

At least ten (10) days prior to the first day of the second calendar year and each calendar year thereafter until the end of the Term, Landlord shall provide Tenant with written notice of the increases in the Annual Promotional Contribution for the upcoming calendar year. No delay by Landlord in providing said written notice shall affect Tenant's obligation to pay the Annual Promotional Contribution, as escalated, retroactively from the beginning of such calendar year. The Annual Promotional Contribution for any year of the Term after the first calendar year or any subsequent calendar year, as the case may be, shall never be less than the preceding calendar year contribution.

In the event the level of the C.P.I. shall not be available to Landlord as of the commencement of any year of the Term, the Annual Promotional Contribution for the preceding year shall be used to calculate the Annual Promotional Contribution for the current year until the C.P.I. is published for the month necessary to compute the adjustment provided in this Paragraph; at such time as such adjustment can be calculated, Landlord shall notify Tenant of (x) the total amount of any increase due from the Tenant for the then current year of the Term and (y) as to the necessary adjustment to be made to each monthly payment thereafter due from Tenant for the balance of such year of the Term (as to result in Tenant having paid the full amount of any such increase by the end of the year for which the same is effective and applicable).

Section 6.5 **Calculation of Tenant's Proportionate Share.**

Tenant's Proportionate Share shall be determined by Landlord based upon an allocation formula which in Landlord's determination fairly allocates the Operating Costs among all space in the Retail Area rented to Tenants

(except tenants operating under leases originally entered into by the Port Authority prior to the date of the Prime Lease). Tenant has been provided with a copy of Landlord's current allocation formula, but Landlord may revise such formula from time to time during the Term as Landlord deems appropriate. Landlord will provide a copy of its allocation formula to Tenant with Landlord's annual estimate of Operating Costs and with its year-end statement of actual Operating Costs (provided that Landlord's failure to do so shall not relieve Tenant of any of its obligations hereunder) and at any other time upon request of Tenant.

Landlord's determination of Tenant's Proportionate Share of Operating Costs shall be binding upon Tenant provided that (i) it is calculated in accordance with Landlord's then-current allocation formula and (ii) the allocation formula provides for all costs of bussing tables and removing trash from food courts to be allocated only to the food and beverage tenants located adjacent to a food court; and (iii) the sum of the proportionate shares of Operating Costs paid by all tenants in the Retail Area for a particular calendar year shall not exceed the actual Operating Costs for such year.

ARTICLE 7
IMPROVEMENTS

Section 7.1 Landlord's Work.

Subject to Unavoidable Delays Landlord will, as promptly as practicable after completion of the work to be performed by the Port Authority (the "Port Authority Work") under **Schedule B**, complete the work to be performed by Landlord (or by Landlord's Contractor (as defined on **Schedule B**) at Tenant's expense (collectively, the "Landlord's Work") under **Schedule B** to the extent necessary to permit Tenant to commence the work to be performed by Tenant (the "Tenant's Work") under **Schedule B**. Provided that Tenant submits its Preliminary Space Plans and its Working Drawings in a timely manner and in accordance with the procedures set out in the Tenant Design Manual, Landlord will use all reasonable efforts (not requiring Landlord to pay for overtime labor) to substantially complete Landlord's Work and deliver the Premises to Tenant in timely fashion that would enable Tenant to complete Tenant's Work on or before the Scheduled Commencement Date. Except for the Landlord's Work specifically set out in **Schedule B**, Tenant agrees that the Premises will be delivered by Landlord and accepted by Tenant in "as is" condition. Wherever provision is made in **Schedule B** for work to be done by Landlord's Contractor with Tenant to reimburse Landlord for the cost thereof, Tenant shall make payment to Landlord or Landlord's Contractor in accordance with the terms of **Schedule B**.

Section 7.2 Tenant's Work.

(a) On or before the Commencement Date, Tenant shall, at its sole cost and expense, complete all Tenant's Work in accordance with **Schedule B** and the Tenant Design Manual. A copy of the Tenant Design Manual has been furnished to Tenant and is incorporated herein in full. Tenant will be permitted by Landlord to enter the Premises prior to the Commencement Date for the purpose of performing Tenant's Work and for the purpose of installing its fixtures and other equipment, provided Tenant shall have obtained Landlord's and the Port Authority's written approval of the Final Plans, and Tenant shall have deposited with Landlord the policies or certificates of insurance required in Section 11.3 and Section 11.4. Tenant's activities shall be conducted so as not to unreasonably interfere with or unreasonably disrupt the operations of other tenants of the Retail Area who are already open for business or of the persons using the Terminal. Tenant shall, at its expense, remove from the Premises and Retail Common Areas all trash which may accumulate in connection with Tenant's activities and, should Tenant fail to do so, Landlord may, in addition to any other right or remedy of Landlord, remove such trash without notice to Tenant, at Tenant's expense, and the expenses so incurred by Landlord shall be due and payable by Tenant, as Additional Rent, upon demand. During such period, Tenant shall perform all duties and obligations imposed by this Sublease, including, without limitation, those provisions relating to insurance and indemnification, saving and excepting only the obligation to pay Rental (other than any Additional Rental arising out of any failure of Tenant to perform its obligations under this Sublease), which obligation shall commence when the Term commences. Upon the expiration of the Term or earlier termination of this Sublease, all improvements to the Premises made or performed by Tenant pursuant to Section 7.2 or Section 9.4 and **Schedule B** shall be Landlord's property and shall be surrendered to Landlord, or shall be removed by Tenant upon Landlord's request.

(b) Tenant recognizes and acknowledges that Landlord and the Port Authority are vitally interested that the store improvements, fixtures and furnishings in, and the décor of, the Premises be dignified, up-scale and of high mercantile quality in keeping with the high-quality, décor, character and standards of the Retail Area and that Landlord, accordingly, intends strictly to apply the criteria set out in the Tenant Design Manual (as the same may be amended from time to time by Landlord) when Landlord reviews Tenant's Preliminary Space Plans and Working Drawings for the Premises and fixturing plan (whether the original plans or plans and specifications for any alterations in accordance with Section 9.4). Accordingly, to provide Landlord with assurances in that regard and as a material inducement to Landlord to enter into this Sublease, Tenant agrees to construct, improve, fixture and furnish a high-quality, up-scale store in the Premises in keeping with Landlord's design criteria and the high-quality, décor, character and standards of the Retail Area, as determined by Landlord.

Section 7.3 Effect of Opening for Business.

By opening for business, Tenant shall, in the absence of notice given to Landlord to the contrary, be deemed to have certified for the benefit of Landlord and the Port Authority that Tenant has: (i) accepted the Premises; (ii) agreed that the obligations of Landlord and the Port Authority under Schedule B have been fully performed; (iii) waived any claim that the size, location, layout, dimensions or construction of the Premises, the Retail Area or the Retail Common Areas were not completed or furnished in accordance with the terms of this Sublease; and (iv) certified that the Term and the obligation to pay Rental have both commenced, that Tenant has no claim for offsets or deductions against Rental and that no event has occurred which, with notice or the passage of time, or both, would constitute a default on the part of either Landlord or Tenant under this Sublease.

Section 7.4 Mechanic's Liens.

No work which Landlord permits Tenant to do or which Tenant is obligated to perform pursuant to this Sublease, whether in the nature of erection, construction, alteration or repair, shall be deemed to be for the immediate use and benefit of Landlord so that no mechanic's or other lien shall be allowed against the estate of Landlord by reason of any consent given by Landlord to Tenant to improve the Premises. Tenant shall pay promptly all persons furnishing labor or materials with respect to any work performed by Tenant or its contractor on or about the Premises. Tenant shall procure unconditional waivers and releases of lien claims (and/or notices of completion) in form acceptable to Landlord from all persons furnishing labor or materials with respect to any work performed on behalf of Tenant in the Premises, at the time each progress payment and/or final payment is made.

In the event any mechanic's or other lien shall at any time be filed against the Premises by reason of work, labor, services or materials performed or furnished, or alleged to be performed or furnished, to Tenant or to any one holding the Premises through or under Tenant, Tenant shall, within five (5) days of its recordation, cause the same to be discharged of record or bonded to the satisfaction of Landlord. If Tenant shall fail to cause such lien forthwith to be so discharged or bonded after being notified of the filing thereof, then, in addition to any other right or remedy of Landlord, Landlord may, after ten (10) days notice to Tenant, discharge the same by paying the amount claimed to be due or may cause the same to be bonded, and the amount so paid by Landlord including reasonable attorney's fees incurred by Landlord in either defending against such lien or procuring the discharge or bonding of such lien, together with interest thereon at the Default Rate, shall be due and payable by Tenant to Landlord, as Additional Rental, upon demand.

Section 7.5 Tenant's Trade Fixtures.

Provided that Tenant shall not at such time be in default of any terms or covenants of this Sublease, all trade fixtures and apparatus (as distinguished from leasehold improvements) owned by Tenant and installed in the Premises shall remain the property of Tenant and, provided further, that Tenant shall repair any damage to the Premises caused by the removal of said fixtures and shall restore the Premises to its condition prior to the installation of said fixtures, shall be removable at any time, including upon the expiration of the Term. If Tenant is in default, Tenant shall not remove or permit the removal of said property until all defaults have been cured. The parties further agree that the foregoing phrase "trade fixtures and apparatus (as distinguished from leasehold improvements)" shall refer only to those items of equipment and trade apparatus that can be removed from the Premises without causing any damage to the Premises (i.e., any equipment, fixture or apparatus that is intended to be permanently affixed to the Premises in any way may not be removed from the Premises).

ARTICLE 8
OPERATIONS

Section 8.1 Operations by Tenant.

(a) Tenant will conduct its operation solely within the Premises and will not place or maintain any merchandise, any sign or other thing of any kind in the entry of the Premises or in the corridor or other Retail Common Areas or Common Areas or elsewhere on the exterior of the Premises, except such signs as are permitted hereunder.

(b) Tenant will not commit or suffer to be committed waste upon the Premises or any public or private nuisance or other act or thing which may disturb the quiet enjoyment of any occupant or user of the Terminal. Tenant will conduct its business in the Premises in all respects in a dignified manner and in accordance with high standards of retail store operation. Tenant shall not maintain any loudspeaker or other device in such manner as to be audible to anyone not within the Premises. Tenant shall take all steps which may be necessary to eliminate vibration from the Premises. Tenant shall not use the Retail Common Areas for solicitations, demonstrations, advertising or in any manner which would constitute a nuisance to shoppers, passengers or others at the Terminal. In no event shall any unusual, noxious or objectionable odors, vapors or smoke be emitted from the Premises.

(c) Tenant will at its sole cost and expense, comply with all laws and ordinances and all rules, regulations and requirements of all county, municipal, state, federal and other governmental authorities, now in force or which may hereafter be in force, pertaining to Tenant's construction or installations within the Premises and Tenant's use and occupancy of, or operations of or at, the Premises (including without limitation the National Board of Fire Underwriters, and the Fire Rating Organization of New York). Tenant shall not make or permit any use of the Premises (i) which would invalidate conflict with or cause an increase in premiums for any policy of fire, extended coverage or rental insurance covering all or any portion of the Premises or the Airport, or (ii) which in the opinion of the Landlord or the Port Authority could constitute an extra-hazardous condition, so as to increase the risks normally attendant upon the operations contemplated under subleases in the Terminal approved by the Port Authority. Tenant agrees to comply with all recommendations of any public or private agency having authority over insurance rates with respect to the use and occupancy of the Premises by Tenant. Tenant shall not keep or store any flammable materials at the Premises, without Landlord's prior written consent. If such consent is obtained, Tenant shall not keep or store during any 24-hour period flammable liquids in excess of the Lessee's working requirements during the said 24-hour period. Any such liquids having a flash point of less than 110° F shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories or the Factory Mutual Insurance Association. Tenant will install and maintain any fire extinguishing apparatus required by local regulations, the Port Authority or the requirements of insurance underwriters. Tenant shall use and maintain the Premises in such a way as to, at all times, minimize air pollution, water pollution or any other type of pollution emanating from the Premises and Landlord reserves the right to require Tenant to design and construct at Tenant's sole cost, any reasonable structures, equipment and other facilities as may be appropriate to accomplish such purposes.

(d) The Tenant shall not dispose of nor permit any one to dispose of any waste material (whether liquid or solid) by means of the toilets, manholes, sanitary sewers or storm sewers in the Premises or on the Airport except after treatment in installations or equipment included in plans and specifications submitted to and approved by the Port Authority.

(e) The Tenant shall not operate or permit others to operate or fuel or defuel any engine or any item of automotive equipment in the Terminal.

(f) The Tenant shall not use or permit the use of any truss or structural supporting member of the Terminal 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.

(g) Tenant will maintain the Premises in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pests. Tenant will keep the inside and outside of all glass in doors and windows of the Premises clean and shall maintain any security gate in good working order. Tenant shall not permit the

accumulation of rubbish, trash, garbage and other refuse in and around the Premises, and will remove the same in accordance with the provisions of Section 10.6 hereof.

(h) Tenant will not conduct any auction, fire, bankruptcy or so-called "going out of business" sales, or conduct its business in any manner other than in the normal course of Tenant's continuing business operation. Tenant shall not conduct its business in a manner which is commonly known and accepted in the retail trade as a "discount store" or "wholesale store" or "outlet store" or "surplus store."

(i) Tenant shall receive and deliver goods and merchandise only in the manner, at such times, and in such areas as may be designated by Landlord from time to time.

(j) Tenant and its employees shall comply with all rules and regulations promulgated by the Port Authority for the Terminal, the Retail Areas, the Common Areas or the Airport, including without limitation the Port Authority's Airport Rules and Regulations, a copy of which has been delivered to Tenant. In addition, Tenant and its employees shall comply with Landlord's Rules and Regulations for Retail Area attached here as **Schedule F** as the same may be amended from time to time by notice to Tenant, as well as any other rules and regulations promulgated by Landlord for the Retail Area or the Common Areas (specifically including but not limited to rules and regulations implementing any smoking policy established by Landlord from time to time). Tenant will, upon request of Landlord, require its employees to wear or carry badges or other suitable means of identification. In addition, upon objection by Landlord concerning the conduct, demeanor or appearance of any officer, employee, agent, representative, contractor, guest or invitee of Tenant, Tenant shall take reasonable steps to remove the cause of the objection.

(k) Tenant acknowledges the interest of Landlord in maintaining the retail portions of the Terminal in a condition which is highly dignified, not offensive to passengers using the Terminal, and not of a nature which will cause controversy or attract unwanted attention to the Terminal, the Retail Area, the Port Authority or the Airport. Accordingly, Tenant agrees that the Premises shall not be used for the sale, display, rental or other dissemination of any pornographic or so-called "adult" material, weapons of any kind, or any other material which Landlord determines, in their sole discretion, is not appropriate for sale, display, rental or dissemination at the Airport. Tenant agrees that upon notice from Landlord, it will immediately remove any such materials, and the failure to promptly remove any item referred to in such notice will constitute an Event of Default without any requirement for further notice.

(l) Tenant agrees to use its best efforts in every proper manner to develop and increase the business conducted by it under this Sublease; operate its business so as to maximize its revenues in accordance with business standards observed generally by well-run business enterprises of regional or national scope and not divert, or cause or allow to be diverted, any business from the Terminal or the Airport.

(m) Tenant shall not place any load upon any floor in the Premises exceeding the load which the floor was designed to carry or which is allowed by law, whichever is less. Tenant shall repair any floor, including supporting members, and any paved area damaged by overloading. Landlord reserves the right to further limit the weight of heavy objects and designate their positions.

FOR FOOD TENANTS ONLY:

(n) In the event the Permitted Use of the Premises under this Sublease is a restaurant or provides for sale of food and/or beverages, Tenant further agrees, in connection with its operations at the Premises:

(i) Employees of Tenant shall wear clean, washable uniforms and employees shall wear caps or nets. The employees shall be clean in their habits and shall thoroughly wash their hands before beginning work and immediately after each visit to the toilet and shall keep them clean during the entire work period. No person affected with any disease in a communicable form or who is a carrier of such disease shall work or be permitted to work;

(ii) All food and beverages shall be clean, fresh, pure, of first-class quality and safe for human consumption;

(iii) The Premises and all equipment and materials used shall at all times be clean, sanitary, and free from rubbish, refuse, dust, dirt, offensive or unclean material, flies, and other insects, rodents and vermin. All apparatus, utensils, devices, machines and piping used shall be constructed so as to facilitate the cleaning and inspection thereof and shall be properly cleaned after each period of use (the interval between cleanings, however, never to exceed eight hours) with hot water and a suitable soap or detergent and shall be rinsed by flushing with hot water. Where deemed necessary by Landlord or the Port Authority, final treatment by live steam under pressure or other sterilizing procedure shall be used. All trays, dishes, crockery, glassware, cutlery, and other equipment of such type shall be cleaned and sterilized immediately before using same;

(iv) All packing materials, including but not limited to wrappers, stoppers, caps, enclosures and containers, shall be clean and sterile and shall be so stored as to be protected from dust, dirt, flies and other insects, rodents, vermin, unsanitary handling and unclean materials;

(v) Particular care shall be taken to wash any dishes and perform any cleaning necessary to maintain in a clean and sanitary condition, free of all vermin, any kitchen areas or any other areas in the Premises in which beverages or foods may be prepared or dispensed;

(vi) It is intended that the standards and obligations imposed by this Section 8.1(n) shall be maintained or complied with in addition to compliance with all applicable governmental laws, ordinances and regulations, and in the event that any of said laws, ordinances and regulations shall be more stringent than such standards and obligations, such laws, ordinances and regulations shall be complied with;

(vii) Tenant shall be responsible for ensuring that any Common Areas permitted by Landlord to be used for Tenant's deliveries are broom clean after any such deliveries. Tenant acknowledges that in light of the nature of Tenant's use, Landlord is particularly concerned that a high level be maintained with respect to the sanitary condition of the Premises and any such Common Areas;

(viii) Tenant shall provide and install, at its sole cost and expense, an under-sink grease trap within the Premises;

(ix) Tenant shall apply for and obtain all health permits required under state and local laws and shall promptly forward copies of any such application (and upon receipt, any such permit) to Landlord. In addition, Tenant shall notify Landlord immediately upon receipt by Tenant of notice from any such permitting authority of any violations.

FOR TENANTS WITH USE PERMITTING SALE OF ALCOHOL:

(o) In the event that the Permitted Use expressly allows for the sale of alcoholic beverages, Tenant agrees as follows:

(i) Tenant will comply with all municipal, state and other governmental laws, regulations and rules with respect to the sale of beer, wine and other alcoholic beverages (including, without limitation, obtaining and complying with the provisions of a New York liquor license for the sale of beer, wine and other alcoholic beverages (including any renewal or modification thereof, the "Liquor License").

(ii) At the time that it shall make any filing with or shall receive a notice or other communication from any governmental authority concerning the sale of beer, wine or alcoholic beverage, Tenant shall deliver a copy of such filing, notice or other communication to Landlord. The revocation of or inability to obtain a Liquor License shall not relieve Tenant of any of its obligations hereunder. The failure to obtain, revocation or suspension of any Liquor License shall constitute a material breach of Tenant's obligations under this Sublease.

(iii) As security for the performance by Tenant of its obligations under this Sublease, Tenant hereby pledges and grants to Landlord (to the extent permitted by law) a security interest in the Liquor License (and any additional Liquor Licenses hereafter acquired by Tenant with respect to the Premises) and any extensions, renewals or replacements thereof, together with all of Tenant's rights and interests therein. Tenant agrees that this Sublease shall constitute a security agreement for purposes of the Uniform Commercial Code and that Tenant will execute any financing statement or other documentation as Landlord may reasonably request in order to confirm the granting of such interest and to enable Landlord to perfect and protect such interest. Tenant agrees not to give any other party any interest (including a security interest) in such Liquor License.

(iv) Upon the expiration or any earlier termination of this Sublease, Tenant agrees to assign (to the extent permitted by law) any Liquor License applicable to the Premises to such replacement tenant as Landlord may direct, or to cooperate with Landlord or such replacement tenant to permit the replacement tenant to operate with the benefit of Tenant's Liquor License for an interim period while its license application is pending (in which event such replacement tenant will execute and deliver an agreement to indemnify tenant from and against any liability in connection with such operation), and to execute any and all documents reasonably requested by Landlord in connection therewith.

(v) Tenant shall use best efforts to maintain order and decorum in and around the Premises and to avoid any conduct by patrons which would be considered by Landlord or the Port Authority to be improper or offensive.

Section 8.2 <u>Signage and Advertising</u>.

(a) Tenant will not place or suffer to be placed or maintained on the exterior of the Premises (or on the interior visible from the exterior or at or on any other portion of the Airport outside the Premises) any sign, advertising matter or any other thing of any kind, and will not place or maintain any decoration, lettering, or advertising matter on the glass of any window, door of the Premises or the exterior demising walls of the Premises unless and to the extent permitted by Landlord and approved by the Port Authority. Tenant will, at its sole cost and expense, maintain such sign, decoration, lettering, advertising matter, or other thing as may be permitted hereunder in good condition and repair at all times.

Upon the expiration of the Term or earlier termination of this Sublease, Tenant shall, at Tenant's cost at the request of Landlord, remove or cover any and all signs and restore the Premises and any portion of the Terminal affected by such signs to the condition it was in prior to the installation of any such signs.

(b) Landlord shall have the right to review and approve any advertising or promotion of Tenant's operations at the Premises or in the Airport, to assure consistency with Landlord's and the Port Authority's promotional materials and strategies and with the image of the Retail Area and the Airport which Landlord and the Port Authority are then attempting to establish or preserve.

Section 8.3 <u>Painting, Displays and Merchandising by Tenant</u>.

Tenant will not paint or decorate any part of the exterior of the Premises, or any part of the interior visible from the exterior thereof, without first obtaining Landlord's written approval. Tenant will install and maintain at all

times, subject to the other provisions of this Section 8.3, displays of merchandise in the show windows (if any) of the Premises. In addition, Tenant recognizes and acknowledges that Landlord is vitally interested that the store operation in and the decor of the Premises be dignified and of high mercantile quality in keeping with the high quality, character and standards of the Retail Area, and that but for Tenant's assurances given below, Landlord would not enter into this Sublease. Accordingly, to provide Landlord with assurances in that regard and as a material inducement to Landlord to enter into this Sublease, Tenant covenants with Landlord as follows:

(a) In addition to the provisions herein governing Tenant alterations, construction, improvements, operations, painting and displays, Tenant agrees that the type, quality and location of the fixtures to be originally installed by Tenant and the furnishings and movable articles to be originally placed by Tenant in the Premises, the storefront, and all replacements thereof (which replacements shall be of at least equal type and quality), shall be subject to Landlord's prior written approval; all of said fixtures, furnishings, movable articles and storefront shall be properly maintained by Tenant throughout the Term of this Sublease;

(b) In addition to the provisions herein governing Tenant operations, painting and displays, Tenant agrees that all merchandise shall be neatly and attractively displayed in the Premises throughout the Term of this Sublease in accordance with a written merchandising layout plan and display guidelines, which merchandising layout plan and display guidelines, and any amendments or modifications thereto, shall be subject to Landlord's prior written approval; and

(c) In addition to the provisions herein governing Tenant operations and displays, Tenant agrees to keep the Premises well-stocked with appropriate quantities of seasonable merchandise for sale in the Premises at all times and shall fully and adequately staff the Premises with sufficient employees for the purpose of selling such merchandise; in no event may Tenant, at any time during the Term, remove or permit the removal of, all or substantially all of Tenant's stock of merchandise from the Premises; provided that Tenant is not at such time in default of any term of this Sublease, upon the expiration or earlier termination of this Sublease, Tenant may remove all stock of merchandise from the Premises; if Tenant is in default, Tenant shall not remove, or permit the removal of, such stock of merchandise until all defaults have been cured.

Section 8.4 Hazardous Materials.

Without limiting the generality of its other covenants hereunder, Tenant agrees in regard to the use and occupancy of the Premises to comply with all environmental laws, rules, regulations, statutes and ordinances, including, without limitation, those applicable to Hazardous Substances, as defined herein. Tenant shall not dispose of any Hazardous Substances at the Premises or the Terminal. Tenant unconditionally, absolutely and irrevocably indemnifies and agrees to defend and hold harmless Landlord, the Port Authority and their respective officers, employees, agents, contractors and those claiming by, through or under Landlord or the Port Authority, from and against all loss, cost and expense (including, without limitation, attorney's fees) of whatever nature suffered or incurred by Landlord or the Port Authority on account of the use on the Premises, or the release or discharge from the Premises, of Hazardous Substances, including, without limitation, any claims, costs, losses, liabilities and expenses arising from the violation (or claimed violation) of any environmental laws or the institution of any action by any party against Tenant, Landlord or the Port Authority, based upon nuisance, negligence or other tort theory alleging liability due to the improper generation, storage, disposal, removal, transportation or treatment of Hazardous Substances or the imposition of a lien on any part of the Retail Area, the Common Area or the Terminal under the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, et seq., as amended ("CERCLA"), or any other federal, state or local laws pursuant to which a lien may be imposed due to the existence of Hazardous Substances. Tenant further unconditionally, absolutely and irrevocably guarantees the payment of any fees and expenses incurred by Landlord or the Port Authority in enforcing or seeking enforcement of the liability of Tenant under this indemnification.

For the purposes of this Section, "Hazardous Substances" shall mean and include, but shall not be limited to, any element, substance, compound or mixture, including disease-causing agents, which after release into the environment or work place and upon exposure, ingestion, inhalation or assimilation into any organism, either directly or indirectly, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction or physical deformations in such organisms or their offspring, and all hazardous and toxic substances, wastes or materials, any

pollutants or contaminants (including, without limitation, asbestos and raw materials which include hazardous constituents), or any other similar substances, or materials which are included under or regulated by any local, state or federal law, rule or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, CERCLA and regulations adopted pursuant to such Act, the Toxic Substances Control Act of 1976, as heretofore or currently in effect ("TSCA") and the Resource Conservation and Recovery Act of 1976, as heretofore or currently in effect ("RCRA").

Section 8.5 Street Pricing.

(a) Tenant shall offer all items for sale at the Premises at prices not to exceed "Street Prices", which shall be defined as follows:

(i) If Tenant conducts a similar business in off-airport locations in the Greater New York City – Northern New Jersey Metropolitan Area (the "Metro Area"), "Street Prices" shall mean the price regularly charged by Tenant for the same or similar item in the Metro Area;

(ii) If Tenant does not conduct a similar business in off-airport locations in the Metro Area, "Street Prices" shall mean the average price regularly charged in the Metro Area by similar retailers for the same or similar item; and

(iii) If neither Tenant nor other similar retailers sell a particular item in the Metro Area, "Street Prices" shall mean the price regularly charged by Tenant or similar retailers for the same or similar item in any other geographic area, with a reasonable adjustment for any cost of living variance between such area and the Metro Area.

(b) Tenant shall post and maintain one or more notices in form and substance satisfactory to Landlord and the Port Authority, in a location approved by Landlord and the Port Authority, to the effect that Tenant guarantees that it subscribes to the "Street Pricing" policy set out in subsection (a) above, such notice to be clearly visible and unobstructed. In the event Landlord adopts a standard sign and/or standard language setting forth such information, Tenant agrees to use the standard signage and/or language, to be posted in locations approved by Landlord.

(c) Tenant agrees that upon Landlord's request it will provide a list of the prices of each item offered or to be offered at the Premises, as well as any other information reasonably requested by Landlord in order to assure Tenant's compliance with the provisions of this Section 8.5.

(d) Tenant shall offer a "money back guarantee" of its Street Prices, which means that it will promptly refund the price of any item purchased at the Premises by any customer who can establish that the price charged for such item exceeded the "Street Price" for such item as provided in Section 8.5.

(e) As a means of implementing the Port Authority's street pricing policy and enforcing the provisions of Section 8.5(a) Landlord may, at its sole discretion, levy "fines" of up to $1,000 per day on any tenant who fails to comply with any of the provisions of this Section 8.5 within 24 hours of receipt of any demand to do so from Landlord. Tenant agrees to pay, as Additional Rent, any such "fine" as may be levied upon it by Landlord. Landlord and Tenant agree and acknowledge that it is impossible to calculate the damages to Landlord and to the Landlord's retail program at the Airport in the event Tenant fails to comply with the Street-Pricing Policy set forth in this Section. The parties hereby agree that the fines referenced above are intended by the parties to represent liquidated monetary damages and are not intended as a penalty. To the extent such fines exceed the maximum amount permitted to be collected under applicable law, this Section shall be deemed to require only as much as may be permitted in accordance with applicable law. Landlord's rights under this Section shall be in addition to any other rights Landlord may have following an Event of Default.

Section 8.6 Approved Menu.

[FOOD TENANTS ONLY]

Tenant has provided Landlord with a complete menu of all items to be served at the Premises, including the times of day which each item is to be offered. Such menu is attached hereto as Schedule I. Tenant shall not change the items offered for sale at the Premises without obtaining the prior written approval of Landlord.

Section 8.7 Employee Training.

Tenant will properly train all of its employees in the proper operation of its business (including, if applicable, proper food handling procedures), the compliance with any applicable laws and regulations and the provisions of this lease, and the provision of good service to customers. In the event that Landlord initiates one or more customer service programs for employees of tenants in the Retail Area, Tenant will fully participate (and cause its employees to participate) in such programs and will pay to Landlord its share of such costs. Tenant's share will be paid to Landlord in accordance with the provisions of Section 6.1, except that Landlnrd may allocate the costs of any such program among tenants in the Retail Area in any manner which it deems appropriate, rather than in accordance with each tenant's Proportionate Share.

Section 8.8 Radius Restriction.

Tenant or Tenant's Guarantor shall not own, lease or operate or otherwise have an interest in any Competing Business (as hereinafter defined) within the radius of the Airport set forth in Section 1.1 (the "Restricted Radius") during the Term of this Lease. "Competing Business" means any store directly or indirectly owned or operated by Tenant, Guarantor or any person or business entity affiliated with Tenant or any franchisee of Tenant or Tenant's parent entity, within the Restricted Radius which offers a similar concept or which is conducted under the same or substantially the same name as Tenant's Trade Name. If any Competing Business is opened within the Restricted Radius during the Term of this Lease, then in addition to all other rights and remedies available to Landlord on account of such breach, Landlord may at its election include any sales from such Competing Business in calculating the Percentage Rental due under this Lease; in such case Tenant shall, upon Landlord's demand therefor, provide Landlord with monthly and annual statements and reports of gross sales from such Competing Business in the same manner and at the same time as Tenant reports its Gross Sales under Section 5.5 of this Lease.

ARTICLE 9
REPAIRS AND ALTERATIONS

Section 9.1 Repairs To Be Made By Landlord.

Landlord agrees to keep in good order, condition and repair the Retail Common Areas (except any condition caused by any act, omission or neglect of Tenant or any contractor of Tenant or any party for whose conduct Tenant is responsible) except as provided in Article 12 and except as such areas may be affected by the ongoing construction at the Terminal. Without limitation, Landlord shall not be responsible to make any improvements or repairs other than as expressly provided in this Section, and Landlord shall not be liable for any failure to make such repairs unless Tenant has given notice to Landlord of the need to make such repairs and Landlord has failed to commence to make such repairs within a reasonable time thereafter.

Section 9.2 Repairs To Be Made By Tenant.

All repairs to the Premises or any installations, equipment or facilities therein, other than those repairs required to be made by Landlord pursuant to Section 9.1 hereof or Article 12 hereof, shall be made by Tenant at its expense, using contractors approved by the Landlord. Without limiting the generality of the foregoing, Tenant will keep the interior of the Premises, together with all electrical, plumbing, HVAC and all other mechanical systems serving the Premises, and all plate glass windows, walls, floors, ceilings, partitions and doors, in good order, condition and repair and will make all replacements thereto from time to time required at its expense; and will surrender the Premises at the expiration of the Term or at such other time as it may vacate the Premises in as good

condition as when received, excepting only ordinary wear and tear (but not obsolescence). Tenant will not overload the electrical wiring serving the Premises or within the Premises, and will install at its expense, subject to the provisions of Section 9.4, any additional electrical wiring which may be required in connection with Tenant's apparatus. Tenant shall obtain and maintain throughout the Term, at its sole expense, a repair and maintenance agreement for the HVAC system serving the Premises. Tenant shall provide Landlord with a copy of such repair and maintenance agreement within ten (10) days of the Commencement Date.

Section 9.3 Damage to Premises.

Tenant will repair promptly, at its expense, any damage to the Premises and, upon demand, shall reimburse Landlord, as Additional Rental, for the cost of the repair of any damage elsewhere in the Retail Area, Common Areas or the Terminal caused by Tenant, its agents, employees or contractors or by bringing into the Premises any property for Tenant's use, or by the installation or removal of such property, regardless of fault or by whom such damage shall be caused (unless caused by Landlord, its agents, employees, or contractors).

In the event Tenant fails to commence to maintain, clean, repair, replace or paint the Premises within a period of five (5) days after notice from Landlord or the Port Authority that the condition of the Premises does not meet the requirements set out in this Sublease, or fails diligently to continue to completion the repair, replacement, rebuilding or painting of all of the Premises required to be repaired, replaced, rebuilt or painted by Tenant under the terms of this Sublease, Landlord or the Port Authority may, at its option, exercise self help rights provided in Section 16.10 and in addition to any other remedies which may be available to it, maintain, repair, replace, rebuild or paint all or any part of the Premises included in the said notice, and the cost thereof shall be payable by Tenant as Additional Rental.

Section 9.4 Alterations by Tenant.

Tenant will not make any alterations, renovations, improvements or other installations in, on, or to the Premises or any part thereof (including, without limitation, any alterations of the storefront or signs, structural alterations, or any cutting or drilling into any part of the Premises or any securing of any fixture, apparatus, or equipment of any kind to any part of the Premises) until Tenant shall have received Landlord's and the Port Authority's prior written approval. Any such approved alterations, additions or improvements shall: (i) be in accordance with complete plans and specifications approved in advance by Landlord and the Port Authority; (ii) be made by contractors or mechanics approved by Landlord; (iii) be in compliance with all applicable codes and rules, regulations, and all procedures and requirements of Landlord and the Port Authority including the requirements of Section 7.2, Section 7.5 and **Schedule B**; (iv) be made at Tenant's sole expense and at such times (specifically excluding peak travel times) and in such manner as Landlord may from time to time designate without interference with or disruption of the operations of tenants or other occupants of the Retail Area; (v) become part of the Premises and the property of Landlord; and (vi) be made in compliance with and all contractors performing work on the Premises (and subcontractors thereof, at any tier of construction) shall comply with those requirements set forth in **Schedule D** and **Schedule E** and Tenant shall include and require its contractors (and subcontractors thereof at any tier of construction) to include in its construction contracts as direct obligations of the parties to such contracts, the requirements set forth on **Schedule E**. Tenant shall pay Landlord or Landlord's Contractor for the reasonable costs of review of the plans and specifications for such alterations, renovations, additions or improvements, and general supervision of Tenant's construction work.

Section 9.5 Changes and Additions to Retail Area.

(a) Landlord reserves the right at any time and from time to time, without the same constituting breach of Landlord's covenant of quiet enjoyment (express or implied) or an actual or constructive eviction, and without incurring any liability to Tenant or otherwise affecting Tenant's obligations under this Sublease: to make such changes, alterations, improvements, repairs or replacements in or to the Retail Area (including the Retail Common Areas) and the fixtures and equipment thereof, and in or to other areas of the Terminal, as Landlord may deem necessary or desirable in connection with the remodeling, reconstruction, redevelopment, redesigning or expansion of the Retail Area or otherwise, and in connection therewith, to change the arrangement and/or location of entrances or passageways, parking areas, doors and doorways, access ramps, corridors, elevators, escalators or other public parts of the Retail Area, Retail Common Areas or the Terminal; to make additions, alterations, and

modifications to and rearrangements and reductions of the Retail Area, including the Retail Common Areas; to change the dimensions and types of stores; to convert Retail Common Areas into leasable areas; and to expand the size of the Retail Area by acquiring or making available additional area in the Terminal; provided, however, that no such changes shall permanently deny reasonable access to and egress from the Premises.

(b) Tenant acknowledges that Landlord or the Port Authority may, as of the date hereof or anytime hereafter, make improvements to the Retail Area or the Terminal, and that such improvements may require substantial construction work in the Retail Area during normal business hours, which may disrupt Tenant's business operations and create noise, dust and other concomitants of construction work. Tenant agrees that it shall have no right whatsoever to any abatement of Rental or other compensation or to any claim of breach of Landlord's covenant of quiet enjoyment (express or implied) or an actual or constructive eviction or for loss of business or inconvenience, or in any event for consequential damages on account of any such construction work, and without incurring any liability to Tenant or otherwise affecting Tenant's obligations under this Sublease. Without limiting the generality of the foregoing: Landlord or the Port Authority may enter the Premises for any of the purposes in this Sublease authorized, or for repairing, altering, remodeling, reconstructing, redeveloping, or expanding any portion of the Retail Area or the Terminal; Landlord or the Port Authority may stop or interrupt any service or utility system, when necessary by reason of accident or emergency or construction work until the necessity for said interruption or stoppage has ended; Landlord or the Port Authority may temporarily or permanently close, alter, change, modify and/or relocate any entrances, passageways, doors and doorways, corridors, elevators, escalators or other parts of the Retail Area, Common Areas or the Terminal; and Landlord or the Port Authority may at any time and from time to time to make such changes, alterations, additions, improvements, repairs or replacements in or to the Retail Area (including the Premises and Common Areas) and the fixtures and equipment thereof and the Terminal, as well as in or to the entrances, passages, elevators, escalators, and stairways thereof, as it may deem necessary or desirable, and to change the arrangement and/or location or entrances, passageways, doors and doorways, and corridors, elevators, stairs, toilets, or other public parts of the Retail Area, Common Areas or the Terminal.

Section 9.6 **Management and Operation of Common Areas.**

Landlord will operate and maintain or will cause to be operated and maintained the Retail Common Areas in a manner deemed by Landlord to be reasonable and appropriate and in the best interests of the Retail Area. Landlord will have the right (i) to establish, modify and enforce reasonable rules and regulations with respect to the Common Areas; (ii) to enter into, modify and terminate agreements pertaining to the use and maintenance of the Common Areas; (iii) to close all or any portion of the Common Areas from time to time; and (iv) to do and perform such other acts in and to the Common Areas as Landlord shall determine to be advisable.

ARTICLE 10
UTILITIES

Section 10.1 **Utilities.**

Except as expressly provided in this Article 10, Tenant shall be responsible for arranging for the provision of all utility services directly with the supplier and Tenant shall make payment for any such services directly to the supplier. Landlord shall have no obligation to provide any services of any nature whatsoever to Tenant or to, in or for the benefit of the Premises, or to observe or perform any obligations of Landlord under this Sublease in any case where any services, or obligations are required under the Prime Lease to be provided, performed or observed by the Port Authority for the benefit of Landlord with respect to the Premises. Landlord shall not be responsible in any way whatsoever for the quality, impairment, interruption or stoppage of utilities (except water and sewer services required to be provided under Section 10.3) and Tenant agrees to look solely and directly to the Port Authority (or the utility supplier, as applicable) for the furnishing of any such utilities. Tenant shall have no claim against Landlord for any such default by the Port Authority under the Prime Lease. Tenant shall be solely responsible for the operation of all equipment, systems, piping, tie-ins, utilities, lines and connections, mechanical, electrical, communication and other systems located within the Premises and shall perform, in accordance with the provisions of Section 9.4, all preventative maintenance, repairs, replacements and rebuilding of such systems.

Tenant shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of any drainage and sewerage system, water system, ventilation, air-conditioning and heating systems, communications system, elevators and escalators, electrical system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses and other utility and other systems, if any, installed or located on, under, in or adjacent to the Premises now or in the future.

Section 10.2 Electricity.

Tenant shall purchase, in reasonable quantity, electricity directly from the Port Authority at the same charge which would be made by the public utility supplying electricity to the Terminal based on the quantity used solely by Tenant (among other factors or conditions that would be applied by the public utility in determining such charge) but in no event less than the amount which would reimburse the Port Authority for its cost of obtaining and supplying electricity to Tenant.

The Port Authority may separately meter (or require Tenant to separately meter) the Premises for the purposes of measuring Tenant's usage, however, in the event that the Premises are not separately metered or the meter is, for any reason, unable to record Tenant's usage during any period, Tenant's usage for that period will be determined based on Landlord's (or the Port Authority's) reasonable estimate of Tenant's actual use for the applicable period.

Tenant shall be solely responsible for making all connections and tie-ins to the electrical service at the point designated by the Port Authority. In addition, Tenant shall be solely responsible for transforming and distributing the electricity so supplied throughout the Premises, as appropriate to Tenant's requirements. The Port Authority may discontinue such service by giving notice to Tenant fifteen (15) days prior to such discontinuance. Tenant shall, following the discontinuance, be responsible for acquiring electrical service directly from the public utility.

Payment shall be made (by check payable to the Port Authority) by Tenant to the Port Authority (or otherwise as directed by the Port Authority) at the Address for Payment of Electric and Water Charges set forth in Section 1.1, within ten days of receipt by Tenant of a bill for such services. Any failure on the part of Tenant to make such payment shall be a breach or default under this Sublease with the same effect as a failure to pay Rental and shall be considered an Event of Default entitling Landlord to terminate this Sublease and the Port Authority to withdraw or revoke its consent to this Sublease and to cause its termination for cause.

Section 10.3 Water and Sewer.

Tenant shall purchase domestic cold water and sewerage services from the Port Authority for use at the Premises in reasonable quantities at a rate equal to be determined by the Port Authority. The Tenant will separately meter the Premises for the purpose of measuring Tenant's water consumption, however, in the event the Premises are not separately metered or the meter, for whatever reason, is unable to record Tenant's consumption during any period, Tenant's consumption for that period will be determined based on the Port Authority's reasonable estimate of Tenant's actual consumption for the applicable period.

Section 10.4 Heat and Air Cooling.

Pursuant to the terms of the Prime Lease, the Port Authority has agreed to heat the Premises to an even and comfortable working temperature from October 1 through April 30 on such days and during such hours as the Terminal and the Premises are open for the conduct of retail business serving the public and to furnish air-cooling sufficient to maintain the Premises (except for storage and locker room areas) at a comfortable temperature from May 1 through September 30 on such days and during such hours as the Terminal and the Premises are open for the conduct of retail business serving the public. Such air-cooling shall be furnished subject to the terms of the Prime Lease and in accordance with the following:

(a) If the air-cooling on the Premises can be controlled by mechanisms within the Premises or portions thereof, Tenant shall shut off the air-cooling before closing and leaving any particular portion of the Premises at any time for any period. Landlord or Port Authority shall have the right to enter the Premises for the

purpose of observing Tenant's compliance with the provisions hereof and Landlord or Port Authority may, at Tenant's expense, lock, seal or install any timing device on or in connection with any air-cooling control mechanism so as to provide that each portion of the Premises shall only be air-cooled during the hours and days stipulated hereunder;

(b) If Tenant, in accordance with this Sublease, erects any partitions or makes any improvements, which partitions or improvements stop, hinder, obstruct or interfere with the cooling of the air or the heating of the Premises, then Tenant shall be responsible for installing supplementary heating or cooling capacity at its expense. No such action by Tenant shall impose any obligation on the Landlord or Port Authority to install facilities, fixtures or equipment for air-cooling or for heating additional to those presently existing or presently contemplated or to increase the capacity or output of existing or presently contemplated facilities, equipment or fixtures and Tenant shall not in any such event be relieved of any of its obligations hereunder because a comfortable temperature is not maintained. No approval given by Landlord or the Port Authority to the erection of partitions or the making of any improvements shall be or be deemed to be a representation that the work approved of will not stop, hinder, obstruct or interfere with either the cooling of the air or the heating of the Premises or any portion thereof;

(c) Tenant shall not waste or dissipate the air-cooling or heating service by any act or omission including but not limited to the permitting of outside doors or windows to remain open. Without otherwise affecting any rights or remedies in the event of any breach by Tenant of its obligations under this Section 10.4, the Port Authority shall have the right to discontinue the heating or air-cooling service during any period of such waste or dissipation and any failure of the Port Authority to supply any such service under such conditions shall not affect any of Tenant's obligations under this Sublease. It is hereby understood further that the installation by Tenant of any equipment which itself requires air-cooling or which requires additional quantities of air-cooling or which requires additional quantities of air-cooling at the portion of the Premises where such equipment is installed, or the concentration in any portion of the Premises of such a number of people so as to require additional quantities of air-cooling, shall not impose any obligation on the Port Authority to increase the capacity or output of initially existing facilities, equipment or fixtures for the supply of chilled water and Tenant shall not in any such event be relieved of any of its obligations hereunder; and

(d) The Port Authority may at its option furnish the air-cooling either in whole or partially by installing complete units on the Premises and no such installation on the Premises shall be construed to be an eviction of Tenant or shall be grounds for any diminution or abatement of the Rental payable hereunder.

Section 10.5 <u>Government Regulation</u>.

If any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, makes or increases any charge, fee or rent on the Port Authority for any service, system or utility now or in the future supplied to or available to the Premises (including but not limited to any sewer rent or charge for the use of sewer systems), Tenant shall, at the option of the Port Authority exercised at any time and from time to time by notice to Tenant, pay, in accordance with the said notice, such charge, fee or rent or increase thereof (or the portion thereof allocated by the Port Authority to the Premises or the operations therein) either directly to the governmental body, authority or agency or to the public utility or directly to the Port Authority.

Section 10.6 <u>Trash and Garbage Removal</u>.

Tenant shall be solely responsible, at Tenant's expense, for removal of trash, garbage, debris and other waste material from the Premises, on a daily basis, in a manner approved by Landlord unless the Landlord elects to provide such services. Tenant shall contract with the Port Authority's disposal contractor at the Terminal for the disposal of its trash, garbage, debris and other waste material. In the event Landlord elects to provide such services, the Landlord's costs of providing such services shall be included in Landlord's Operating Costs in accordance with the provisions of Section 6.2 and Tenant shall pay to Landlord the Tenant's Proportionate Share of such costs in accordance with the provisions of Section 6.1. All trash, garbage and debris, while on the Premises, shall be temporarily stored in suitable waste receptacles, made of metal or other suitable material, with tight-fitting covers, sufficient to safely store whatever is to be contained therein as determined by the Landlord.

Section 10.7 Cleaning Services.

Tenant shall, at its expense, provide the Premises (including, without limitation, exterior plate glass, exterior doors and framing, exterior wall, exterior signs and the service entrance) with those janitorial, window cleaning, pest and vermin control, waste removal, repainting and other services required to maintain the Premises in a clean, sanitary, safe, and attractive condition in accordance with the standards of first class, upscale retail establishments, but in any event not less than the standards of the Retail Area. In the event that either Landlord or the Port Authority provide pest and vermin control services for the Premises and other locations within the Retail Area, Tenant will reimburse Landlord for the cost of providing such services to the Premises; Tenant shall supplement such services if necessary in order to keep the Premises free from pests and vermin.

Section 10.8 Discontinuance and Interruptions nf Services.

Neither Landlord nor the Port Authority shall be liable to Tenant in damages or otherwise (i) if any utility shall become unavailable from the Port Authority or from any public utility company, public authority or any other person or entity supplying or distributing such utility, or (ii) for any interruption in any service hereunder (including, without limitation, any heating, ventilation or air-conditioning) caused by the making of any necessary repairs or improvements or by any cause beyond the reasonable control of Landlord (or the Port Authority, as the case may be), and the same shall not constitute a termination of this Sublease or an eviction of Tenant. In no event shall Port Authority or Landlord be liable to Tenant for indirect or consequential damages.

The Port Authority is under no obligation to supply services if and to the extent and during any period that the supplying of any such service or the use of any necessary component shall be prohibited or rationed by any federal, state or municipal law, rule, regulation, requirement, order or direction and if the Port Authority deems it in the public interest to comply therewith even though such law, rule, regulation, requirement, order or direction may not be mandatory on the Port Authority as a public agency. The Port Authority is not obligated to perform or furnish (and may cease performance of) any service whatsoever in connection with the Premises at any time while Tenant wastes any such services (or Landlord wastes any services to it under the Prime Lease) or is in default under this Sublease (or Landlord is in default under the Prime Lease.)

Section 10.9 Deliveries.

Tenant shall, at Tenant's sole cost and expense, make deliveries in a timely manner, to a designated area in accordance with the Landlord's rules and regulations. Landlord may, at its option, provide receiving and delivery services to tenants in the Retail Area. In such event Tenant shall use such service for all of its deliveries to the Terminal and the Premises, and the cost of providing such services shall be included in the Landlord's Operating Costs in accordance with the provisions of Section 6.2 and Tenant shall pay its Proportionate Share of such cost in accordance with the provisions of Section 6.1.

In the event that Landlord determines that allocating the cost of receiving and the delivery service in accordance with Tenant's Proportionate Share, would not be an equitable manner in which to allocate such costs, the Landlord, in its sole discretion, may make an allocation of such costs and Tenant agrees to pay its share, as determined by Landlord. Landlord will upon request provide Tenant with Landlord's basis for such allocation, in reasonable detail.

ARTICLE 11
INDEMNITY AND INSURANCE

Section 11.1 Indemnity by Tenant.

To the maximum extent permitted by law, Tenant shall indemnify and save harmless Landlord, the directors, officers, agents and employees of Landlord, and those in privity of estate with Landlord, and the Port Authority, the commissioners, employees, representatives, directors and officers of the Port Authority from and against all claims, expenses (including, without limitation, attorney's fees) or liability of whatever nature: (i) arising from any default, act omission or negligence of Tenant, or Tenant's contractors, licensees, agents, servants or

employees, or the failure of Tenant or such persons to comply with any rule, order, regulation or lawful direction now or hereafter in force of any public authority, in each case to the extent the same are related, directly or indirectly, to the Premises or Tenant's use thereof; or (ii) arising, directly or indirectly, from any accident, injury or damage, however caused, to any person or property on or about the Premises; or (iii) arising directly or indirectly, out of default by Tenant under any of the terms or covenants of this Sublease, or in connection with any mechanical, electrical, plumbing, or any other equipment or installations that are to be maintained or repaired by Tenant; or (iv) arising from any accident, injury or damage to any person or property occurring outside of the Premises but within the Terminal or the general area of the Terminal, where such accident, injury or damage results, or is claimed to have resulted from, any act, omission or negligence on the part of Tenant, or Tenant's contractors, licensees, agents, servants or employees or customers, or anyone claiming by, through or under Tenant.

Without limiting the generality of this Section 11.1, Tenant agrees to indemnify Landlord and save it harmless from and against all claims relating to the sale of beer, wine and other alcoholic beverages in the Premises and arising from (1) any act, omission or negligence of Tenant, or Tenant's contractors, licensees, agents, servants or employees, or (2) any accident, injury or damage whatsoever caused to any person or to the property of any person occurring from and after the Commencement Date and until the end of the Term hereof, whether such accident, injury or damage occurs within the Premises, the Retail Area, the Common Areas, the Terminal, or otherwise. This indemnity and hold harmless agreement shall include indemnity against all costs, expenses (including, without limitation, reasonable attorneys' fees) and liabilities incurred in or in connection with any such claim, or any action or proceeding brought thereon. If any action or proceeding be brought against Landlord by reason of any such claim, Tenant upon notice from Landlord shall at Tenant's expense resist or defend such action or proceeding and employ counsel therefor acceptable to Landlord.

The provisions of this Section 11.1 shall survive the expiration or termination of this Agreement.

Section 11.2 <u>Landlord Not Responsible for Acts of Others</u>.

Landlord shall not be responsible or liable to Tenant, or to those claiming by, through or under Tenant, for any loss or damage which may be occasioned by or through the acts or omissions of the Port Authority or of persons occupying space adjoining the Premises or any other part of the Retail Area, or, to the maximum extent permitted by law, for any loss or damage resulting to Tenant, or those claiming by, through or under Tenant, or its or their property, from the breaking, bursting, stoppage or leaking of electrical cable and wires, and water, gas, sewer or steam pipes. To the maximum extent permitted by law, Tenant agrees to use and occupy the Premises, and to use such other portions of the Retail Common Areas and Retail Area, as Tenant is herein given the right to use, at Tenant's own risk.

Section 11.3 <u>Tenant's Insurance</u>.

At all times after the execution of this Sublease, Tenant will take out and keep in force, at its expense Tenant's Required Insurance Coverage specified in Section 1.1, specifically including but not limited to:

(a) commercial general liability insurance, written on an occurrence basis and including contractual liability coverage to cover any liabilities assumed under this Sublease, insuring against all claims for injury to or death of persons or damage to property on or about the Premises; the limit of such public liability coverage shall be not less than the limit specified in Section 1.1;

(b) all-risk property insurance, written at replacement cost value and with an agreed amount endorsement, covering all of the leasehold improvements and Tenant's personal property in the Premises (including, without limitation, inventory, trade fixtures, floor coverings, furniture and other property removable by Tenant under the provisions of this Sublease);

(c) if and to the extent required by law, worker's compensation or similar insurance with limits and additional coverage as described in Section 1.1;

(d) if requested by Landlord, business interruption insurance, rent insurance, sprinkler damage insurance, and such other types of insurance coverages and amounts as the Landlord may reasonably require, such amounts to be consistent with other major airports in North America, or as the Port Authority may require, in its sole and absolute discretion; and

(e) if the Permitted Use allows for the sale of alcoholic beverages, Tenant agrees to maintain Tenant's Additional Required Insurance specified in Section 1.1 hereof. Notwithstanding the foregoing, Landlord reserves the right upon thirty (30) day's notice to Tenant to require that it increase the coverage limits on such insurance. The foregoing insurance shall be in compliance with the requirements of this Article 11 and shall insure against all claims, demands or actions for injury to, or death of, one or more persons in one or more accidents, and for damage to property, as well as for damages due to time loss or means of support; so that at all times Landlord and the Port Authority will be fully and completely protected against any claims that may arise by reason of the dispensing of beer, wine and other alcoholic beverages in the Premises.

Tenant shall deliver certified copies of the policies and/or certificates of insurance evidencing such coverage, as well as evidence of payment of all premiums thereof, within thirty (30) days of the execution of this Sublease.

Section 11.4 *Tenant's Contractor's Insurance.*

Tenant shall require any contractor of Tenant performing work on the Premises to take out and keep in force, at no expense to Landlord, the insurance coverages set out in **Schedule B**, attached hereto.

Section 11.5 Landlord's Insurance.

Landlord shall take out and keep in force all insurance required pursuant to the terms of the Prime Lease, as amended from time to time, to be maintained by Landlord.

Section 11.6 Policy Requirements.

The company or companies writing any insurance which Tenant is required to take out and maintain or cause to be taken out or maintained pursuant to Section 11.3 and Section 11.4 hereof as well as the form of such insurance shall at all times be subject to Landlord's and the Port Authority's approval and any such company or companies shall be licensed to do business in New York. Each policy evidencing insurance required in Section 11.3(a) and Section 11.3(e) shall name Landlord (including MarketPlace LaGuardia Limited Partnership and MarketPlace LaGuardia, Inc.), the Port Authority, and such persons as are in privity of estate with Landlord (as may be set forth in a notice given from time to time by Landlord) and Tenant are named as additional insureds (collectively, "Insured Parties"), as their respective interests appear, each with the same effect as if separately insured and shall also contain a provision by which the insurer agrees that such policy shall not be canceled except after thirty (30) days' written notice to Landlord, the Port Authority, and any person in privity of estate with Landlord. As provided in the preceding sentence, Tenant agrees to name the following entities as additional insureds on its insurance policies: MarketPlace Development, Inc., MarketPlace Development Limited Partnership, MarketPlace LaGuardia, Inc., MarketPlace LaGuardia Limited Partnership, New England Development, Inc., NED Management, L.P., WellsPark Group, L.P., Fleet National Bank, and The Port Authority of New York and New Jersey. Each such policy, or a certificate thereof, shall be deposited with Landlord by Tenant promptly upon commencement of Tenant's obligation to procure the same. If Tenant shall fail to perform any of its obligations under Section 11.3 or Section 11.4, then in addition to any other right or remedy of Landlord, Landlord may perform the same and the cost thereof shall be deemed Additional Rental and shall be payable upon Landlord's demand. In the event Tenant carries limits of insurance higher than those required under the terms of this Sublease, such higher limits shall be applicable to the Insured Parties in addition to Tenant.

In the defense of any claim, demand, expense or liability which is to be covered under insurance policies by Tenant as described in this Sublease (even if such claim, demand, expense or liability is groundless, false or fraudulent), Tenant agrees on its own behalf, and shall cause its insurers to agree, not to, 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.

Section 11.7 Increase in Insurance Premiums.

Tenant will not do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Premises which will contravene Landlord's policies of hazard or liability insurance or which will prevent Landlord from procuring such policies with companies acceptable to Landlord. If anything done, omitted to be done or suffered by Tenant to be kept in, upon or about the Premises shall cause the rate of fire or other insurance on the Premises or on other property of Landlord or of others within the Retail Area to be increased beyond the minimum rate from time to time applicable to the Premises or to any such property for the use or uses made thereof, Tenant will pay, as Additional Rental, the amount of any such increase upon demand.

Section 11.8 Waiver of Right of Recovery.

Insofar as, and to the extent that, the following provision may be effective without invalidating or making it impossible to secure insurance coverage obtainable from responsible insurance companies doing business in New York (even though extra premium may result therefrom), Landlord and Tenant mutually agree that, with respect to any hazard which is covered by insurance then being carried by them (or required under the terms of this Sublease to be covered by them), respectively, the one carrying (or required hereunder to carry) such insurance and suffering such loss releases the other of and from any and all claims with respect to such loss; and they further mutually agree that their respective insurance companies shall have no right of subrogation against the other on account thereof. If the release of either party provided above shall contravene any law with respect to exculpatory agreements, the liability of the party for whose benefit such release was intended shall remain but shall be secondary to that of the other party's insurer.

ARTICLE 12
DAMAGE AND DESTRUCTION

Section 12.1 Casualty.

In the event the Premises are damaged or destroyed, as a result of fire or other casualty (without fault on the part of Tenant, its employees, officers, guests, invitees, contractors or persons doing business with Tenant) Landlord may, at its election, repair such damage or terminate the Sublease, with respect to all or any portion of the Premises.

In the event the Sublease or the Prime Lease is terminated as a result of any fire or other casualty this Sublease shall expire as of the effective termination date in such notice of termination.

In the event Landlord elects to rebuild or repair any or all of the Premises, Tenant shall be obligated to rebuild, repair and/or replace the leasehold improvements in the Premises (including those items set forth on Schedule B hereof), at Tenant's expense, to substantially the same condition as the prior to such casualty.

Section 12.2 Condemnation.

If the Premises (or any portion thereof), or twenty-five percent (25%) or more of the Terminal shall be taken by condemnation or right of eminent domain or any other action or proceeding by any governmental agency, or by the Port Authority under applicable provisions of the Prime Lease, Landlord shall have the right to terminate this Sublease, by written notice, with respect to all or any portion of the Premises. Such termination shall be effective as of the date specified in such notice. Tenant hereby agrees to deliver such portion of the Premises, as requested, on the date specified in such notice.

In the event the Sublease is terminated with respect to any portion of the Premises, Tenant shall, at Tenant's cost, restore the remainder of the Premises, as nearly as practicable, to its condition prior to such condemnation or taking.

Landlord shall have and Tenant hereby grants and assigns to Landlord, all rights to recover for damages to the Premises and the Terminal and the leasehold interest hereby created, and to compensation accrued or to accrue by reason of such taking or damages. Tenant covenants to deliver such further assignments and assurances of such assignment as Landlord may from time to time request.

Tenant shall not assert any claim to any compensation, award or part thereof against Landlord, the condemning authority or the Port Authority as a result of any condemnation, Tenant hereby acknowledging that Landlord and the Port Authority shall be entitled to all awards made or to be made and all consideration of Rental free of any claim of right of the Subtenant. Nothing herein shall limit Tenant's right to prosecute in any condemnation proceedings, a claim for the value of any of Tenant's trade fixtures installed in the Premises by Tenant, at Tenant's expense, or for relocation expenses provided that such action shall not effect the amount of compensation otherwise recoverable hereunder by Landlord or the Port Authority from the taking authority.

No taking or conveyance pursuant to this Section 12.2 shall be or be construed as an eviction of Tenant or a breach of this Sublease and Tenant shall have no basis for any claim against Landlord or the Port Authority for damages, consequential or otherwise.

ARTICLE 13
ASSIGNMENT AND SUBLETTING

Section 13.1 *Assignment and Subletting Prohibited.*

Tenant will not assign this Sublease, in whole or in part, nor sublet all or any part of the Premises, nor license concessions or sublease departments therein, nor grant leasehold mortgages or collateral assignments affecting this Sublease, without first obtaining the written consent of Landlord and the Port Authority. This prohibition includes any subletting or assignment which would otherwise occur by operation of law, merger, consolidation, reorganization, transfer or other change of Tenant's corporate or proprietary structure, or an assignment or subletting to or by a receiver or trustee in any Federal or state bankruptcy, insolvency, or other proceedings. Consent by Landlord or the Port Authority to any assignment or subletting shall not constitute a waiver of the requirement for such consent to any subsequent assignment or subletting.

Section 13.2 Transfer of Corporate Shares.

If Tenant (or Tenant's Guarantor) is a corporation (other than a corporation the outstanding voting stock of which is listed on a "national securities exchange", as defined in the Securities Exchange Act of 1934), partnership, business trust or other entity having transferable shares or interests, and if at any time after execution of this Sublease a transfer of ten percent (10%) or more of the shares or interests of Tenant (or Tenant's Guarantor) entity by sale, assignment, bequest, inheritance, operation of law or other disposition (including such a transfer to or by a receiver or trustee in Federal or state bankruptcy, insolvency, or other proceedings) shall be deemed to be an assignment of this Sublease. Tenant agrees to give Landlord written notice of such proposed event and a request for Landlord's approval, at least thirty (30) days prior to the date of such proposed transfer.

Section 13.3 Acceptance of Rent From Transferee.

The acceptance by Landlord or the Port Authority of the payment of Rental following any assignment or other transfer prohibited by this Article shall not be deemed to be a consent by Landlord or the Port Authority to any such assignment or other transfer nor shall the same be deemed to be a waiver of any right or remedy of Landlord or the Port Authority hereunder.

Section 13.4 Other Assignment and Subletting Requirements.

If pursuant to this ARTICLE 13 Landlord and the Port Authority permit Tenant to sublease all or any portion of the Premises or to assign or otherwise transfer this Sublease, Tenant shall pay to Landlord, at the times and in the manner specified by Landlord, one hundred percent (100%) of any Excess Rent (as defined below). For purposes of this Section, the term "Excess Rent" shall mean the difference between all amounts which Tenant

receives from an assignee or sublessee by virtue of an assignment or sublease pursuant to the provisions of this ARTICLE 13 and the total charges due under this Sublease for the subleased or assigned area, provided such difference is greater than zero. In any case where Landlord and the Port Authority shall consent to such assignment, other transfer or subletting, the Tenant originally named herein shall remain fully liable for Tenant obligations hereunder, including, without limitation, the obligation to pay the rent and other amounts provided under this Sublease. Tenant also hereby agrees to pay as additional rent to Landlord, within fifteen (15) days of billing therefor, all legal and other fees and administrative expenses incurred by Landlord in connection with reviewing and approving any assignment, other transfer or subletting by Tenant. It shall be a condition of the validity of any assignment or other transfer or subletting that the assignee or transferee or subtenant agree directly with Landlord, in form satisfactory to Landlord, to be bound by all Tenant obligations hereunder from and after the effective date of the assignment, transfer or sublease, including, without limitation, the obligation to pay rent and other amounts provided for under this Sublease and the covenant against further assignment or other transfer or subletting. It shall also be a condition of the validity of any assignment or other transfer or subletting that the assignee or transferee or subtenant agree in writing to the standard consent agreement of the Port Authority, which consent shall be in form satisfactory to the Port Authority.

ARTICLE 14
DEFAULT

Section 14.1 **"Event of Default" Defined.**

Any one or more of the following events shall constitute an "Event of Default":

(a) Tenant shall fail to pay the Rental or other charges on or before the same becomes due hereunder;

(b) Tenant shall fail to perform or observe any term or condition of this Sublease which, because of its character, would immediately jeopardize Landlord's interest (such as, but without limitation, failure to maintain public liability insurance) and such failure continues for 48 hours after notice (which may be oral) from Landlord thereof;

(c) Tenant fails to comply with any request by Landlord to conform to the requirements of Landlord's Street Pricing policy set forth in Section 8.5;

(d) Tenant ceases, suspends or significantly reduces its operations, without Landlord's prior written approval, for a substantially continuous period of three (3) days or more;

(e) Tenant shall fail to perform or observe any other term or condition contained in this Sublease within the time specified or in the event there is no time specified for such performance, within three (3) days after notice from Landlord thereof (unless such default is of such a nature that it cannot be cured within such three-day period, in which event no Event of Default shall occur so long as Tenant shall commence the curing of the default within such three-day period and shall thereafter promptly and diligently prosecute the curing of the same);

(f) Tenant shall vacate or abandon the Premises;

(g) Tenant shall fail to take possession of the Premises within fifteen (15) days after the Premises Delivery Date, or if Tenant has taken possession of the Premises within such fifteen-day period, thereafter fails to promptly and diligently perform Tenant's Work;

(h) except as otherwise provided by applicable law, if the estate hereby created shall be taken on execution or by other process of law, or if Tenant shall be judicially declared bankrupt or insolvent according to law, or if any assignment shall be made of the property of Tenant for the benefit of creditors, or if a receiver, guardian, conservator, trustee in involuntary bankruptcy or other similar officer shall be appointed to take charge of all or any substantial part of Tenant's property by a court of competent jurisdiction, or if a petition shall be filed for the reorganization of Tenant under any provisions of law now or hereafter enacted, and such proceeding is not dismissed within forty-five (45) days after it is begun, or if Tenant shall file a petition for such reorganization, or for

arrangements under any provisions of such laws providing a plan for a debtor to settle, satisfy or extend the time for the payment of debts;

(i) as a result of any action by Tenant (or failure to act when required), Landlord shall receive a notice of default under the Prime Lease from the Port Authority;

(j) any other event expressly identified as an "Event of Default" in this Sublease;

provided, however, that if Landlord is required hereunder to give Tenant notice of such default and Landlord shall have sent to Tenant a notice of any such default, even though such default shall have been cured and this Sublease not terminated, and during the same twelve month period in which Landlord shall have sent such notice of default to Tenant, Tenant shall thereafter during such twelve month period default in any matter ("Subsequent Default"), then such Subsequent Default shall be deemed to be an Event of Default upon Landlord giving Tenant notice thereof and Tenant shall have no grace period within which to cure such Subsequent Default.

Section 14.2 Remedies.

Upon the occurrence and continuance of an Event of Default, Landlord, without notice to Tenant in any instance (except where expressly provided for below), may do any one or more of the following:

(a) Landlord may exercise its right of self-help provided in Section 16.10.

(b) Landlord may without demand or notice (and Tenant hereby expressly waives any notice to quit the Premises) elect to terminate this Sublease and the tenancy created hereby; thereupon Landlord may re-enter the Premises, by summary proceedings or otherwise, and may remove Tenant and all other persons and property from the Premises, and may store such property in a public warehouse or elsewhere at the cost of and for the account of Tenant without resort to legal process and without Landlord being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby and without prejudice to any other remedies which Landlord may have hereunder, at law or in equity.

(c) Landlord may exercise any other legal or equitable right or remedy which it may have.

(d) Landlord may decline to retake possession of the Premises and may sue for the Rental as the same becomes due or sue for the present value of the Rental to accrue under this Sublease and other damages or remedies to which Landlord may be entitled.

(e) Landlord may elect to retake possession of the Premises and, without initially reletting the Premises, sue for the present value of the Rental to accrue under this Sublease and other damages or remedies to which Landlord may be entitled.

(f) Landlord may retake possession of the Premises, relet the Premises and sue for damages. During the period of time that Landlord is trying to relet the Premises, Tenant will be liable for the full Rental. Landlord may sue from month to month for the damages which accrue in accordance with this subsection, or may sue for the present value of the total damages which will be due throughout the remaining Term in accordance with the measure of damages set forth in Section 14.3. The election of whether to sue on a month-to-month basis or for the total amount shall be at the sole option and discretion of Landlord.

(g) If Tenant vacates or abandons the Premises, Landlord shall have the right, but not the obligation, to relet the Premises for the remainder of the Term of this Sublease. Nothing herein shall be construed as in any way denying Landlord the right in the event of any breach or default under this Sublease to treat the same as an entire breach at Landlord's option and immediately sue for the entire damages occasioned thereby, including the present value of all future damages to be incurred.

(h) Landlord's re-entry or taking of possession of the Premises shall not be construed as an election to terminate this Sublease unless Landlord gives written notice of such termination. Any re-entry or taking of

possession by Landlord shall not affect or diminish the ongoing obligation or liability of Tenant for all Rental and other obligations due and owing under this Sublease. Re-entry by Landlord will not obligate Landlord to mitigate damages by reletting. Wherever in this Sublease Landlord has reserved or is granted the right of re-entry into the Premises, the use of such word is not intended, nor shall it be construed to be limited to its technical legal meaning. If Landlord re-enters, it may take possession of the Premises, remove all persons and property from the Premises and store such property at Tenant's expense or resort to legal process without being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby.

(i) Landlord may relet the Premises or any part thereof for such term or terms (which may extend beyond the Term), and at such rentals and upon such other terms and conditions as Landlord in its sole discretion deems advisable and such reletting shall not in any way relieve Tenant from the obligations and liabilities under this Sublease. Any and all amounts received upon such reletting and all rentals received by Landlord therefrom shall be applied first to any indebtedness owed by Tenant to Landlord other than Rental due hereunder, then to pay any cost and expense of reletting, including brokers' and attorneys' fees and costs of alterations and repairs, then to the Rental due hereunder; if there is any residue, it shall be applied to any deficiencies of future Rental that may become due under this Sublease. At the expiration of the Term any funds due Tenant shall then be paid. It is understood that said funds shall not draw interest while held by Landlord as security for Tenant's obligations hereunder.

(j) Notwithstanding any reletting without termination, Landlord may, at any time in the future after said reletting, elect to deem this Sublease terminated for any prior breach or default.

(k) The covenant to pay Rental and other amounts hereunder and to perform all obligations hereunder are independent covenants from the other terms and provisions of this Sublease and Tenant shall have no right to hold back, offset or fail to pay any such amounts for any alleged default by Landlord or for any other reason whatsoever.

(l) The remedies described herein are not exclusive and are cumulative, and Landlord will be entitled to any and all other remedies now or hereafter provided by law or in equity in the event of any default or breach by Tenant of the terms of this Sublease. Landlord may pursue one or more remedies against Tenant and need not elect its remedy until such time as findings of fact have been made by judge or jury, whichever is applicable, in a trial court of competent jurisdiction. To the extent permitted by law, Tenant waives any right of redemption, re-entry or repossession.

(m) Tenant acknowledges that the continued operation of business in the Premises in the manner and upon the terms set forth in this Sublease are of a special importance to the commercial viability of the Retail Area. Therefore, in the event this Sublease is not canceled and terminated upon the occurrence of the events set forth in Section 14.1(h), then Tenant, and the trustee in bankruptcy or other representative of Tenant, or, in the event of an assignment, Tenant's assignee shall, prior to the assumption of this Sublease by such representative or trustee or assignee, comply with all of the provisions of Article 13 hereof and, in addition, provide adequate assurance to Landlord: of the source of Rental and other consideration payable under this Sublease; that any Percentage Rental payable under this Sublease shall not decline substantially after the date of such assumption or assignment, as the case may be; that assumption or assignment of this Sublease will not breach any provision of the Prime Lease and will not breach substantially any provision in any other sublease, financing agreement, or master agreement relating to the Retail Area; of the continued use of the Premises in accordance with the Permitted Use only, Tenant hereby acknowledging that only in the operating of such business for the Permitted Use may Landlord be adequately assured that assumption or assignment of this Sublease will not disrupt substantially the tenant mix or balance in the Retail Area; that the quality of goods to be sold in the Premises will not decline; that the operation of the business in the Premises shall continue to be of the high standard compatible with Landlord's other tenants in the Retail Area; that Tenant's suppliers of merchandise or goods for sale in the Premises are willing to continue to furnish such merchandise and goods of the same quality and caliber as theretofore sold in the Premises, of the source of funds necessary to pay for Tenant's merchandise and goods to be sold in the Premises, all on a current basis; of the continuous operation of business in the Premises in strict accordance with the requirements of Article 4 hereof; that the design and furnishings of the Premises shall continue to be acceptable to Landlord in accordance with the terms hereof; and of such other matters as Landlord may reasonably require at the time of such assumption or assignment. The furnishing of assurances in accordance with the foregoing, or as may be directed by a court of competent jurisdiction, shall not be deemed to waive any of the covenants or obligations of Tenant set forth in this Sublease. In

the event that any person assuming this Sublease, or taking the same by assignment, shall desire to make alterations to the Premises. Landlord may further require adequate assurance, by lien and completion bond, cash deposit or such other means as Landlord may approve, of the source of payment for the estimated cost of any work to be performed in connection therewith. Notwithstanding the foregoing, such alterations shall be subject in all respects to the rights and obligations of Landlord or Tenant relating to such alterations, including, without limitation, those set forth in Article 9 hereof.

Section 14.3 Damages.

(a) If Landlord elects to terminate this Sublease under the provisions of Section 14.2 above, Landlord may recover from Tenant damages computed in accordance with the following formula in addition to its other remedies:

(i) the worth at the time of award of any unpaid Rental which has been earned at the time of such termination; plus

(ii) the worth at the time of award of the amount by which any unpaid Rental which would have been earned after termination until the time of award exceeds the amount of such Rental less that Tenant proves could have been reasonably avoided; plus

(iii) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Sublease or which in the ordinary course would be likely to result therefrom including, without limitation, late charges owing to the Port Authority as a result of delays caused by Tenant, the cost of repairing the Premises and reasonable attorneys' fees; plus

(iv) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable state law. Damages shall be due and payable from the date of termination. For the purposes of clauses (i) and (ii) of this Section, the "worth at the time of award" shall be computed by adding interest at the Default Rate to the past Rental due.

(b) For the purpose of this Article, "Rental" for each calendar year of the unexpired Term shall be the Rental (including Annual Fixed Minimum Rent, Annual Percentage Rental and Additional Rental) payable during the preceding year, or, if the default occurs less than one (1) year from the Commencement Date, an amount equal to one and one-half (1.5) times the average Annual Fixed Minimum Rent for the initial Term set forth in Section 1.1.

(c) In addition to the foregoing, Tenant also agrees to indemnify and save Landlord harmless from and against all reasonable expenses and attorney's fees which Landlord may incur in connection with any termination of this Sublease or reentry or repossession or the re-letting of the Premises, that Landlord may re-let the Premises, or any portion thereof, for a period which may, at Landlord's option, be less than or exceed the period which would otherwise have constituted the balance of the Term, and may grant commercially reasonable concession or free rent, and to reimburse Landlord, upon demand therefor, for the unamortized portion of (x) the costs incurred by Landlord (including, without limitation, buildout costs, construction allowance, architect's and engineer's fees, and attorney's fees for preparation and negotiation of this Sublease) in connection with the improvement and/or preparation of the Premises for occupancy by Tenant and (y) any brokerage commission incurred by Landlord with respect to this Sublease (in both cases, the unamortized portions shall be calculated as of the date of termination of the Sublease and shall include interest thereof at the Default Rate). Any suit brought to collect the amount of deficiency for any month shall not prejudice in any way the right of Landlord to collect the deficiency for any subsequent month by a similar proceeding.

(d) In the event of any default by Tenant hereunder, Tenant will reimburse Landlord for all expenses and reasonable attorneys' fees incurred by Landlord in collecting any amount due from Tenant, enforcing any obligation of Tenant hereunder, curing any default of Tenant or in obtaining possession of, or in re-letting the Premises; and Tenant shall pay all reasonable attorneys' fees and expenses arising out of any litigation in which

Landlord shall become involved by reason of any default, act or failure to act, or negligence of Tenant or anyone acting under Tenant.

(e) In addition to all other remedies provided in this Sublease, Landlord shall be entitled to restrain by injunction any violation, or any attempted or threatened violation, of any of the covenants, conditions, or provisions of this Sublease.

Section 14.4 Landlord's Default.

Landlord shall in no event be in default in the performance of any of Landlord's obligations hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days after written notice by Tenant to Landlord properly specifying wherein Landlord has failed to perform any such obligation (unless such default is of a nature that it cannot be cured within such thirty day period, in which event no default shall occur so long as Landlord shall commence the curing of the default within the thirty day period and promptly prosecute the curing of the same). In no event shall Landlord ever be liable to Tenant for indirect or consequential damages.

Further, if the Port Authority notifies Tenant that the Port Authority has assumed Landlord's rights under this Sublease, Tenant shall not assert any right to deduct the cost of repairs or any monetary claims against Landlord theretofore accrued from Rental thereafter due and payable, but shall look solely to Landlord and not the Port Authority for satisfaction of such claim.

In the event Tenant shall claim under any provision of this Sublease that Landlord has unreasonably withheld or delayed its consent or approval to some request of Tenant, Tenant shall have no claim for damages by reason of such alleged withholding or delay, and Tenant's sole remedy therefor shall be declaratory or injunctive relief, but in any event without the recovery of damages.

Section 14.5 Miscellaneous.

Nothing herein contained shall be construed as limiting or precluding the recovery by Landlord against Tenant of any sums or damages to which, in addition to the damages particularly provided above, Landlord may lawfully be entitled by reason of any default hereunder on the part of Tenant. Further, if this Sublease is guaranteed on behalf of Tenant, all of the foregoing provisions of this Article 14 with respect to bankruptcy, etc. of Tenant shall be treated as reading "Tenant or the guarantor" hereof and shall, accordingly, apply fully to any such guarantor.

ARTICLE 15
LANDLORD'S ACCESS TO THE PREMISES

Section 15.1 Landlord's Right of Access.

Landlord and the Port Authority shall have the right to enter the Premises at all reasonable hours (or at any time in the event of an emergency) for the purpose of inspecting or of making repairs, alterations or additions to the Premises, the Retail Area or the Terminal and Landlord shall also have the right to make access available at all reasonable hours to prospective purchasers of any part of the Retail Area. In addition, the Port Authority shall have all rights of access and entry reserved in Section 14 of the Prime Lease. Tenant shall not place any additional lock on or change any lock on the operational mechanism of any door of the Premises without the prior consent of Landlord.

For a period commencing three (3) months prior to the expiration of the Term, Landlord may have reasonable access to the Premises at all reasonable hours for the purpose of exhibiting the same to prospective tenants.

Section 15.2 Access During the Last Month of Term.

If during the last month of the Term, Tenant shall have removed substantially all of Tenant's property therefrom (not including property which will be owned by Landlord at the expiration of the Term), Landlord may

immediately enter and alter, renovate and redecorate the Premises, without elimination or abatement of Rental, or incurring liability to Tenant for any compensation, and such acts shall have no effect upon otherwise applicable terms of this Sublease.

ARTICLE 16
MISCELLANEOUS

Section 16.1 Covenant of Quiet Enjoyment.

Subject to the terms and provisions of this Sublease and the Prime Lease and on payment of Rental and compliance with all of the terms and provisions of this Sublease, Tenant shall lawfully, peaceably and quietly have, hold, occupy and enjoy the Premises during the Term hereof, without hindrance or ejection by Landlord or by any persons lawfully claiming under Landlord; the foregoing covenant of quiet enjoyment is in lieu of any other covenant, express or implied.

Section 16.2 Brokerage.

Landlord and Tenant each warrants and represents to the other that it has dealt with no broker in connection with the consummation of this Sublease. In the event of any brokerage claims against Landlord or Tenant from any party predicated upon dealings with the other party named herein Landlord and Tenant each agree to defend the same and hold the other harmless from and indemnify the other against such claim.

Section 16.3 Notices.

Any notice, demand, request, approval, consent or other instrument which may be or is required to be given under this Sublease shall be in writing and shall be deemed to have been given when sent by telegram or mailgram, when mailed by United States registered or certified mail, return receipt requested, postage prepaid, or when received or refused, if sent by overnight courier or delivery service, addressed to Landlord or Tenant at the respective addresses set forth in Section 1.1 of this Sublease, and in the case of notices to Landlord with a copy to Landlord's Counsel set forth in Section 1.1, or to such other address or addresses as either party may designate by notice to the other in accordance with this Section.

Section 16.4 No Personal Liability of Landlord.

Tenant agrees to look solely to Landlord's then equity interest in the Retail Area and the Prime Lease for recovery of any judgment from Landlord; it being specifically agreed that neither Landlord (whether Landlord be an individual, partnership, firm, corporation, trustee or other fiduciary) nor any of the partners comprising Landlord, nor any beneficiary of any trust of which any person holding Landlord's interest is trustee nor any successor in interest to any of the foregoing shall ever be personally liable for any such judgment, or for the payment of any monetary obligation to Tenant. The covenants of Landlord contained in this Sublease shall be binding upon Landlord and Landlord's successors only with respect to breaches occurring during Landlord's and Landlord's successors' respective periods of ownership of Landlord's interest hereunder.

Section 16.5 Non-Discrimination.

Tenant herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, and this Sublease is made and accepted upon and subject to the following conditions: that there shall be no discrimination against or segregation of any person or group of persons on account of sex, marital status, race, color, creed, religion, national origin, ancestry, or otherwise as prohibited by law, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises or the Retail Area, nor shall Tenant itself, or any person claiming under or through Tenant, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Premises or the Retail Area; and that Tenant, its successors and assigns hereby agree to comply with the Nondiscrimination Requirements, as amended from time to time by the Port Authority, attached hereto as **Schedule D**.

Section 16.6 Subordination.

Tenant's rights under this Sublease are, and shall remain subject and subordinate to, all matters of public record, as they now exist or may hereafter be amended, with respect to the Retail Area.

Section 16.7 Status Report.

Recognizing that Landlord may find it necessary to establish to third parties, such as the Port Authority, accountants, banks, lenders or the like, the then-current status of performance hereunder, Tenant shall, upon the request of Landlord from time to time, promptly furnish a statement of the status of any matter pertaining to this Sublease. Without limiting the generality of the foregoing, Tenant specifically agrees, promptly upon the commencement of the Term hereof, to acknowledge to Landlord satisfaction of any requirements with respect to construction except for such matters as Tenant may set forth specifically in said statement.

Section 16.8 Recording.

Tenant agrees not to record this Sublease, but each party hereto agrees, on the request of the other, to execute, acknowledge and deliver a Memorandum of Sublease or Short Form Sublease reasonably satisfactory in form to Landlord's attorneys. In no event shall such document set forth the Rental or other charges payable by Tenant under this Sublease; and any such document shall expressly state that it is executed pursuant to the provisions contained in this Sublease, and is not intended to vary the terms and conditions of this Sublease. In the event of termination of this Sublease, Tenant agrees to execute a recordable instrument setting forth the fact of and date of such termination and hereby irrevocably designates and appoints Landlord as its attorney-in-fact to execute in the name of Tenant and to record such instrument.

Section 16.9 Landlord's Security Interest.

To secure the performance of Tenant's obligations under this Sublease, Tenant hereby grants to Landlord a security interest in and an express contractual lien upon all of Tenant's equipment, furniture, furnishings, appliances, goods, trade fixtures, inventory, ordinary goods, chattels and personal property which now or hereafter is brought upon the Premises by Tenant, and all after acquired property, replacements and proceeds (provided, however, that such grant of a security interest shall not be deemed effective or binding until the Port Authority has given its written consent to this Sublease.) The parties agree that this Sublease shall constitute a security agreement for purposes of the Uniform Commercial Code in effect in the state in which the Premises are located. Landlord is authorized to prepare and file financing statements covering the security described above and Tenant hereby irrevocably designates and appoints Landlord as its attorney-in-fact to execute and file in the name of Tenant any such statements. Tenant shall execute upon demand any such statements. Failure to so execute shall constitute a default under this Sublease. Upon the occurrence and continuation of any Event of Default, any and all of Tenant's obligations to Landlord secured hereby shall, at Landlord's option, be immediately due and payable without notice or demand. In addition to all rights or remedies of Landlord under this Sublease and the law, including the right to a judicial foreclosure, Landlord shall have all rights and remedies of a secured party under the Uniform Commercial Code in effect in the state in which the Premises are located. Landlord's security interest shall be subordinate to the lien or security interest of any vendor or lessor of equipment or chattels upon the Premises or of any lender taking or succeeding to a purchase money security interest thereon, and upon Tenant's written request, if no default exists hereunder, Landlord shall execute an instrument confirming such subordination. This security agreement and the security hereby created shall survive the termination of this Sublease, until all Tenant's obligations hereunder are satisfied if such termination results from Tenant's default. In the event that the Prime Lease is terminated for any reason, the security interest granted hereby shall be automatically assigned to and inure to the benefit of the Port Authority.

Section 16.10 Self-Help.

Landlord shall have the right, but shall not be required, to pay such sums or do any act which requires the expenditure of moneys which may be necessary or appropriate by reason of the failure or neglect of Tenant to perform any of the provisions of this Sublease, whether or not Landlord has given notice to Tenant of the need for

such action or payment and whether or not Tenant has commenced to cure the default or condition complained of by Landlord. In the event of the exercise of such right by Landlord, Tenant agrees to pay to Landlord forthwith upon demand all such sums, with interest thereon from the date Landlord pays such sums at the Default Rate; and if Tenant shall default in such payment, Landlord shall have the same rights and remedies as Landlord has hereunder for the failure of Tenant to pay the Rental.

Section 16.11 Unavoidable Delays.

In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, inability to procure labor or materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, fire or other casualty or other reason of a similar or dissimilar nature beyond the reasonable control of the party delayed in performing work or doing acts required under the terms of this Sublease, then performance of such act shall be excused for the period of the delay and the period from the performance of any such act shall be extended for a period equivalent to the period of such delay (any such delay is herein referred to as an "Unavoidable Delay"). During the period of performance of Tenant's Work, the provisions of this Section 16.11 shall not operate to excuse Tenant from completing construction of the Premises within the Time Estimated for Completion of Tenant's Work unless Tenant gives written notice of the delaying event to Landlord within three (3) days of the occurrence of such delaying event. Such written notice shall specify the nature of the delaying event and the number of days of delay claimed to be resulting therefrom. The Time Estimated for Completion of Tenant's Work shall be extended for a period equivalent to the period of actual delay. After the Commencement Date, the provisions of this Section shall not operate to extend the Term. This Section 16.11 shall not be applicable to Tenant's obligations to procure insurance or to pay Rental or any other sums, moneys, costs, charges or expenses required to be paid by Tenant hereunder. Unless Tenant gives notice to Landlord within ten (10) days after becoming aware that an event described above will delay its performance hereunder, such event shall not excuse such delay. Tenant shall not be entitled to more than ten days extension for any delay caused by the failure of Landlord to fulfill its obligations hereunder or to take any other action except to the extent that such delays are caused by Landlord's failure to take such action within five days after Tenant has given notice to Landlord stating the action required to be taken and the manner in which Tenant may be delayed if Landlord fails to take such action.

Section 16.12 No Joint Venture.

Any intention to create a joint venture or partnership relation between the parties is hereby expressly disclaimed. The provisions of this Sublease in regard to the payment by Tenant and the acceptance by Landlord of a percentage of Gross Sales is a reservation for rent for the use of the Premises.

Section 16.13 Waiver.

Failure on the part of Landlord or Tenant to complain of any action or non-action on the part of the other, no matter how long the same may continue, shall never be a waiver by Landlord or Tenant of its rights hereunder. Further, no waiver at any time of any of the provisions hereof by Landlord or Tenant shall be construed as a waiver of any of the other provisions hereof, and a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. The consent or approval of Landlord or Tenant to or of any action by the other requiring such consent or approval shall not be construed to waive or render unnecessary Landlord's or Tenant's consent or approval to or of any subsequent similar act by the other.

Section 16.14 Invalidity of Particular Provisions.

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

Section 16.15 Provisions Binding, Etc.

Except as herein otherwise expressly provided, the terms hereof shall be binding upon and shall inure to the benefit of the successors and assigns, respectively, of Landlord and Tenant and, if Tenant shall be an individual, upon and to his heirs, executors, administrators, legal representatives, successors and assigns. Each term and each provision of this Sublease to be performed by Tenant shall be construed to be both a covenant and a condition. The reference contained to the successors and assigns of Tenant is not intended to constitute a consent to assignment by Tenant, but has reference only to those instances in which Landlord may later give consent to a particular assignment as required by the provisions of this Sublease. If Tenant be several persons, natural or corporate, the liability of such persons for compliance with the obligations of Tenant under this Sublease shall be joint and several.

If Tenant (or a general partner of Tenant) is a corporation, the persons executing this Sublease on behalf of Tenant (or such general partner) hereby covenant and represent and warrant that: Tenant (or such general partner) is a duly constituted corporation in good standing qualified to do business in the state in which the Retail Area is located, and all Tenant's (or such general partner's) franchises and corporate taxes have been paid to date; and such persons are duly authorized by the governing body of such corporation to execute and deliver this Sublease on behalf of the corporation.

In the event Tenant is a partnership, the persons executing this Sublease on behalf of Tenant hereby represent and warrant that: Tenant is duly organized and validly existing and is qualified to do business in the state in which the Retail Area is located; all future forms, reports, fees and other documents necessary for Tenant to comply with applicable laws will be filed by Tenant when due; and such persons are duly authorized to execute and deliver this Sublease on behalf of the partnership.

Section 16.16 When Sublease Becomes Binding.

Subject to Section 2.1, this document shall become effective and binding only upon the execution and delivery hereof by both Landlord and Tenant. All negotiations, consideration, representations and understandings between Landlord and Tenant are incorporated herein and may be modified or altered only by written agreement signed by both Landlord and Tenant, and no act or omission of any employee or agent of Landlord or course of prior dealings between the parties, shall alter, change or modify any of the provisions hereof. This Sublease may be executed in more than one counterpart, and each such counterpart shall be deemed to be an original document. Without limiting the generality of the foregoing provisions of this Section 16.16, Tenant acknowledges that it has made such inspections of the Premises, the Retail Area and the Terminal as Tenant has deemed necessary, is leasing the Premises in "as is" condition, in the condition they are now (reasonable wear and tear and damage by fire or other casualty or taking excepted), without any representation or warranty whatsoever with respect to the condition of the Premises or the Retail Area; Tenant further acknowledges that, in entering into this Sublease, Tenant has not relied upon, nor has Landlord made, any prior oral or written understandings or representations concerning the Premises, the Retail Area, the Terminal, the condition of the Premises, the Retail Area or the Terminal, projected volumes of business for the Premises, the Retail Area or the Terminal, economic or business projections, or the like.

Section 16.17 Interpretation.

(a) The captions, table of contents and index of defined terms appearing in this Sublease are inserted only as a matter of convenience and in no way amplify, define, limit, construe or describe the scope or intent of the Sections of this Sublease nor in any way affect this Sublease. Except where otherwise expressly provided, each reference in this Sublease to a Section or Article shall mean the referenced Section or Article in this Sublease.

(b) The neuter, feminine or masculine pronoun when used herein shall each include each of the other genders and the use of the singular shall include the plural.

(c) The parties hereto agree that all the provisions of this Sublease are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate provision hereof.

(d) Although the printed provisions of this Sublease were drawn by Landlord, this Sublease shall not be construed for or against Landlord or Tenant, but this Sublease shall be interpreted in accordance with the general tenor of the language in an effort to reach the intended result.

(e) The parties hereto agree that all references in this Sublease to statutes shall be deemed to refer to such statutes or regulations as they may be amended from time to time and to any successor statute or regulation thereto.

If, references to a Section, include all Subsections thereof; references to a Subsection (e.g., Section 6.1) include all subdivisions (e.g., 6.1(a)) thereof. In this Sublease (i) the use of the terms "include," "includes," or "including" means "include without limitation," "includes without limitation," or "including without limitation," respectively, as the case may be; (ii) the word "or" is used in its inclusive sense, i.e., when the word "or" is used in this Sublease to describe a result occasioned by the occurrence of any multiple specified events or conditions, the result shall also be occasioned by the occurrence of more than one of the events or conditions, unless the context otherwise indicates; (iii) "may" is used in the permissive sense, creates discretionary authority, and does not impose a duty; (iv) "shall" and "will" are used in the imperative sense and each imposes a duty; (v) a statement or definition followed by a listing of examples shall not invoke ejusten generis, i.e., the examples are descriptive only and shall not limit the generality of the statement or definition; and (vi) where a general category is described by specific examples introduced by "including," the listing of the specific examples shall not be interpreted to be exhaustive.

Section 16.18 Amendment.

This Sublease contains the entire agreement of the parties and may not be modified except by an instrument in writing. Further any amendment, modification, supplement or extension of the Sublease which does not have the express written approval of the Port Authority shall be void and of no force and effect.

Section 16.19 Applicable Law; Choice of Law and Forum.

The laws of the State of New York shall govern the validity, performance and enforcement of this Sublease. If either party institutes legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be the county in which the Retail Area is located, or the United States District Court having jurisdiction over such county. Tenant and Landlord hereby waive trial by jury in any action, proceeding or counterclaim brought by either party against the other or any matter whatsoever arising out of or in any way connected with this Sublease, the relationship of Landlord and Tenant created hereby, Tenant's use or occupancy of the Premises, and/or any claim for injury or damage. In the event Landlord commences any action or proceeding for non-payment of Rental, Tenant shall not interpose any counterclaim of any nature or description, other than a compulsory counterclaim, in any action or proceeding. The foregoing shall not be construed as a waiver of Tenant's right to assert such claim in a separate action or proceeding instituted by Tenant.

IN WITNESS WHEREOF, the parties have caused this Sublease to be executed under seal as of the date set forth in Section 1.1.

Landlord: **MarketPlace LaGuardia Limited Partnership**

By: MarketPlace LaGuardia, Inc.
Its general partner

By: _____
Its
Hereunto duly authorized

Tenant: _____

By: _____
Its
Hereunto duly authorized

Attachments:

Schedule A	-	**Plan Showing the Retail Area and Location of Premises**
Schedule B	-	**Construction**
Schedule C	-	**Certificate of Vote**
Schedule D	-	**Nondiscrimination Requirements**
Schedule E	-	**Contractor Bid Conditions**
Schedule F	-	**Rules and Regulations for the Retail Area**
Schedule G	-	**Port Authority Consent to Sublease**
Schedule H	-	**Guaranty of Sublease**
[Schedule I	-	**Approved Menu]**

Delivered separately: Tenant Design Manual

Schedule A

Plan Showing the Retail Area and Location of Premises

Schedule B

Construction

Schedule C

Certificate of Vote

I, __[name of secretary]___, Secretary of __[name of corporation]__, hereby certify that the following is a true copy of a resolution of the board of directors of this corporation adopted at a meeting duly called and held on ___[date]_____, a quorum being present and acting throughout, and that such resolution has not been revoked, amended or modified and is in full force and effect:

> VOTED: That the President [or other officer] be and is hereby authorized, singly, to execute and deliver on behalf of this corporation a lease between MarketPlace LaGuardia Limited Partnership, as landlord, and this corporation, as tenant, and all related amendments, agreements, certificates, consents, instruments and documents, for approximately _____ rentable square feet of retail space located in the Central Terminal Building at LaGuardia Airport, New York City, New York, upon such terms and conditions as the signing officer shall determine to be necessary or appropriate. The signature of the President [or refer to other officer as applicable] thereon shall conclusively evidence its approval by this vote.

This is to certify further that as of the date hereof _____ is the President [or refer to other officer as applicable] of this corporation.

_____
Secretary

Dated: _____, 19___

[SEAL]

Schedule D

Nondiscrimination Requirements

1. Tenant shall not exclude any person from participation in, nor deny any person the benefits of, nor otherwise subject any person to discrimination in, the use by Tenant of the Premises or in the construction of any Improvements or the furnishing of any services at the Premises on the grounds of race, creed, color, national origin, sex, age, disability or marital status and Tenant shall use such space in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, as said regulations may be amended, and any other present or future laws, rules, regulations, orders or directions of the United States of America with respect thereto which from time to time may be applicable to Tenant's operations at the Premises, whether by reason of agreement between the Port Authority and the United States Government or otherwise.

Tenant's non-compliance with the provisions of this Schedule D shall constitute a material breach of this Sublease. In the event of any such breach of any of the above non-discrimination provisions, Landlord and the Port Authority each may take appropriate action to enforce compliance; or in the event such noncompliance shall continue for a period of seven (7) days after receipt of written notice from Landlord or the Port Authority, Landlord and the Port Authority each shall have the right to terminate this Sublease and the letting thereunder with the same force and effect as a termination under Section 16.2 of this Sublease, or may pursue such other remedies as may be provided by law; and as to any or all of the foregoing, each of Landlord and the Port Authority may take such action as the United States may direct. Tenant shall indemnify and hold harmless Landlord and the Port Authority from any claims and demands of third persons, including the United States of America, resulting from Tenant's noncompliance with any of the provisions of this **Schedule D** and Tenant shall reimburse Landlord and the Port Authority for any loss or expense incurred by reason of such noncompliance. Nothing contained in this **Schedule D** shall grant or shall be deemed to grant to Tenant the right to perform any construction at the Premises;

2. In addition to and without limiting any other term or provision of this Sublease, Tenant shall undertake an affirmative action program as required by 14 CFR part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, sex, age, disability or marital status be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Tenant shall assure that no person is excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this paragraph. Tenant also shall require that its covered suborganizations provide written assurances to Tenant and the Port Authority that they similarly will undertake affirmative action programs and that they will require written assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect;

3. In addition to and without limiting any other term or provision of the Sublease:

(a) Tenant 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 or **Schedule E** or section 2 of this **Schedule D**, Tenant shall, in connection with (i) its continuing operation, maintenance and repair of the Premises, or any portion thereof, including all purchasing procurement and subcontractors opportunities associated with the operations under this Sublease, including without limitation, the purchase of supplies, equipment, labor and other services, and (ii) every agreement for concession or consumer services in the Premises throughout the Term, 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 Tenant, to ensure, to the maximum extent feasible and consistent with cost competitiveness and other considerations properly present in the exercise of good business judgment (A) maximum opportunities for employment and contracting by minorities and women, (B) meaningful participation and (C) meaningful interest (in the business to be operated in any portion of the Premises) by Minority Business Enterprises

("MBEs") and Women-owned Business Enterprises ("WBEs") (such program is referred to herein as the "Tenant's Affirmative Action Program"). In meeting the said commitment Tenant shall submit to Landlord and Port Authority for its review and approval Tenant's Affirmative Action Program, within thirty (30) days after the execution of this Sublease. Tenant shall incorporate in Tenant's Affirmative Action Program such revisions and changes which Landlord and Port Authority initially or from time to time may reasonably require. Tenant throughout the term of the letting under this Sublease shall document its efforts in implementing Tenant's Affirmative Action Program, shall keep Landlord and Port Authority fully advised of Tenant's progress in implementing Tenant's Affirmative Action Program and shall supply to Landlord and Port Authority such information, data and documentation with respect thereto as Landlord and Port Authority may from time to time and at any time request, including but not limited to annual reports.

4. The following terms used in this **Schedule D** shall have the following meanings:

(a) "Minority" as used herein shall have the meaning as defined in Paragraph II(c) of Part I of Schedule **E**.

(b) "Minority Business Enterprise" (MBE) as used herein shall have the meaning as defined in the first paragraph of Part II of **Schedule E**.

(c) "Women-owned Business Enterprise" (WBE) as used herein shall have the meaning as defined in the first paragraph of Part II of **Schedule E**.

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

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

(ii) Actively and affirmatively soliciting bids for subcontractors from MBEs and WBEs, including circulation of solicitations to minority and female contractor associations. Tenant shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation as called for in Paragraph 3 including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

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

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

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

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

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

(e) "Meaningful participation" shall mean that at least twelve percent (12%) of the total dollar value of such purchases and subcontracts is from Minority Business Enterprises and that at least five percent (5%) of the total dollar value of such purchases and subcontracts is from Women-owned Business Enterprises.

(f) "Meaningful interest" shall mean that at least twenty percent (20%) in the aggregate of all gross dollar sales and other receipts generated in each annual period of this Sublease from retail activities and other subordinate agreements hereunder by businesses which are approved by the Port Authority as the parties to such agreements and which are owned, controlled and actually managed and operated by Disadvantaged Business Enterprises.

(g) To qualify for certification as a DBE, a firm must be:

(i) a small business concern; and

(ii) owned and controlled by one or more socially and economically disadvantaged individuals; and

(iii) actually managed and operated by one or more of the socially and economically disadvantaged individuals who control it.

With respect to a corporation, "control" as used in this paragraph shall mean legal and beneficial ownership by one person, firm or corporation, or a group acting in concert, of a majority of the issued and outstanding shares of the capital stock and voting rights of another corporation. With respect to a person or firm other than a corporation, "control" as used in this paragraph shall mean the power to direct the management and policies of such person or firm, whether by legal or beneficial ownership or otherwise.

Determination of Business Size:

(1) The size standards established by the SBA in 13 CFR Part 121, as revised on May 25, 1988, are used for making size determinations.

(2) No retail firm is considered small if, including its affiliates, it averaged annual gross sales in excess of $30 million over the previous three years.

(3) All affiliates of a firm, as well as the firm itself, are considered when determining gross sales earned or number of persons employed. Affiliation exists if one firm controls or has the power to control the other, or a third party or parties controls or has the power to control both firms.

Socially and Economically Disadvantaged Individuals:

(1) Any person having a current 8(a) certification form from the Small Business Administration is considered to be socially and economically disadvantaged.

(2) The Port Authority makes a "rebuttable presumption" that individuals in the following groups who are citizens of the United States (or lawful permanent residents) are socially and economically disadvantaged:

(i) Portuguese: (a person of Portuguese, Brazilian, or other Portuguese culture or origin, regardless or race);

(ii) Black: (a person having origins in any of the Black racial groups of Africa);

(iii) Hispanic: (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);

(iv) American Indian and Alaska Native: (a person having origins in any of the original peoples of North America); or

(v) Asian American: (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands).

The Port Authority will generally assume that business owners who fall into one of these groups are socially and economically disadvantaged. Their disadvantaged status will not generally be investigated unless a third party challenge is made.

(3) Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis. For example, a disabled Vietnam veteran, an Appalachian white male, or another person may claim to be disadvantaged. If such individual requests that his or her firm be certified as DBE, the Port Authority, as part of the certification process, will determine whether the individual is socially and economically disadvantaged under the criteria established by the Federal Government. These owners must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

The Port Authority has compiled a list, which may be supplemented and revised from time to time by the Port Authority, to indicate the firms the Port Authority determines satisfy the criteria for DBE certification. Such list shall be made available upon request. The Port Authority makes no representation as to the financial responsibility of such firms, their technical competence to perform, nor any other performance-related qualifications. Only listed DBEs and such firms not so listed but certified by the Port Authority as DBEs hereunder will count toward the DBE goals.

Certification of DBEs hereunder shall be made by the Office of Business and Job Opportunity of the Port Authority. To utilize a firm not so listed, there must be submitted to the Port Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be required by the Port Authority from time to time. All such requests shall be in writing addressed to the Office of Business and Job Opportunity, The Port Authority of New York and New Jersey, One World Trade Center, 63 East, New York, NY 10048. Eligibility for certification shall only be made in writing over the name of the Director in charge of the Office of Business and Job Opportunity. The determination of the Port Authority shall be final and binding on the applicant. For inquiries or assistance please contact Mr. John Alexander at (212) 435-6513.

5. With respect to Paragraph 3(b)(i) hereof,

(a) It is agreed that Tenant shall develop on-the-job training opportunities and/or participate in training programs including upgrading programs and apprenticeship and trainee programs relevant to its respective employment needs.

(b) Tenant shall employ and train all operations, maintenance and other personnel required for the performance of the applicable matter. In addition to the training of the initial personnel staff, Tenant shall train replacement personnel as needed to meet staffing requirements.

(c) Tenant shall also place in effect a testing program whereby personnel within a specific job classification are tested initially and periodically retested for proficiency within that job classification. With concurrence by Landlord, certain job classifications may be exempted from such testing or retesting.

(d) Tenant shall provide all instructors, literature, training aids, and equipment necessary to train personnel. Tenant shall provide sufficient classroom and on-the-job training for personnel to ensure their competence. The training shall provide at least three (3) months of on-the-job training for all personnel. Personnel will be required to pass the testing program appropriate to their positions prior to assuming those positions on a full time basis. Tenant shall administer such test and retrain personnel as needed.

(e) Tenant shall document its efforts in implementing the said program, shall keep Landlord and Port Authority fully advised of Tenant progress in implementing the said program and shall supply to Landlord

and Port Authority such information, data and documentation with respect thereto as Landlord and Port Authority may from time to time and at any time request. Such material shall include but is not limited to providing Landlord and Port Authority within a month following the commencement of the term of this Sublease, and whenever thereafter requested by the Port Authority, a list of skilled and unskilled positions and supervisory and management positions required to complete and sustain performance.

Tenant's non-compliance with the provisions of this Paragraph 5 shall constitute a material breach of this Sublease. In the event of the breach by Tenant of any of the above provisions of this Paragraph 5 each of Landlord and Port Authority may take any appropriate action to enforce compliance; or in the event such non-compliance shall continue for a period of seven (7) days after receipt of written notice from Landlord or the Port Authority, Landlord and the Port Authority each shall have the right to terminate this Sublease and the letting thereunder with the same force and effect as a termination under Section 16.2 of this Sublease, or may pursue such other remedies as may be provided by law.

In the implementation of Paragraphs 3 and 5, Landlord or Port Authority may consider compliance by Tenant 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 Paragraphs 3 and 5 as effectuating the provisions of these Paragraphs 3 and 5. If Landlord or 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 Landlord or Port Authority may waive the applicability of the provisions of this Paragraph 3 to the extent that such duplication or conflict exists.

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; and

6. Tenant shall furnish good, prompt and efficient service hereunder, adequate to meet all demands therefor at Terminal; furnish said service on a fair, equal and non-discriminatory basis to all users thereof; and, without being construed in derogation of Section 8.5 of this Sublease, charge fair, reasonable and non-discriminatory prices for each unit of sale or service, provided that Tenant may make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers; and

7. Tenant acknowledges that:

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

(b) Without limiting the generality of this Paragraph 5, this Sublease is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23, subpart F. Tenant agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR part 23, subpart F.

(c) Tenant agrees to include the above statements in any subsequent concession agreements that it enters and cause those businesses to similarly include the statements in further agreements, the foregoing not to be construed as approval by Landlord or the Port Authority of any such agreements as required.

8. Tenant shall require all contractors (and subcontractors thereof, at any tier of construction) to include in all contracts for construction relating to the Premises the following statements:

(a) 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;

(b) At the request of either the Port Authority or Landlord, 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 Landlord 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;

(c) 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;

(d) The contractor will include the provisions of subparagraphs (a) through (c) 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;

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

Schedule E

Contractor Bid Conditions

Part I. Affirmative Action Guidelines – Equal Employment Opportunity

I. As a matter of policy the Port Authority and Landlord hereby require Tenant and Tenant shall require the Contractor, as hereinafter defined, to comply with the provisions set forth hereinafter in this Schedule E and in Section 31 of the Prime Lease. The provisions set forth in this Part I are similar to the conditions for bidding on federal government contracts adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

Tenant as well as each bidder, contractor and subcontractor of Tenant and each subcontractor of a contractor at any tier of construction (herein collectively referred to as "the Contractor") must fully comply with the clause entitled "Equal Employment Opportunity" and conditions set forth herein (said conditions being herein called "Bid Conditions"). Tenant 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. Tenant 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. Tenant 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 Contractors' workforce at the construction site are as follows:

30%	Minority, All Skilled Trades
40%	Minority, Laborers
6.9%	Female, All Skilled Trades
6.9%	Female Laborers

In the event that during the performance of such contract the Office of Federal Contract Compliance establishes different goals for the New York City area Tenant/Contractor shall be deemed bound to such different goals and this Section shall be deemed amended to substitute such goals for the goals set forth above. These goals are applicable to all Tenant's/Contractor's construction work performed in and for the Premises. The term "Contractor" hereinafter shall include Tenant should Tenant or an affiliate thereof be the contractor.

The 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 goals shall be a violation of the contract and, where the contractor is the Tenant, the Sublease. Compliance with the goals will be measured against the total work hours performed.

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

(c) As used in these specifications:

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

(2) "Minority" includes:

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

(ii) Hispanic (all persons of Mexican, Puerto Rican, 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 Tenant 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 EEO 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 decisions including specific review of these items with on-Premises supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at the Premises. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

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

(9) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students 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 other 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 at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

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

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

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

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

(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 employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific minority group of women is 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 Tenant. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative action steps, at least as extensive as those standards prescribed in Paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, Tenant 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 was performed. Records shall be

maintained in an easily understandable 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/Women-Owned Business Enterprises

As a matter of policy the Port Authority requires Tenant and Tenant shall itself and shall require the general contractor or other construction supervisor and each of Tenant's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction 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 twelve percent (12%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and that at least two percent (2%) of the total dollar value of the construction contracts (including subcontracts) are for the participation of Women-owned Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following.

(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 Tenant 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.

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

Schedule F

Rules and Regulations for the Retail Area

TRASH REMOVAL/RECYCLING

The Tenant shall contract the services of the on-site carting company for all trash removal and pay all costs or fees for this service directly to the carting company.

The Tenant is always responsible for the removal of its own trash to the compactor. Whenever possible, trash should be removed from the premises before or after business hours to minimize any inconveniences to airport patrons.

Compactor Location

A trash chute is located in the service corridor behind the West Food Court service operators. Always place trash in the chute. If the compactor is full or fails to operate for any reason, notify the management office. Store the trash in your premises until the compactor is returned to service. Leaving trash on the floor of the service corridor is forbidden. Trash that is allowed to pile up in the service corridor generates foul odors and increases the chances of attracting rodents.

Recycling

A recycling program based on a New York City ordinance is in effect at the Airport. Tenants must separate cans, bottles, plastic, and cardboard from their typical garbage in the West End Food Court, recycling carts are located near the trash chute for the containment of these items. In the East End, recycling carts are located near the compactor located outside the Terminal.

General Rules

Trash may not be left outside your store or in back hallways, stairwells, or passageways for any reason.

Never use the trash receptacles in the common area for your garbage. Remember, you, not the custodians, are responsible for disposing of your own garbage.

Trash should be removed from the premises on a regular basis. It should not accumulate within your store. Allowing wet garbage to accumulate may create a pest problem, and the accumulation of dry garbage is a potential source of fire.

SIGNAGE

The Tenant's storefront signage must be continuously illuminated during business hours.

As a general rule, all signage must remain within the lease line and be professionally fabricated. No handwritten signs, banners or flags are permitted, and under no circumstances shall any sign be attached to the storefront or adjacent windows.

All permanent signage must be approved in writing by the Landlord.

HOUSEKEEPING ISSUES

Merchant Operations Inspection

Landlord will periodically conduct inspections of your store. Specific areas which are targeted include maintenance issues such as:

- Trash removal/control
- Overall cleanliness/condition of storefront and storefront windows
- Overall cleanliness/condition of store interior
- Presentation and condition of visual merchandising displays
- Proper operation of lighting and/or menuboards
- Identification of code violation

Extermination

Currently the Port Authority provides extermination services within the premises on a regular basis. If normal exterminating services are not sufficient in controlling pests or vermin, the Tenant should consult with the exterminating representative regarding other methods of treatment. In all cases, however, the Tenant has ultimate responsibilities for the proper maintenance of the premises and may be required to supplement the exterminating services.

Window Cleaning

Tenants are responsible for keeping the interior and exterior of storefront windows clean. Windows must be cleaned on a regular basis, and should be scheduled before or after business hours.

Inspection Requirements/Maintenance of Systems

Tenants are responsible for the routine inspection, maintenance and repair of any and all smoke detection devices, fire suppression and extinguishing systems by licensed companies. Copies of all reports should be forwarded to the MarketPlace Development Management Office.

All food service operators shall contract for the periodic removal of solids from their grease interceptors, and the necessary servicing of grease producing equipment including, but not limited to, fans, ducts, hoods, drip pans, etc.

Conveyance of Services

The Tenant, their employees or contractors may not perform any work in the common area during hours the Food Court is open without the prior consent of the Landlord.

The Tenant shall not permit its contractor to perform work of any nature unless the contractor has submitted a properly completed Certificate of Insurance to the Landlord. In the event that a Certificate of Insurance is not on file with the Landlord, the Landlord will request that the Tenant's Contractor stop all work immediately until proper evidence of such a Certificate is submitted.

Store Operations

The Tenant shall not permit their employees or agents to engage in promotions on behalf of the Tenant in the common area without the prior written consent of the Landlord.

Tenants shall not play loud music or generate other noise that, in the opinion of the Landlord, prohibits the right of others from the quiet and peaceful enjoyment of the common area.

Tenants shall allow the Landlord or its representative immediate access to the premises upon reasonable request.

Deliveries

All deliveries to the premises shall be made according to the attached delivery plan. Delivery vehicles may not be left unattended. Deliveries should be scheduled so they do not conflict with peak hours at the airport.

The Departures Level ramp and roadway is restricted in height to vehicles less than 11'6" and in weight to vehicles less than 30,000 GVW. All vehicles exceeding these requirements must make deliveries to the Arrivals Level of the Central Terminal Building and follow the route shown on the delivery plan.

Delivery staff should at all times respect the flow of passengers within the Terminal. Proper right of way should be given to passengers when entering an elevator or steering a cart through the common areas of the Terminal.

All delivery carts, utility carts and trash collection dumpsters must adhere to the following specifications:

- 4" revolving white rubber, non-marking corner bumpers on platforms or base of carts.
- Full encircling rubber bumpers around lower platform base.
- Handles, bag holders or other components of carts that can cause damage, are to be protected with 3" revolving, white rubber, non-marking bumpers.
- The base of all carts shall be of tubular construction.
- All carts shall be equipped with 8" x 1.75" Semi-Pneumatic ball bearing wheels.

Schedule G

Port Authority Consent to Sublease

Schedule H

Guaranty

FOR VALUE RECEIVED, and in consideration for and as an inducement to **MarketPlace LaGuardia Limited Partnership** (the "Landlord") to enter into a sublease (the "Sublease") of even date herewith with _____ (the "Tenant") for premises in the Central Terminal Building at LaGuardia Airport, the undersigned (the "Guarantor") hereby unconditionally, absolutely and irrevocably:

1. Guarantees to Landlord the performance of all Tenant's obligations under the Sublease, including specifically, but without limitation: (i) payment of fixed minimum rent, percentage rental, additional rent and all other charges required to be paid thereunder; and (ii) the payment of all costs, expenses and damages (including reasonable attorneys' fees and expenses) which may arise as a result of any Tenant default under the Sublease, or this Guaranty; and waives all notices or demands required or permitted under the Sublease (except for copies of notices of default under the Sublease), including specifically, but without limitation, notice of any modification, extension or indulgence granted thereunder.

2. Covenants and agrees:

(a) That this Guaranty shall remain in full force and effect throughout the term of the Sublease, as it may be extended or renewed, and to any holdover term following any extension or renewal, and shall not be terminated, modified, affected or impaired by reason of: (i) any extension, renewal, modification, adjustment or amendment of the Sublease; (ii) any action which Landlord may take or fail to take against Tenant or against any other guarantor, if there be more than one; (iii) any waiver, indulgence or extension of time which Landlord may grant respecting the Sublease or this Guaranty; (iv) any failure to enforce any of the terms, covenants or conditions of the Sublease or this Guaranty; or (v) any assignment by Tenant, voluntary or otherwise, of its interest under this Sublease, or subletting, licensing or other arrangement concerning all or any part of the premises leased thereunder, whether or not Landlord has consented to same. Any requirement for acceptance of this Guaranty by Landlord is hereby waived.

(b) That with regard to any rights which may accrue to Landlord under or in connection with the Sublease or this Guaranty, Landlord may, at its option but after the expiration of any applicable grace or cure periods under the Sublease, proceed against Guarantor, or any one or more guarantors if there be more than one, without having commenced any action, or having obtained any judgment against Tenant or against the Guarantor or against any other guarantor if there be more than one; and Guarantor's and each other guarantor's liability with regard to the Sublease shall be as a primary party, with the same force and effect as if Guarantor and each other guarantor had originally signed the Sublease as a tenant.

(c) The liability of the Guarantor hereunder shall in no way be affected by: (a) the release or discharge of the Tenant in any creditors', receivership, bankruptcy or other proceedings; (b) the impairment, limitation or modification of the liability of the Tenant or the estate of the Tenant in bankruptcy, or of any remedy for the enforcement of the Tenant's said liability under the Sublease resulting from the operation of any present or future provision of the Federal Bankruptcy Act or other statute or from the decision in any court; (c) the rejection or disaffirmance of the Sublease in any such proceedings; (d) the assignment or transfer of the Sublease by the Tenant; (e) any disability or other defense of the Tenant; or (f) the cessation from any cause whatsoever of the liability of the Tenant. Without limiting the generality of the foregoing, the Guarantor hereby waives all suretyship defenses or defenses in the nature thereof.

(d) Until all the covenants and conditions in the Sublease on the Tenant's part to be performed and observed are fully performed and observed, the Guarantor: (a) shall have no right of subrogation against the Tenant by reason of any payments or acts of performance by the Guarantor, in

compliance with the obligations of the Guarantor hereunder; (b) waives any right to enforce any remedy which the Guarantor now or hereafter shall have against the Tenant by reason of any one or more payments or acts of performance in compliance with the obligations of the Guarantor hereunder; and (c) subordinates any liability or indebtedness of the Tenant now or hereafter held by the Guarantor to the obligations of the Tenant to the Landlord under the Sublease.

(e) That this instrument shall be governed by, and construed in accordance with, the laws of the State of New York; that this instrument shall be binding upon Guarantor and each other guarantor and their respective successors and assigns; that this instrument shall inure to the benefit of Landlord and Landlord's heirs, successors, assigns, legal representatives and grantees; that if any provisions hereof shall prove to be invalid, void or unlawful, the remaining provisions hereof shall in no way be affected, impaired or invalidated and shall remain in full force and effect; that where the context requires or admits, words of one gender shall include another gender, and the singular shall include the plural and vice versa; that if there be more than one guarantor hereunder, the guarantors shall be jointly and severally liable hereunder; and that as of the date hereof Tenant is an affiliate of and controlled by Guarantor.

WITNESS the execution hereof as a sealed instrument this ____ day of _____, 1997.

GUARANTOR: _____

By: _____
Its _____
Hereunto duly authorized

Witness:

_____

Guarantor's Address:

_____

_____

Schedule 1

[Approved Menu]

TABLE OF CONTENTS

Page

ARTICLE 1 DEFINITIONS AND ATTACHMENTS 1

Section 1.1 Basic Data 1

Section 1.2 Additional Defined Terms 3

Section 1.3 Attachments 4

ARTICLE 2 PREMISES 5

Section 2.1 Demise 5

Section 2.2 Relocation 6

ARTICLE 3 TERM 6

Section 3.1 Commencement Date 6

Section 3.2 Termination 6

Section 3.3 Holding Over 7

ARTICLE 4 USE 7

Section 4.1 Prompt Occupancy and Use; Operating Hours 7

Section 4.2 Tenant's Trade Name 8

ARTICLE 5 RENTAL 8

Section 5.1 Rentals Payable 8

Section 5.2 Fixed Minimum Rent 8

Section 5.3 Percentage Rental 9

Section 5.4 "Gross Sales" Defined 9

Section 5.5 Statements of Gross Sales 9

Section 5.6 Tenant's Records 10

Section 5.7 Payment of Rental 11

Section 5.8 Security Deposit 11

ARTICLE 6 OPERATING COSTS; PROMOTIONAL COSTS 12

Section 6.1 Tenant to Pay Proportionate Share of Operating Costs 12

Section 6.2 "Landlord's Operating Costs" Defined 12

Section 6.3 Commercial Rent Tax 13

Section 6.4 Tenant Participation in Promotional Activities 13

Section 6.5 Calculation of Tenant's Proportionate Share 13

ARTICLE 7 IMPROVEMENTS 14

Section 7.1 Landlord's Work 14

Section 7.2 Tenant's Work 14

Section 7.3 Effect of Opening for Business 15

Section 7.4 Mechanic's Liens 15

Section 7.5 Tenant's Trade Fixtures 15

TABLE OF CONTENTS

(continued)

Page

ARTICLE 8 OPERATIONS 16

Section 8.1 Operations by Tenant 16

Section 8.2 Signage and Advertising 19

Section 8.3 Painting, Displays and Merchandising by Tenant 19

Section 8.4 Hazardous Materials 20

Section 8.5 Street Pricing 21

Section 8.6 Approved Menu 22

Section 8.7 Employee Training 22

Section 8.8 Radius Restriction 22

ARTICLE 9 REPAIRS AND ALTERATIONS 22

Section 9.1 Repairs To Be Made By Landlord 22

Section 9.2 Repairs To Be Made By Tenant 22

Section 9.3 Damage to Premises 23

Section 9.4 Alterations by Tenant 23

Section 9.5 Changes and Additions to Retail Area 23

Section 9.6 Management and Operation of Common Areas 24

ARTICLE 10 UTILITIES 24

Section 10.1 Utilities 24

Section 10.2 Electricity 25

Section 10.3 Water and Sewer 25

Section 10.4 Heat and Air Cooling 25

Section 10.5 Government Regulation 26

Section 10.6 Trash and Garbage Removal 26

Section 10.7 Cleaning Services 27

Section 10.8 Discontinuance and Interruptions of Services 27

Section 10.9 Deliveries 27

ARTICLE 11 INDEMNITY AND INSURANCE 27

Section 11.1 Indemnity by Tenant 27

Section 11.2 Landlord Not Responsible for Acts of Others 28

Section 11.3 Tenant's Insurance 28

Section 11.4 Tenant's Contractor's Insurance 29

Section 11.5 Landlord's Insurance 29

Section 11.6 Policy Requirements 29

TABLE OF CONTENTS

Page

(continued)

Section 11.7 Increase in Insurance Premiums 30

Section 11.8 Waiver of Right of Recovery 30

ARTICLE 12 DAMAGE AND DESTRUCTION 30

Section 12.1 Casualty 30

Section 12.2 Condemnation 30

ARTICLE 13 ASSIGNMENT AND SUBLETTING 31

Section 13.1 Assignment and Subletting Prohibited 31

Section 13.2 Transfer of Corporate Shares 31

Section 13.3 Acceptance of Rent From Transferee 31

Section 13.4 Other Assignment and Subletting Requirements 31

Section 13.5 Exclusive Broker 32

ARTICLE 14 DEFAULT 32

Section 14.1 "Event of Default" Defined 32

Section 14.2 Remedies 33

Section 14.3 Damages 35

Section 14.4 Landlord's Default 36

Section 14.5 Miscellaneous 36

ARTICLE 15 LANDLORD'S ACCESS TO THE PREMISES 36

Section 15.1 Landlord's Right of Access 36

Section 15.2 Access During the Last Month of Term 37

ARTICLE 16 MISCELLANEOUS 37

Section 16.1 Covenant of Quiet Enjoyment 37

Section 16.2 Brokerage 37

Section 16.3 Notices 37

Section 16.4 No Personal Liability of Landlord 37

Section 16.5 Non-Discrimination 38

Section 16.6 Subordination 38

Section 16.7 Status Report 38

Section 16.8 Recording 38

Section 16.9 Landlord's Security Interest 38

Section 16.10 Self-Help 39

Section 16.11 Unavoidable Delays 39

Section 16.12 No Joint Venture 39

Section 16.13	Waiver	39
Section 16.14	Invalidity of Particular Provisions	40
Section 16.15	Provisions Binding, Etc	40
Section 16.16	When Sublease Becomes Binding	40
Section 16.17	Interpretation	41
Section 16.18	Amendment	41
Section 16.19	Applicable Law; Choice of Law and Forum	41

An extra section break has been inserted above this paragraph. Do not delete this section break if you plan to add text after the Table of Contents/Authorities. Deleting this break will cause Table of Contents/Authorities headers and footers to appear on any pages following the Table of Contents/Authorities.

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

Port Authority Lease No. AGA-317
Supplement No. 5
Facility: LaGuardia Airport

SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT (hereinafter referred to as the "Supplement"), dated as of September 1, 2013 (the "Effective Date"), by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority") and MARKETPLACE LAGUARDIA LIMITED PARTNERSHIP (hereinafter called the "Lessee"),

WITNESSETH, that:

WHEREAS, the Port Authority and the Lessee heretofore and as of the 19th day of September, 1994 entered into an agreement of lease identified above by Port Authority Lease Number AGA-317 (which agreement of lease, as the same may have been heretofore supplemented or amended, is hereinafter called the "Lease") covering premises at LaGuardia Airport (sometimes hereinafter referred to as the "Airport"), in the County of Queens, City and State of New York, as more particularly therein set forth; and

WHEREAS, the Port Authority and the Lessee have entered into Supplemental Agreement No. 1 to the Lease, dated as of May 9, 1995, Supplemental Agreement No. 2, dated as of March 1, 1996, Supplemental Agreement No. 3, dated as of February 15, 2004 and Supplemental Agreement No. 4, dated as of November 1, 2009; and

WHEREAS, the Lessee and the Port Authority desire to extend the term of the Lease and amend the Lease in certain other respects, as hereinafter set forth:

NOW, THEREFORE, the Port Authority and the Lessee hereby agree, effective as of September 1, 2013, unless otherwise stated, as follows:

1. Section 2 of the Lease, entitled "*Term; Certain Rights of Termination*", shall be revised as follows:

(a) Clause (iii) in paragraph (a) shall be amended to provide as follows:

"(iii) continue thereafter for a period that expires at 11:59 p.m. on August 31, 2018 (in this Lease referred to as the "principal term"), unless this Lease shall have sooner terminated in accordance with its terms."

Accordingly, the principal term of the Lease shall thereby be extended to August 31, 2018, unless sooner terminated in accordance with its terms, upon all the terms, covenants, provisions and conditions of the Lease, as herein amended.

(b) A new subparagraph (e) shall be added which shall provides in its entirety as follows:

"(e) (i) The Lessee may request an extension of the principal term of this Lease beyond August 31, 2018, as to the entire premises only, for up to three (3) additional periods, each of which extension period to be for twelve (12) months and each to commence on the day after the expiration of the prior term of the letting (as extended pursuant to this subparagraph). Each such extension period shall be hereinafter called a "Extension Period"); provided, however, that the Lessee shall give written notice to the Port Authority of its extension request ("Extension Period Request") no later than ninety (90) calendar days prior to the commencement day of the relevant Extension Period. Upon receipt of an Extension Period Request, the Port Authority shall notify the Lessee in writing within thirty (30) days of such receipt as to whether or not it agrees to the requested Extension Period and, in so deciding, the Port Authority shall exercise its sole and absolute discretion and shall not be obligated to state in detail the reason for its acceptance or rejection of the Lessee's request. In the event the Port Authority agrees to the requested Extension Period as aforesaid, the principal term shall thereupon be deemed extended without the execution of any further agreement or other document.

(ii) Each extension, if any, shall be upon the same terms as are in effect immediately preceding the Extension Period for which such extension right is exercised including, without limitation, the annual rental and additional rentals rates. No notice by the Lessee requesting or purporting to extend the term of the letting of the premises as provided in this paragraph (e) shall be effective if on the date of the giving of said notice or on the commencement date of the applicable Extension Period the Lessee is in default under any of the terms or provisions of the Lease beyond any applicable cure period, or if on either of such dates the Lessee has been served with a notice of termination of this Lease by the Port Authority in accordance with the Lease terms, or if this Lease is not in full force and effect on either of such dates."

(c) In the event that anytime from and after September 1, 2013 the Port Authority exercises its right to terminate the Lease without cause as referenced in the initial un-numbered paragraph in Section 2(b) of the Lease, the Port Authority shall be obligated to pay to Lessee an amount equal to the amount of the Lessee's Unamortized Capital Investment in the Exhibit CB-2 Work (as defined hereinbelow), to be calculated and paid to Lessee in accordance with Section 2(d) of the Lease, as amended in this Supplement. For the purpose of this Supplement, the Lessee's Unamortized Capital Investment shall mean the aggregate amount of the Lessee's actual expenditures ("Lessee's qualifying costs") as accrued for the period on or after October 1, 2012 through August 31, 2018 pursuant to subparagraphs 5(d), (e) and (h) of paragraph 5 of this Supplement, in accordance with the capital budget attached hereto as "Exhibit "CB-2", as the same shall be amortized pursuant to the straight-line method of accounting (principal only) over 48 months, such expenditures to be for the direct and sole benefit of the Port Authority's Central

Terminal Building Retail Development Program at the Airport in the fulfillment of the Lease of its design, development and Leasing obligations to the Port Authority under this Supplement. Such amount shall be calculated as of the lease termination date set forth in the Port Authority's written notice of termination, less any amount claimed by the Port Authority to be due from the Lessee (provided that any such claim shall not be conclusive against the Lessee).

2. As of the Effective Date, Section 2(d) of the Lease shall be and be deemed revised by deleting subparagraph (i) thereof, it being understood that all of the remaining provisions of said Section 2(d), including, without limitation, the exclusions from the Lessee's qualifying costs set forth in subparagraphs (ii) through (vii), shall remain in effect.

3. Exhibit CB-2

(a) Effective October 1, 2012, Exhibit CB and Schedule CB-1 (which replaced Exhibit CB) shall be deemed inapplicable and of no force or effect and a new capital budget Exhibit CB-2, attached hereto and hereby made a part hereof, shall be adopted and effective. Lessee's expenditures in connection with the Exhibit CB-2 Work applicable and incurred on or after October 1, 2012 through August 31, 2018 shall be included in the Lessee's qualifying costs.

All references in the Lease to Exhibit CB, from and after October 1, 2012, shall mean and refer to Exhibit CB-2.

(b) The relevant amortization period applicable to Exhibit CB-2 shall be the period commencing September 1, 2014 and ending August 31, 2018 and applicable to qualifying costs as accrued during this period. For the avoidance of doubt, the Lessee's qualifying costs relating to matters that are completed prior to expiration of the aforesaid amortization period shall nevertheless be fully amortized by August 31, 2018, as more specifically described in paragraph 4, below.

4. Section 4 of Lease

Paragraph (b), entitled "*Variable Rental*", in Section 4 entitled "*Rentals*" of the Lease shall be amended effective as of September 1, 2013, by adding a paragraph at the end thereof and prior to subparagraph (c) which shall state as follows:

"In connection with any qualifying costs financed by the Lessee during the period from the Effective Date through August 31, 2018, in order to calculate variable rental due hereunder, the following shall apply: In subparagraph (b)(4) of this Section 4, the introductory language preceding clauses (x) and (y) shall mean and refer to an amount based solely on the Lessee's qualifying costs financed over a term not to exceed the period from the Effective Date through August 31, 2018. Any financing schedule setting forth qualifying costs to be amortized under this paragraph shall be provided to the Port Authority, Attention: Aviation Director, as an attachment to the monthly variable rent

calculation. All amortization shall be calculated pursuant to the straight-line method of accounting over the amortization period as set forth below:

(a) *Lessee's qualifying costs incurred before September 1, 2014*: Actual qualifying costs incurred and payable, whether in process to be completed or completed, will be amortized on a monthly basis using straight line depreciation from September 1, 2014 through August 31, 2018.

(b) *Lessee's qualifying costs incurred after September 1, 2014*: Actual qualifying costs incurred and payable, whether in process to be completed or completed, will be amortized on a monthly basis using straight line depreciation from the date the qualifying costs were incurred and payable through August 31, 2018.

(c) *Lessee's qualifying costs incurred during an Extension Period.* Actual qualifying costs incurred, whether in process to be completed or completed, shall not be eligible for reimbursement from the Port Authority, in whole or in part and, accordingly, an amortization period relating to such costs is not relevant for purposes of this Supplement.

5. (a) The parties acknowledge that the Port Authority intends to undertake a redevelopment program at the Airport ("LGA Redevelopment Program") that will include, without limitation, the replacement of the CTB with a new terminal ("New Terminal") to replace the CTB in phases over the course of the LGA Redevelopment Program while parts of the CTB are decommissioned and demolished. In connection therewith, the Lessee has agreed to continue to provide services and to construct necessary improvements to improve the level of services to customers. Such improvements shall include, among other things, HVAC refurbishment and replacement, upgrades to the restrooms, refurbishment of escalators and replacement of food court table and chairs. The Lessee also has agreed to invest in temporary or transitional concessions, on an as-needed basis, and any other improvements or work approved by the Port Authority (all of the foregoing improvements are reflected on Exhibit CB-2 and are collectively referred to herein as the "Exhibit CB-2 Work") throughout the duration of the term of the Lease, as the same may be extended pursuant to this Supplement. In no event shall Lessee be required to spend more than the Maximum Construction Amount (as defined in paragraph 5(b), below) in connection with the Exhibit CB-2 Work.

(b) The Lessee shall expend up to Ex. 2.a.)(hereinafter the "Maximum Construction Amount") in the Lessee's qualifying costs in connection with the Exhibit CB-2 Work. The Lessee shall adhere strictly to the line-item formulation of costs set forth in Exhibit CB-2; provided, however, that the Port Authority shall have the right in its sole discretion to allow any amount not utilized under any particular line-item to be transferred to or made available for use under any other line item set forth on Exhibit CB-2 in which event such cost shall be included as a Lessee's qualifying cost.

(c) INTENTIONALLY OMITTED

(d) In the event of termination of the Lease without cause by the Port Authority in accordance with the Lease any time from and after the Effective Date, the Port Authority shall pay to the Lessee a pro rata share of the Lessee's cost for the Exhibit CB-2 Work as hereinafter provided, and it is understood that with regard to such a termination after September 1, 2013, the provisions of Section 2(b)(1)-(3) shall not apply. The cost and the pro rata share thereof shall be ascertained as stated in paragraph (h), below; provided, however, that tender of payment of said pro-rated cost by the Port Authority to the Lessee shall not be prerequisite to the exercise of the right of termination under the Lease. On the payment by the Port Authority of said pro-rated cost, all fixtures, equipment and improvements furnished by the Lessee in the premises and all interest of the Lessee therein which have not already become the property of the Port Authority shall be and become the property of the Port Authority and the Lessee promptly shall execute any and all instruments necessary to transfer title to any such interest; provided, however, that the Port Authority may by notice relinquish its right to any such fixtures, equipment or improvements.

(e) The sum of the items of cost listed below, incurred by the Lessee for the Exhibit CB-2 Work, so long as the same are for the direct and sole benefit of the Port Authority's Central Terminal Building retail program at the Airport in the fulfillment by the Lessee of its design, development and leasing obligations to the Port Authority under the Lease, and to the extent that such sum is permitted by sound accounting practice and, in addition, to the extent such sum does not exceed the Maximum Construction Amount in the aggregate, shall constitute the "Unamortized Capital Investment" under this paragraph 5 and under subdivisions (f), (g), (h), (i) and (j) hereof. For the avoidance of doubt, all items identified in Section 2(d) of the Lease that were expressly excluded in the original capital budget (Exhibit CB) and, accordingly excluded in the succeeding and substituted Exhibit CB-1, shall similarly be expressly excluded with respect to Exhibit CB-2 and excluded from consideration for reimbursement to the Lessee. With respect to equipment and fixtures and the installation thereof and the making of such improvements, the following items of cost are eligible for reimbursement, subject to any and all additional limitations set forth in the Lease:

(1) Direct labor and material costs;

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

(3) Engineering, architectural, planning, designing, construction administration, tenant coordination, financing (subject to Lease limitations), construction period interest, guarantee fees (subject to Lease limitations), insurance, project management, and other overhead or carrying charges which are due for a period ending not later than the date of completion of installation of any initial equipment, fixtures or improvements for which they are incurred, and architectural and engineering costs not to exceed Ex. 2.9d. of the total of the amounts covered by subdivisions (1) and (2) above.

For the avoidance of doubt, the calculation of the aggregate amount stated above is subject to the application of subdivisions (f), (g), (h), (i), and (j), below.

(f) (1) A statement of the cost detailing all the foregoing items in (e) above, including copies of invoices and contracts and certified by a responsible financial officer of the Lessee shall be delivered by the Lessee to the Port Authority not later than ninety (90) days after the complete supplying and the making of all such initial improvements, and the Lessee shall permit the Port Authority, by its agents, employees and representatives, at all reasonable times prior to a final settlement or determination of cost, to examine and audit the records and books of account of the Lessee and any Affiliate thereof within the Port of New York District during such time; the Lessee agrees to keep and to cause its Affiliates to keep such records and books of account within the Port of New York District during such time.

(2) For the purposes of this paragraph 5, the term "Affiliate" shall have the same meaning as such term has been given in Section 3(B)(3)(A) of the Lease.

(g) If the Lessee includes in cost any items as having been incurred but which, in the opinion of the Port Authority, if so incurred is not an item properly chargeable to cost under sound accounting practice, then the Port Authority's determination shall prevail unless the Lessee can demonstrate that the Port Authority's determination has been made in an arbitrary and capricious manner.

(h) (A) The pro-ration of cost incurred on and prior to September 1, 2014 as referred to in subparagraph (d) of this paragraph 5 shall be ascertained by multiplying the cost by a fraction, the numerator of which shall be the number of whole calendar months, not to exceed 48 months, (in the extension period of term of the letting as provided in paragraph 1(a) of this Supplement commencing on September 1, 2013) subsequent to the effective date of termination, and the denominator of which shall be 48; provided, however, in all events, in calculating the amount that the Port Authority shall be obligated to pay to the Lessee under said subparagraph (d), the amount to be paid shall not exceed the amount of the Lessee's cost (as calculated in accordance with subparagraph (e) of this paragraph 5) less annual depreciation thereof (on a straight-line basis over the balance of the term of the Lease) for the period that has elapsed from September 1, 2014 to the effective date of termination, as carried on the Lessee's books in accordance with generally accepted accounting principles consistently applied.

(B) The pro-ration of cost incurred subsequent to September 1, 2014 as referred to in subparagraph (d) of this paragraph 5 shall be ascertained by multiplying the cost by a fraction, the numerator of which shall be the number of whole calendar months (in the extension period of the term of the letting as provided in paragraph 1(a) of this Supplement commencing on September 1, 2013) subsequent to the effective date of termination, and the denominator of which shall be the total number of months starting from the date the costs were incurred until the end of such extension term of the letting; provided, however, in all events, in calculating the amount that the Port Authority shall be obligated to pay to the Lessee under said subparagraph (d), the amount to be paid shall not exceed the amount of the Lessee's cost (as calculated in accordance with subparagraph (e) of this paragraph 5) less annual depreciation thereof (on a straight-line basis over the balance of the term of the Lease) for the period that has elapsed from

September 1, 2014 to the effective date of termination, as carried on the Lessee's books in accordance with generally accepted accounting principles consistently applied.

(i) Notwithstanding any other provision of subparagraph (d) of this paragraph 5, in ascertaining the amount that the Port Authority shall be obligated to pay to the Lessee under said subparagraph (d), the cost computed as heretofore stated in this paragraph 5 shall be diminished by the amount that any part of the components of cost as stated in subdivisions (1), (2), and (3) of subparagraph (e) above are secured by liens, mortgages, other encumbrances or conditional bills of sale on such equipment, fixtures and improvements, and any other amounts whatsoever due under the Lease from the Lessee to the Port Authority.

(j) Notwithstanding anything to the contrary stated or implied elsewhere in the Lease or this Supplement, the Port Authority's obligation to pay the Lessee for costs associated with its improvements as aforesaid shall be subject to satisfaction of all of the following conditions precedent: (1) the Lessee shall have vacated and surrendered possession of the leased premises to the Port Authority in accordance with the terms, covenants and conditions of the Lease, (2) the Lessee is not then in default under the Lease beyond any applicable notice and grace period stated in the Lease, and (3) the Lessee shall have theretofore provided the Port Authority with the statement of cost, and any other substantiating documentation, described in subparagraph (b), above, of this paragraph 5 necessary in the opinion of the Port Authority to ascertain the amount of cost which is the subject of the payment

6. Performance of Exhibit CB-2 Work

(a) Exhibit CB-2 Work

The Lessee shall, prior to its submission to the Port Authority of the plans and specifications hereinafter provided for, submit to the Port Authority for its consent the Lessee's comprehensive plan for the Exhibit CB-2 Work which shall consist of a project description, estimated costs and estimated commencement and completion dates. The Lessee shall keep the comprehensive plan describe by this subparagraph (a) up-to-date and shall submit to the Port Authority for its prior approval any amendment, revision or modification thereof.

(b) Risk of Loss

The Lessee hereby assumes the risk of loss or damage to all of the Exhibit CB-2 Work prior to the completion thereof, as well as the risk of loss or damage to all property of the Port Authority arising out of or in connection with the performance of the Exhibit CB-2 Work unless such loss or damage is caused by the sole negligence or willful misconduct of the Port Authority. In the event of such loss or damage, the Lessee shall forthwith repair, replace and make good the Exhibit CB-2 Work and the property of the Port Authority without cost or expense to the Port Authority. The Lessee shall itself and shall also require its contractors to indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees form and against all claims and demands, just or unjust, of third persons (including employees, officers and agents of the Port Authority) arising or alleged to arise out of the performance of the Exhibit CB-2 Work and for all expenses incurred by it and by them in the

defense, settlement or satisfaction thereof including, without limitation thereto, claims and demands for death, for personal injury or the property damage, direct or consequential, whether they arise from the acts or omissions of the Lessee, of any contractors of the Lessee of the Port Authority, or of third persons, or from acts of God or of the public enemy, or otherwise, excepting only claims and demands which result solely from the sole negligence or willful misconduct of the Port Authority, its Commissioners, officers, agents and employees with respect to the Exhibit CB-2 Work; provided, however, that the Lessee shall not be required to indemnify the Port Authority where indemnity would be precluded pursuant to the provisions of Section 5-322.1 of the General Obligations Law of the State of New York. If so directed, the Lessee shall at its own expense defend any suit based upon such claim or demand (even if such suit, claim or demand is groundless, false or fraudulent), and in handling such its shall not, without obtaining express advance written permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any status respecting suits again the Port Authority.

(c) Required Subcontract Provision.

Prior to entering into a contract or contracts for any part of the Exhibit CB-2 Work, the Lessee shall submit to the Port Authority for its approval the names of the general contractor and other contractors and subcontractors to whom the Lessee proposes to award said contract or contracts. The Port Authority shall have the right to disapprove any contractor who may be unacceptable to it. The Lessee shall include in all such contracts such provisions and conditions as may be 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 his obligations under the Contract, including his obligation to the Lessee to pay any claims lawfully made against him by any materialman, subcontractor or workman or other third person which arises out of or in connection with the performance of the Contract or (ii) any claim (just or unjust) which arises out of or in connection with the Contract is made against the Lessee or (iii) any subcontractor under the Contract fails to pay any claims lawfully made against him by any materialman, subcontractor, workman or other third persons which arise out of or in connection with the Contract or if in the Lessee's opinion any of the aforesaid contingencies is likely to arise, then the Lessee shall have the right, in its discretion, to withhold out of any payment (final or otherwise and even though such payments have already been certified as due) such sums as the Lessee may deem ample to protect it against delay or loss or to assume the payment of just claims of third persons, and to apply such sums in such manner as the Lessee may deem proper to secure such protection or satisfy such claims.
>
> All sums so applied shall be deducted from the Contractor's compensation. Omission by the Lessee to withhold out of any payment, final or otherwise, a sum for any of the above contingencies, even though such contingency has occurred at

the time of such payment, shall not be deemed to indicate that the Lessee does not intend to exercise its right with respect to such contingency. Neither the above provisions for rights of the Lessee to withhold and apply monies nor any exercise or attempted exercise of, or omission to exercise, such rights by the Lessee shall create any obligation of any kind to such materialmen, subcontractors, workmen or other third persons. Until actual payment is made to the Contractor, his right to any amount to be paid under the Contract (even though such amount has already been certified as due) shall be subordinate to the rights of the Lessee under this provision."

(d) Construction Application; Contractors.

(1) Prior to the commencement of the Exhibit CB-2 Work and in addition to the aforesaid basis of design, the Lessee shall execute and submit to the Port Authority for the Port Authority's approval a construction application or applications in the form prescribed by the Port Authority and including complete plans and specifications of the Exhibit CB-2 Work pursuant to and in accordance with the Port Authority's Tenant Construction and Alteration Process manual (hereinafter collectively called the "Construction Application") setting forth in detail by appropriate plans and specifications the work the Lessee proposes to perform and the manner of and time periods for performing the same including, without limitation, a schedule listing each contract proposed to be entered into for the performance of the work and the estimated cost of the work to be performed under each such contract. The data to be supplied by the Lessee shall identify each of the items constituting the Exhibit CB-2 Work, and shall describe in detail the systems, improvements, fixtures and equipment to be installed by the Lessee. All Exhibit CB-2 Work shall be done in accordance with the plans and specifications to be submitted to and approved by the Port Authority prior to the commencement of the Exhibit CB-2 Work, and until such approval has been obtained the Lessee shall continue to resubmit plans and specifications as required. Upon approval of such plans and specifications by the Port Authority, the Lessee shall proceed diligently at its sole cost and expense to perform the Exhibit CB-2 Work. All Exhibit CB-2 Work, including workmanship and materials, shall be of first class quality. The Lessee shall re-do, replace or construct at its own cost and expense, any Exhibit CB-2 Work not done in accordance with the approved plans and specifications, the provisions of this Section or any further requirements of the Port Authority.

(2) The Lessee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be directed by the Port Authority and for developing, completing and submitting detailed plans and specifications for the work. The plans and specifications to be submitted by the Lessee shall be in sufficient detail for a contractor to perform the work and shall bear the seal of a qualified and licensed architect or professional engineer. A qualified and licensed architect or professional engineer shall be responsible for the administration of the work in accordance with the Port Authority's requirements. In connection with review by the Port Authority of the Lessee's submissions under this Paragraph, the Lessee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may find necessary. Following the Port Authority's receipt of the Lessee's complete Construction Application and complete plans and specifications, the Port Authority shall give its written approval or rejection

thereof, or shall request such revisions or modifications thereto as the Port Authority may find necessary. The Lessee shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor, and the contract such contractor is operating under, have been approved by the Port Authority. The Lessee shall include in any such contract or subcontract such provisions as are required in accordance with the provisions of this Agreement and the Construction Application approved by the Port Authority. The Lessee shall obtain and maintain or cause each contractor to obtain and maintain in force such insurance coverage as is described in Paragraph (i) of this Section and such performance bonds as the Port Authority may specify (if any).

(3) The Port Authority may refuse to grant approval with respect to the Exhibit CB-2 Work if, in its opinion, any of the proposed Exhibit CB-2 Work as set forth in said plans and specifications (all of which shall be in such detail as may permit the Port Authority to make a determination as to whether the requirements hereinafter referred to are met) shall:

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

(ii) not comply with the Port Authority's requirements for harmony of external architecture of similar existing or future improvements at the Terminal; or

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

(iv) be designed for use for purposes other than those authorized under this Agreement; or

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

(vi) not provide adequate and proper circulation areas; or

(vii) not be at locations or not be oriented in accordance with the basis of design; or

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

(ix) be in violation or contravention of any other provisions and terms of this Agreement; or

(x) not comply with all Port Authority standards and guidelines; or

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

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

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

(xiv) not comply with the Port Authority's requirements and standards with respect to noise, air pollution, water pollution or other types of pollution; or

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

(xvi) not comply with the Americans with Disabilities Act of 1990 and all federal rules, regulations and guidelines pertaining thereto, including but not limited to the American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People, ANSI A117.180.

(4) Prior to engaging or retaining an architect or architects for the Exhibit CB-2 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. The Lessee shall furnish or require its architect to furnish a full time resident engineer or, with the consent of the Port Authority, a representative of the Lessee authorized to act on behalf of the Lessee, during the construction period. The Lessee shall require certification by a licensed engineer of all pile driving data and of all controlled concrete work and such other certifications as may be requested by the Port Authority from time to time. The Lessee shall file with the Port Authority a copy of its contracts with its contractors prior to start of the Exhibit CB-2 Work.

(e) Minimization of Pollution and Noise.

(1) The Exhibit CB-2 Work shall be constructed in such a manner that there will be at all times a minimum of air pollution, water pollution or any other type of pollution and a minimum of noise emanating from, arising out of or resulting from the operation, use or maintenance of the premises by the Lessee and from the operations of the Lessee under this Agreement. Accordingly, and in addition to all other obligations imposed on the Lessee under this Agreement and without diminishing, limiting, modifying or affecting any of the same, the Lessee shall be obligated to construct as part of the Exhibit CB-2 Work hereunder such structures, fences, equipment, devices and other facilities as may be necessary or appropriate to accomplish the foregoing and each of the foregoing shall be and become a part of the Exhibit CB-2 Work hereunder.

(2) Notwithstanding the provisions of Subparagraph (1) above and in addition thereto, the Port Authority hereby reserves the right from time to time and at any time during the term of this Agreement to require the Lessee subsequent to the completion of the Exhibit CB-2 Work to design and construct at its sole cost and expense such further structures, fences, equipment, devices and other facilities as may be necessary or appropriate to accomplish the objectives as set forth in the first sentence of subparagraph (1) hereof. The Port Authority shall determine all locations, the manner, type and method of construction and the size of any of the foregoing. The Lessee shall submit for Port Authority approval its plans and specifications covering the required work and upon receiving such approval shall proceed diligently to construct the same. All other provisions of this Section with respect to the Exhibit CB-2 Work shall apply and pertain with like effect to any work that the Lessee is obligated to perform pursuant to this Paragraph (f) and upon completion of each portion of such work it shall be and become a part of the premises. The obligations assumed by the Lessee under this Paragraph (f) are a special inducement and consideration to the Port Authority in granting this Agreement to the Lessee.

(f) No Port Authority Responsibility.

(1) The Lessee agrees to be solely responsible for any plans and specifications used by it and for any loss or damages resulting from the use thereof, notwithstanding the same have been approved by the Port Authority and notwithstanding the incorporation therein of Port Authority recommendations or requirements. Notwithstanding the requirement for approval by the Port Authority of the contracts to be entered into by the Lessee or the incorporation therein of Port Authority requirements or recommendations, and notwithstanding any rights the Port Authority may have reserved to itself hereunder, the Port Authority shall have no liabilities or obligations of any kind to any contractors engaged by the Lessee or for any other matter in connection therewith and the Lessee hereby releases and discharges the Port Authority, its Commissioners, officers, agents, representatives and employees of and from any and all liability, claims for damages or losses of any kind, whether legal or equitable, or from any action or cause of action arising or alleged to arise out of the performance of any Exhibit CB-2 Work pursuant to the contracts between the Lessee and its contractors. Any warranties contained in any construction contract entered into by the Lessee for the performance of the Exhibit CB-2 Work hereunder shall be for the benefit of the Port Authority, as well as the Lessee.

(2) Without limiting or affecting any other term or provision of this Agreement, the Lessee shall be solely responsible for the design, adequacy and operation of any utility, mechanical, electrical, communications and other systems installed in the premises by the Lessee as Exhibit CB-2 Work and any other improvements, additions, fixtures, finishes, decorations and equipment made or installed by the Lessee in the premises as Exhibit CB-2 Work and shall do preventive maintenance and make such repairs, replacements, rebuilding (ordinary or extraordinary, structural or non-structural) and painting necessary to keep such systems, improvements, additions, fixtures, finishes, decorations and equipment (whether the same involves structural or non-structural work) in the condition they were in when made or installed except for reasonable wear which does not adversely affect the efficient or proper utilization of any part of the premises.

(g) Third-party Claims.

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 Exhibit CB-2 Work, and shall cause its contractors and subcontractors to pay all such claims lawfully made against them; provided, however, that nothing herein contained shall be construed to limit the right of the Lessee to contest any claim of a contractor, subcontractor, materialman, workman or other person and no such claim shall be considered to be an obligation of the Lessee within the meaning of this Section unless and until the same shall have been finally adjudicated. The Lessee shall use its best efforts to resolve any such claims and shall keep the Port Authority fully informed of its actions with respect thereto.

(h) Liability Insurance.

(1) The Lessee in its own name as insured and with the Port Authority and the City as additional insureds shall procure and maintain a policy or policies of (i) Commercial General Liability Insurance including, but not limited to, coverage with a broad form property damage endorsement, premises-operations, products-completed operations (for a minimum of 3 years after the Completion Date) and explosion, collapse and underground property damages coverage, personal injury and independent contractors and providing for the coverage in the limit set forth below; (ii) Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles, automatically covering newly acquired vehicles, and providing for coverage in the limit set forth below; with contractual liability endorsements, where applicable, covering the obligations assumed by the Lessee hereunder and the obligations required of the Lessee's contractors pursuant to this Paragraph; and (iii) Workers' Compensation Insurance in accordance with the requirements of law; which insurance shall be in addition to all policies of insurance otherwise required by the Lease, or the Lessee may provide such insurance by requiring each contractor engaged by it for the Exhibit CB-2 Work to procure and maintain such insurance in the contractor's name as insured and with the exceptions of the Workers' Compensation Policy, with the Port Authority, the City and the Lessee as additional insureds including, where applicable, such contractual liability endorsements, said insurance not to contain any exclusion for bodily injury to or sickness, disease or death of any employee of the Lessee or of any of its contractors which would conflict with or in any way impair coverage under the contractual liability endorsement. The said liability policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the named insured thereunder with respect to any claim or action against the named insured by a third person shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority and the City thereunder as additional insureds. In addition, said liability policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Port Authority thereunder with respect to any claim or action against the Port Authority by the Lessee or its contractor(s) shall be the same as the protections afforded the named insured thereunder with respect to any claim or action against the named insured by a third person as if the Port Authority were the named insured thereunder. Said insurance shall be in not less than the following amounts:

	Minimum Limits
Commercial General Liability Insurance: Combined single limit per occurrence for death, bodily injury and property damage liability	$2,000,000
Commercial Automobile Liability Insurance: (covering owned, non-owned and hired vehicles) Combined single limit per occurrence for death, bodily injury and property damage liability	$2,000,000

(2) The insurance required under subparagraph (g)(1), above, shall be maintained in effect during the performance of the Exhibit CB-2 Work and shall be in compliance with and subject to the provisions of Paragraph (b) of the Section of the Lease entitled "*Indemnity and Liability Insurance*".

(h) Title to Improvements.

Title to all the Exhibit CB-2 Work shall pass to the City as the same or any part thereof is erected, constructed or installed and the same shall be and become a part of the leased premises hereunder. For purposes of this paragraph, the term Exhibit CB-2 Work shall not include the Lessee's personal property, trade fixtures or equipment.

(i) Labor Harmony.

In the performance of the Exhibit CB-2 Work, the Lessee will not permit any situation or condition to arise or continue that causes any labor troubles at, or emanating from, the premises which interferes with the operations (including any Exhibit CB-2 Work) at the premises. The determination of the Port Authority shall be conclusive on the Lessee and upon written notice from the Port Authority of the threat of any such labor troubles, the Lessee will (or will cause its contractor to, as applicable) immediately rectify any condition causing or contributing to labor troubles as specified in such notice. In the event of failure by the Lessee (or any of its contractors, as applicable) to timely comply with the requirements of this Paragraph, the Port Authority, will have the right, by notice from the Port Authority to the Lessee, to require the Lessee to suspend the Port Authority's permission to the Lessee to proceed with the applicable portion of each specific construction project or, as applicable, of the Exhibit CB-2 Work being performed by or on behalf of the Lessee and the Lessee will thereupon immediately cease the same. When labor troubles will be so settled that such interference or the threat of such interference no longer exists, the Port Authority by notice to the Lessee will reinstate the permission to the Lessee to perform the Exhibit CB-2 Work on all the same terms and conditions as before the suspension. "Labor troubles" will mean and include strikes, boycotts, picketing, work-stoppages, slowdowns, complaints, disputes, complaints, or any other type of labor trouble, regardless of the employer of the person involved or their employment status, if any.

(j) No Third Party Beneficiary.

No contractor or third party shall, or shall be deemed to, have acquired any rights against the Port Authority by virtue of the execution of this Agreement and nothing contained herein shall operate or give to any such contractor or third party any claim or right of action against the Port Authority and its Commissioners, officers, agents and employees.

(k) Affirmative Action.

The provisions of paragraph (i) of the Section of the Lease entitled "*Construction by the Lessee*" shall apply to the Exhibit CB-2 Work.

(l) Non-Discrimination.

The provisions of paragraph (ii) of the Section of the Lease entitled "*Construction by the Lessee*" shall apply to the Exhibit CB-2 Work.

(m) Port Authority Inspections; No Duty to Inspect or Police.

(1) The Port Authority shall have the right, through its duly designated representatives, to inspect the Exhibit CB-2 Work and the plans and specifications thereof, at any and all times during the progress thereof and from time to time, in its discretion, to take samples and perform testing in any part of the Exhibit CB-2 Work.

(2) 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 Exhibit CB-2 Work by the Lessee, and the rights granted to the Port Authority hereunder shall not create or be deemed to create such a duty or obligation. Accordingly, the fact that the General Manager has not exercised the Port Authority's right to require the Lessee to cease its construction of all or any part of the Exhibit CB-2 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 Exhibit CB-2 Work in accordance with the terms of this Agreement or the Construction Application nor shall such fact be or be deemed to be a waiver by the Port Authority from the requirement of compliance by the Lessee with the provisions of this Agreement and the Construction Application with respect to the Exhibit CB-2 Work.

(n) Non-Liability of Individuals.

Nothing contained in this Agreement shall grant or be deemed to grant any contractor, architect, supplier, subcontractor or any other person engaged by the Lessee or any of its contractors in the performance of any part of the Exhibit CB-2 Work any right of action or claim against the Port Authority, its Commissioners, officers, agents and employees with respect to any work any of them may do in connection with the Exhibit CB-2 Work or otherwise. Nothing contained herein shall create or be deemed to create any relationship between the Port Authority and any such contractor, architect, supplier, subcontractor or any other person engaged by the Lessee or any of its contractors in the performance of any part of the Exhibit CB-2 Work and the Port Authority shall not be responsible to any of the

foregoing for any payments due or alleged to be due thereto for any work performed or materials purchased in connection with the Exhibit CB-2 Work.

(o) Partial Completion.

If the Lessee desires to commence construction of portions of the Lessee's Exhibit CB-2 Work prior to the approval by the Port Authority of the complete Construction Application and plans and specifications covering all of such work, the Lessee shall submit to the Port Authority a separate Construction Application for each portion of the Lessee's Exhibit CB-2 Work the Lessee so desires to commence (each such portion of the Lessee's Exhibit CB-2 Work being hereinafter designated as "Partial Approval Work") which shall be executed by an authorized officer of the Lessee and shall be accompanied by final and complete plans, specifications, drawings, and data with respect to such portion of the Lessee's Exhibit CB-2 Work (the final and complete plans, specifications, drawings, and data covering each such portion of the Lessee's Exhibit CB-2 Work are hereinafter referred to as "the Partial Approval Work Plans" with respect to such portion of the Lessee's Exhibit CB-2 Work) setting forth in detail the work to be performed in connection with each such portion of the Lessee's Exhibit CB-2 Work. The Port Authority shall use its discretion to determine whether to permit the Lessee to proceed with the performance of any Partial Approval Work. If the Port Authority consents to the performance of any Partial Approval Work, the Port Authority shall review the Construction Application covering such work and shall give its written approval or rejection of the Partial Approval Work Plans with respect thereto or shall request such revisions or modifications thereto as the Port Authority may find necessary. Upon the Port Authority's approval of the Construction Application covering an item of Partial Approval Work and its approval of the Partial Approval Work Plans with respect thereto, the Lessee may proceed to perform such item of Partial Approval Work subject to and in accordance with the following terms and conditions:

(i) The performance by the Lessee of any item of Partial Approval Work in accordance with the Port Authority's approval will be at its sole risk and if for any reason the plans and specifications for the balance of the Lessee's Exhibit CB-2 Work or, any part thereof, are not approved by the Port Authority or if the approval thereof calls for modifications or changes in any item of Partial Approval Work undertaken by the Lessee under any approval granted by the Port Authority pursuant to this paragraph, the Lessee will, as directed by the Port Authority, and at the Lessee's sole cost and expense, either restore the area affected to the condition existing prior to the commencement of such item of Partial Approval Work or make such modifications and changes to such work as may be required by the Port Authority.

(ii) Nothing contained in any approval given pursuant to this paragraph shall constitute a determination or indication by the Port Authority that the Lessee has complied with any laws, rules, orders, ordinances, enactments, resolutions, regulations, statutes, requirements, codes, directions, and executive orders, including but not limited to those of the State of New York, Borough of Queens or City of New York, which may pertain to the Partial Approval Work to be performed and which the Lessee is required to comply with pursuant to the Lease, as amended by this Third Supplement.

(iii) Each item of Partial Approval Work shall be performed in accordance with and subject to the terms and provisions of this Agreement covering the Lessee's Exhibit CB-2 Work and in accordance with the approved Construction Application covering such item of Partial Approval Work and in accordance with the approved Partial Approval Work Plans constituting a part of such Construction Application, and subject to any requirements, stipulations, and provisions which the Port Authority may impose in its approval of the performance of such item of Partial Approval Work.

(iv) No Partial Approval Work performed by the Lessee pursuant to the provisions of this paragraph shall affect or limit the obligations of the Lessee with respect to the Lessee's Exhibit CB-2 Work or any prior approvals thereof.

(v) The Lessee specifically understands that neither the Port Authority's approval of any Construction Application and Partial Approval Work Plans covering any item of Partial Approval Work nor the performance by the Lessee of any item of Partial Approval Work pursuant to such approval shall obligate the Port Authority to approve the Construction Application and plans and specifications submitted by the Lessee for the balance of the Lessee's Exhibit CB-2 Work or shall create or be deemed to create any obligation on the part of the Port Authority to permit subsequent Partial Approval Work to be performed. Without limiting the generality of the provisions of this paragraph, it is specifically understood that the Port Authority may withhold its approval of a Construction Application and Partial Approval Work Plans covering any item of Partial Approval Work if the Port Authority determines that review of subsequent items of Partial Approval Work is required before the Port Authority can approve, reject, or comment upon such Partial Approval Work Plans.

(p) Certificate of Completion.

(i) When all the Exhibit CB-2 Work is substantially completed and ready for use the Lessee shall advise the Port Authority to such effect and shall deliver to the Port Authority a certificate by an authorized officer of the Lessee and the Lessee's architect or engineer certifying that the Exhibit CB-2 Work has been constructed in accordance with the approved plans and specifications and the provisions of this Agreement and in compliance with all applicable laws, ordinances and governmental rules, regulations and orders. Thereafter the Exhibit CB-2 Work will be inspected by the Port Authority and if the same has been completed as certified by the Lessee and the Lessee's architect or engineer, a certificate to such effect shall be delivered to the Lessee by the Port Authority, subject to the condition that all risks thereafter with respect to the construction and installation of the same and any liability therefor for negligence or other reason shall be borne by the Lessee. Subject to the subparagraph of this Section, entitled "Partial Completion", The Lessee shall not use or permit the use of the Exhibit CB-2 Work for the purposes set forth in this Agreement until such certificate is received from the Port Authority. The date specified in the Port Authority certificate referred to in this Paragraph shall be referred to in this Agreement as the "Completion Date".

(ii) Notwithstanding the provisions of the foregoing subparagraph (i), when a discrete, integral and material portion of the Exhibit CB-2 Work is substantially

completed or is properly usable, the Lessee may advise the Port Authority to such effect and may deliver to the Port Authority: [a] a certificate signed by an authorized officer of the Lessee certifying that such portion of the Exhibit CB-2 Work has been constructed in accordance with the approved plans and specifications and the provisions of this Agreement and in compliance with all applicable law; [b] a certificate signed and sealed on behalf of the Project Engineer by a New York State licensed architect on its staff certifying that the approved plans and specifications are in compliance with all applicable laws; and [c] a certificate signed and sealed on behalf of the Project Engineer by a New York State licensed engineer on its staff certifying that such portion of the Exhibit CB-2 Work has been constructed in accordance with the approved plans and specifications. The Lessee shall also certify that such portion of the Exhibit CB-2 Work can be properly used even though the Exhibit CB-2 Work has not been completed and that the Lessee desires such use. In the event the Port Authority issues such certificate, the Lessee may use such discrete, integral and material portion subject to the condition that all risks thereafter with respect to the construction and installation of the same and any liability therefor for negligence or other reason shall be borne by the Lessee, and subject to the risks as set forth above in the paragraph relating to Partial Approval Work

(q) Lease Controls.

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

(r) "as built" Drawings.

The Lessee agrees that it shall deliver to the Port Authority two (2) sets of "as built" microfilm drawings or record drawings of the Exhibit CB-2 Work mounted on aperture cards, an electronic CADD data file in a format to be designated by the Port Authority, all of which shall conform to the specifications of the Port Authority (the receipt of a copy of said specifications prior to the execution of this Agreement being hereby acknowledged by the Lessee), and the Lessee shall during the term of this Agreement keep said drawings and said data file current showing thereon any changes or modifications which may be made. No changes or modifications shall be made without prior Port Authority consent.

7. Section 45, paragraph (g) of the Lease, as last supplemented in Supplement No. 2, shall be deemed deleted and a new Lease paragraph (g) shall be deemed inserted which shall read in its entirety as follows:

> "(g) The term "Security Amount" shall be the sum of Six Hundred Ninety Thousand Dollars and No Cents ($690,000.00)."

8. Paragraph (b) of the Section of the Lease entitled "*The Lessee's Additional Ongoing Affirmative Action – Equal Opportunity Commitment*" (Section 40(b)), shall be amended as of the Effective Date by adding a sentence directly after the third sentence of said Section 40(b) which shall state as follows:

"Lessee shall have the right to satisfy the obligation to use good faith efforts to meet the "meaningful interest" threshold set forth in this Section 40 through its strict compliance with all applicable current and future laws, rules and regulations, including, without limitation, the provisions set forth in 49 CFR Part 23."

9. A new Section 38A shall be and be deemed inserted in the Lease which shall read in its entirety as follows:

"Section 38A. Airport Concession DBE's.

This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Lessee agrees that it will not discriminate against any business owner because of the owner's race, color, disability, national origin, or sex in connection with the award or performance of any concession agreement or any management contract, or subcontract, purchase or lease agreement or other agreement covered by 49 CFR Part 23. The Lessee agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters and cause those businesses to similarly include the statements in further agreement. Further, the Lessee agrees to comply with the terms and provisions of Schedule G, attached hereto and hereto made a part hereof."

10. Effective as of the Effective Date, Section 47 of the Lease, entitled "*Entire Agreement*", previously amended in Supplement Nos. 2, 3 and 4 of the Lease, dated as of March 1, 1996, as of February 15, 2004, and as of November 1, 2009, respectively, shall be renumbered Section 48 and a new Section 47 shall be inserted which shall read in its entirety as follows:

"Section 47. 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 this Agreement 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 this Agreement by the Port Authority, in addition to any and all other remedies provided under this Agreement 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 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."

11. Effective September 1, 2013, the first paragraph of Section 48 of the Lease, as renumbered in this Supplement, shall be further revised so as to read in its entirety as follows:

"Section 48. <u>Entire Agreement</u>

This Lease consists of the following: Sections 1 through 48, inclusive, Schedules A, W, E and Third Revised Schedule LP and Exhibits A, A-1, CB-2 and MP."

12. The Lessee waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority in respect of the leased premises and/or in any action that may be brought by the Port Authority to recover fees, damages or other sums due and owing from the Lessee under the Lease.

13. 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 are compulsory counterclaims and would be deemed waived if not so interposed.

13. This Supplement and any claim, controversy or dispute arising under or related to the Lease, as amended hereby, shall be governed by, and be construed in accordance with, the laws of the State of New York applicable to contracts made, and to be performed solely within, such state, without regard to choice of law principles.

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

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

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

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

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

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Name: David Kagan
Assistant Director
Business. Properties & Airport Development

Title: _____

ATTEST:

Clerk

MARKETPLACE LAGUARDIA LIMITED PARTNERSHIP

BY:MARKETPLACE LAGUARDIA, INC., General Partner

By: _____

Name: Paul O. McGinn

Title: President

APPROVED	
FORM	TERMS

For the Port Authority

SCHEDULE G

Airport Concession Disadvantaged Business Enterprise (ACDBE) Participation

In accordance with regulations of the US Department of Transportation 49 CFR Part 23, the Port Authority has implemented an Airport Concession Disadvantaged Business Enterprise (ACDBE) program under which qualified firms may have the opportunity to operate an airport business. The Port Authority has established an ACDBE participation goal, as measured by the total estimated annual gross receipts for the overall concession program. The goal is modified from time to time and posted on the Port Authority's website: www.panynj.gov.

The overall ACDBE goal is a key element of the Port Authority's concession program and Concessionaire shall take all necessary and reasonable steps to comply with the requirements of the Port Authority's ACDBE program. The Concessionaire commits to making good faith efforts to achieve the ACDBE goal. Pursuant to 49 CFR 23.25 (f), ACDBE participation must be, to the greatest extent practicable, in the form of direct ownership, management and operation of the concession or the ownership, management and operation of specific concession locations through subleases. The Port Authority will also consider participation through joint ventures in which ACDBEs control a distinct portion of the joint venture business and/or purchase of goods and services from ACDBEs. In connection with the aforesaid good faith efforts, as to those matters contracted out by the Concessionaire in its performance of this agreement, the Concessionaire shall use, to the maximum extent feasible and consistent with the Concessionaire's exercise of good business judgment including without limit the consideration of cost competitiveness, a good faith effort to meet the Port Authority's goals. Information regarding specific good faith steps can be found in the Port Authority's ACDBE Program located on its above-referenced website. In addition, the Concessionaire shall keep such records as shall enable the Port Authority to comply with its obligations under 49 CFR Part 23 regarding efforts to offer opportunities to ACDBEs.

Qualification as an ACDBE

To qualify as an ACDBE, the firm must meet the definition set forth below and be certified by the New York State or New Jersey State Uniform Certification Program (UCP). The New York State UCP directory is available on-line at www.nysucp.net and the New Jersey State UCP at www.njucp.net.

An ACDBE must be a small business concern whose average annual receipts for the preceding three (3) fiscal years does not exceed the amount defined in 49 CFR Part 23.33 as the same shall be modified pursuant to periodic federal update. It must be (a) at least fifty-one percent (51%) owned and controlled by one or more socially and economically disadvantaged

individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially or economically disadvantaged individuals who own it. Further, the ACDBE must meet the personal net worth standard established pursuant to 49 CFR Part 23.35 as the same shall also be modified subject to periodic federal update.

The ACDBE may, if other qualifications are met, be a franchisee of a franchisor. An airport concession is a for-profit business enterprise, located on an airport, which is subject to the Code of Federal Regulations 49 Part 23, subpart F, that is engaged in the sale of consumer goods or services to the public under an agreement with the sponsor, another concessionaire, or the owner or operator of a terminal, if other than the sponsor. The Port Authority makes a rebuttable presumption that individuals in the following groups who are citizens of the United States or lawful permanent residents are "socially and economically disadvantaged":

a. Women;

b. Black Americans which includes persons having origins in any of the Black racial groups of Africa;

c. Hispanic Americans which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

d. Native Americans which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

e. Asian-Pacific Americans which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia or Hong Kong;

f. Asian-Indian Americans which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal and Sri Lanka; and

g. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. Section 637(a)).

" Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis. For example, a disabled Vietnam veteran, an Appalachian white male, or another person may claim to be disadvantaged. If such individual requests that his or her firm be certified as ACDBE, the Port Authority, as a certifying partner in the New York State and New Jersey State UCPs will determine whether the individual is socially or economically disadvantaged under the criteria established by the Federal Government. These owners must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

Certification of ACDBEs hereunder shall be made by the New York State or New Jersey State UCP. If Concessionaire wishes to utilize a firm not listed in the UCP directories but which the Concessionaire believes should be certified as an ACDBE, that firm shall submit to the Port Authority a written request for a determination that the firm is eligible for certification. This shall be done by completing and forwarding such forms as may be required under 49 CFR Part 23. All such requests shall be in writing, addressed to the Director, 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 designate from time to time. Contact OBJOcert@panynj.gov for inquiries or assistance.

General

In the event the signatory to this agreement is a Port Authority permittee, the term Concessionaire shall mean the Permittee herein. In the event the signatory to this agreement is a Port Authority lessee, the term Concessionaire shall mean the Lessee herein.

For the Port Authority

Initialed:

P.O.M.

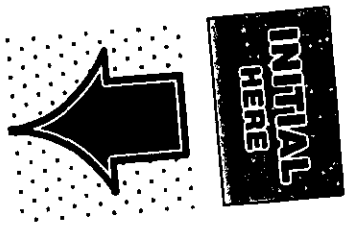
For the Lessee

Exhibit CB-2

MarketPlace Development LP
LaGuardia Airport / Central Terminal Building
Capital Budget

Ex. 2.a.

Gem
P.O.M



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

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

On the 17 day of Sept in the year 2013, before me, the undersigned, a Notary Public in and for said state, personally appeared David Kagan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

MOIRA MCGINN WALLACE
Notary Public, State of New York
No. 01WA4889637
Qualified in Richmond County
Commission Expires on ~~April 13, 20__~~
June 11, 2015

Moira McGinn Wallace

(notarial seal and stamp)

STATE OF Massachusetts)
) ss.
COUNTY OF Middlesex)

On the 27th day of August in the year 2013, before me, the undersigned, a Notary Public in and for said state, personally appeared Paul O. McGinn, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARIZE

M. DelValle-Avila

(notarial seal and stamp)

MARGARITA DELVALLE-AVILA
Notary Public
Commonwealth of Massachusetts
My Commission Expires
October 6, 2017

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

CONSENT TO SUBLEASE

Consent Agreement No. AGA-996
Port Authority Lease No. AGA-317
Facility - LaGuardia Airport

THIS CONSENT TO SUBLEASE (hereinafter called the "Consent"), made as of September 6, 2012, by and among THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority"), MARKETPLACE LAGUARDIA LIMITED PARTNERSHIP (hereinafter called the "Lessee") and AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC d/b/a, American Express, a New York corporation (hereinafter called the "Sublessee") with an office and place of business at Three World Financial Center 200 Vesey Street, New York, New York 10285, whose representative is Susan E. Chapman.

WITNESSETH, That:

WHEREAS, by an agreement of lease dated September 19, 1994, bearing Port Authority Lease No. AGA-317 (said agreement of lease, as heretofore and hereafter supplemented and amended being hereinafter called the "Lease"), the Port Authority leased to Marketplace LaGuardia Limited Partnership certain areas in the Central Terminal Building (hereinafter called the "Terminal") including those in its passenger concourses, its Center Section and its East and West Wings (hereinafter collectively referred to as the "premises") at LaGuardia Airport (hereinafter called the "Airport") to be used by such parties as may be approved by the Port Authority as provided therein; and

WHEREAS, the Lessee and the Sublessee have requested the consent of the Port Authority to a proposed sublease agreement between the Lessee and the Sublessee, dated September 6, 2012, pursuant to which the Lessee has made available to the Sublessee a space in the premises (sometimes hereinafter collectively called the "Space") upon which the Sublessee shall operate an airport lounge, at which food and alcoholic and non-alcoholic beverages will be provided and card member services, travel services, concierge services and spa services will be sold, a copy of which agreement is attached hereto, hereby made a part hereof and hereinafter called the "Sublease"; and

WHEREAS, the Lessee and the Sublessee have requested the consent of the Port Authority to the proposed first amendment to the Sublease, dated as of September 6, 2012, a copy of which is attached hereto and made a part hereof (hereinafter called the "First Amendment", the First Amendment and the Sublease being collectively referred to herein as the "Sublease"); and

WHEREAS, the applicable provisions of the Lease require, and the Sublease provides, that the Sublease shall be subject and subordinate to the Lease as the same may be amended, supplemented or extended and, further, that it shall not take effect without the prior written consent of the Port Authority thereto embodied in an instrument signed by the Port Authority; and

WHEREAS, contemporaneously with the execution of the Sublease, the Sublessee will enter into a Statement of Work LaGuardia Airport Lounge to Master Services Agreement No. CQ 268945 with Compass Group USA, Inc. ("Operator") pursuant to which the Sublessee would retain the Operator to operate the airport lounge at the Space by providing lounge management services thereat; and

WHEREAS, The Lessee and Sublessee agree that it shall be a condition precedent to the effectiveness of the Sublease and this Consent that the Operator enter into a Port Authority privilege permit in form and substance acceptable to the Port Authority, which shall be for the same duration as the Statement of Work referenced above (which duration of the Statement of Work shall be as determined by Sublessee and Operator but in all events such duration shall not extend beyond the termination or expiration date of the Sublease) and which shall provide for the payment of a monthly fee by the Operator to the Port Authority; and

WHEREAS, the Sublessee and the Lessee have requested the consent of the Port Authority to the proposed Sublease;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Lessee and the Sublessee hereby agree, effective as of September 6, 2012, as follows:

1. On the terms and conditions hereinafter set forth, and subject to the prior satisfaction of the condition precedent described in the sixth WHEREAS clause of this Consent the Port Authority consents to the Sublease.

2. Notwithstanding any provision of the Sublease to the contrary, including but not limited to Sections 1.1 and 3.2 thereof, this Consent and the Sublease shall terminate, without notice to the Lessee or the Sublessee, on the day preceding the date of expiration or earlier termination of the Lease, the date of expiration or termination of the Sublease, or on such earlier date as the Lessee and the Sublessee may agree upon (in those circumstances where the Lease does not require the consent of the Port Authority to such earlier termination); provided, however, that the Sublease shall not terminate in the event of the termination of the Lease prior to the expiration of the term of the Sublease if the Port Authority shall notify the Sublessee and the Lessee at or prior to such effective date of termination of the Lease that the Port Authority shall and does assume the rights and obligations of the Lessee thereunder from the date of such notice and upon such notice the Sublessee shall be deemed to have fully attorned to the Port Authority, all as more specifically set forth in the Lease. In the event of such termination, the Sublessee shall cease its activities and operations at the Terminal, quit the Space and remove its property and property for which it is responsible therefrom on or before the effective date of termination of the Sublease.

3. If the Lessee shall at any time be in default of any of its monetary obligations under the Lease, and for so long as the Port Authority deems such default to be continuing or uncured, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Lessee. No such payment shall relieve the Lessee from any obligation under the Lease or under this Consent, but all such payments shall be credited against the obligations of the Lessee or of the Sublessee as the Port Authority may determine for each payment or part thereof.

4. (a) The Sublessee, in its operations under or in connection with the Sublease , agrees to assume, observe, be bound by and comply with all the terms, provisions, covenants and conditions of the Lease applicable thereto as if it were the Lessee under the Lease.

(b) All acts and omissions of the Sublessee (including but not limited to those on or with respect to non-exclusive areas, if any) shall be deemed to be acts and omissions of the Lessee under the Lease and, as between the Lessee and the Port Authority, the Lessee shall also be severally responsible for said acts and omissions, including, but not limited to, the obligations of indemnification and repair. Accordingly, pursuant to the foregoing sentence, those acts or omissions of the Sublessee which, if undertaken by the Lessee, would constitute a default or breach under the Lease are subject to the application of Lease provisions which are relevant to default and breach by the Lessee including, but not limited to, those provisions which may provide Lessee with a grace period to cure a default and which may provide the Lessee an opportunity to perform where fulfillment of its obligation requires activity over a period of time.

5. (a) Without in any way affecting the obligations of the Lessee under the Lease and under this Consent, and the obligations of the Sublessee with regard to the indemnification provisions of the Lease, the Sublessee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including attorneys' fees and other legal expenses, including the costs of its "in-house" legal staff as such costs are determined by the Port Authority, incurred in connection with the defense of) all claims and demands of third persons, including but not limited to, claims and demands for death and personal injuries or for property damages arising out of the interest of the Sublessee under the Sublease, any default of the Sublessee in the performance or observance of any term or provision hereof or out of the use, operation, control, or occupancy of the Space by the Sublessee or by others with its consent or out of any of the acts or omissions of the Sublessee, its officers, employees, contractors, agents, representatives, guests, invitees and business visitors on said Space or out of any of the acts or omissions of the Sublessee, its officers, agents, representatives, employees, members (if Sublessee is a limited liability entity, in their capacity as members thereof), managers (if Sublessee is a limited liability entity, in their capacity as managers thereof), and partners (if the Sublessee is a partnership) elsewhere at the Airport, including claims and demands of the City of New York from which the Port Authority derives its rights in the Airport, for indemnification arising by operation of law or through agreement of the Port Authority with the said City.

(b) If so directed, the Sublessee shall at its own expense defend any suits 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, and it shall cause its insurers to agree not to, without obtaining express advance permission from the General Counsel of the Port Authority,

raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.

(c) Notwithstanding anything to the contrary stated herein, including but not limited to the provisions of paragraph 6 herein, in any instance where the Sublessee's obligation to indemnify and hold harmless the Port Authority under this Consent is inconsistent, in conflict with or otherwise different from any obligation to indemnify the Port Authority under any provision of the Lease (to which the Sublease is subordinate and subject) which requires the Lessee to cause its subtenants to indemnify the Port Authority, then the controlling provisions shall be those which provide the broadest and most comprehensive indemnification of the Port Authority.

6. (a) Neither this Consent nor anything contained herein shall constitute or be deemed to constitute a consent to nor shall there be created an implication that there has been consent to any enlargement or change in the rights, powers and privileges granted to the Lessee under the Lease, nor consent to the granting or conferring of any rights, powers or privileges to the Sublessee as may be provided under the Sublease if not granted to the Lessee under the Lease, unless specifically set forth in this Consent, nor shall this Consent or anything contained herein impair or affect any of the duties, liabilities, or obligations imposed on the Lessee under the Lease.

(b) The Sublease is an agreement between the Lessee and the Sublessee with respect to the various matters set forth therein. Neither this Consent nor anything contained herein shall constitute an agreement between the Port Authority, the Lessee, or the Sublessee that, except as expressly provided for in paragraph 2 herein under the circumstances therein described and then only to the extent therein provided, the provisions of the Sublease shall apply and pertain as between them, it being understood that the terms, provisions, covenants, conditions and agreements of the Lease shall, in all respects, be controlling, effective and determinative.

(c) In the event of differences and inconsistencies between the terms of the Sublease and the terms of the Lease, the terms of the Lease shall control, it being the intention of the Lessee and the Port Authority merely to permit the conduct of retail operations by the Sublessee to the extent permitted by the Lease, the Sublease and this Consent and not to enlarge or otherwise change the rights granted by the Lease. All of the terms, provisions, covenants and conditions of the Lease shall be and remain in full force and effect. In addition, in any case of difference or inconsistency between the provisions of this Consent and those of the Sublease, this Consent shall be controlling. The specific mention of or reference to the Lessee or the Port Authority in any part of the Sublease including, without limitation thereto, any mention of any consent or approval of either the Port Authority or the Lessee now or hereafter to be obtained, shall not be or be deemed to create an inference that either the Port Authority or the Lessee has granted its consent or approval thereto or shall hereafter grant its consent or approval thereto, or that the discretion of either the Port Authority or the Lessee as to any such consent or approval shall in any way be affected or impaired. The lack of any specific reference in any provision of the Sublease to the Port Authority's or the Lessee's approval or consent shall not be deemed to

imply that no such approval or consent is required and the Lease shall, in all respects, be controlling, effective and determinative.

(d) No provision of the Sublease including, but not limited to, those imposing obligations on the Sublessee with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee including, but not limited to, construction on the Space, title to property, the right to assign the Sublessee's interest in the Sublease, or to further sublease the subject Space or any part thereof, and the right to perform services, be deemed to imply or infer that either the Port Authority's or the Lessee's consent or approval thereto will be given or that the discretion of either the Port Authority or the Lessee with respect thereto will in any way be affected or impaired. Reference in this paragraph to specific matters and provisions contained in the Sublease shall not be construed as indicating any limitation upon the rights of either the Port Authority or the Lessee with respect to their respective discretion as to the granting or withholding of approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(e) It is hereby acknowledged and agreed by the Lessee and the Sublessee that, except as expressly provided in Section 1(e) of the Lease, the Port Authority has no obligation under the Lease, this Consent or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's unamortized capital investment in the Space or at the premises. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Lease or upon revocation of this Consent with or without cause, of any amount of the Sublessee's unamortized capital investment in the Space or at the premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Lessee to pay, subsidize or finance said unamortized capital investment, except in the event of a termination under Section 1(e) of the Lease, in which event the Port Authority's responsibility with respect to the Sublessee shall be strictly limited to the obligation expressly set forth in such Section 1(e).

(f) Notwithstanding anything to the contrary stated in the Sublease, certain modifications to the Sublease shall be deemed to have been made thereto, as follows, all of which shall supercede any provisions in the Sublease which are inconsistent or conflict with such modifications:

(i) in the last paragraph of Section 5.6 of the Sublease, the Port Authority shall not be bound by any confidentiality obligation undertaken by the Lessee under the Sublease, it being understood that the Port Authority has the right to apply whatever freedom of information policy is relevant under the circumstances.

(ii) in the event the Sublease is assigned to and assumed by the Port Authority for any reason whatsoever, wherever the Sublease requires or implies that the Lessee shall provide the Sublessee with written notice of a monetary default and breach and/or a grace period for payment obligations, the same shall not bind, apply to or be

enforceable against the Port Authority. Accordingly, the Port Authority shall not be obligated to provide written notice to the Sublessee of a monetary default or breach, nor shall the Subtenant be entitled to grace periods with respect to its payment obligations. The foregoing shall be deemed to apply notwithstanding any provisions in the Sublease to the contrary, e.g., Section 5.7 (entitled "Payment of Rental") and Article 14 (entitled "Default").

(iii) in the event the Sublease is assigned to and assumed by the Port Authority for whatever reason whatsoever, whenever the Sublease requires the Lessee to be reasonable, to not unreasonably withhold, delay or condition its consent or approval, to use its reasonable efforts, to use best efforts, to provide reasonable notice of inspections, or the like, the same shall not bind, apply to or be enforceable against the Port Authority which, it is understood, shall be obligated in such instances only not to act arbitrarily and capriciously.

(iv) Without limiting the generality of Section 10.2, entitled "Electricity", the Lessee's responsibilities to provide connections and tie-ins for electrical service, at Lessee's own cost and expense, shall be governed by the provisions of the Lease.

7. No changes or amendments to the Sublease nor any renewals or extensions thereof shall be binding or effective upon either the Port Authority or the Lessee unless the same have been approved in advance by the Port Authority and the Lessee in writing. The Port Authority may at any time and from time to time by notice to the Sublessee modify, withdraw or amend any approval, direction, or designation given hereunder or pursuant hereto.

8. Anything contained in the Sublease or this Consent to the contrary notwithstanding, nothing in the Sublease or this Consent shall be deemed to imply that the Sublessee has the right to make any alteration, demolition, installation, addition or improvement to the premises or the Space, structural or non-structural, exterior or interior, including without limitation the installation of any signs at the Airport, except pursuant to the express written approval of the Port Authority and an approved Alteration Application which the Lessee shall prepare and submit to the Port Authority as more specifically provided in the Lease.

9. (a) The Port Authority shall have the right to separately revoke this Consent at any time by the Port Authority without cause, on thirty (30) days' notice to the Lessee and Sublessee, as to any one or more of the spaces at the Terminal at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Lease or the continuance thereof, but the Sublease as it applies to the space or spaces which are the subject of revocation shall be terminated thereby.

(b) In addition to all other rights of the Port Authority, the Port Authority shall have the right to separately revoke the permission granted hereunder without cause, on thirty (30) days' notice, as to any one or more of the concession spaces and storage spaces at the Terminal at which the Sublessee has permission to operate, in which event the Sublessee's obligations with respect to the remaining concession and storage space(s) shall remain in effect.

10. (a) Neither any assignment by the Lessee to the Port Authority of its interest under the Sublease, nor the application or payment of security deposits to or for the benefit of the Port Authority, nor any direction to the Sublessee to pay rent or other amounts to the Port Authority, nor the payment thereof to and acceptance thereof by the Port Authority shall constitute or denote an assumption by the Port Authority of any of the obligations of the Lessee under the Sublease.

(b) Without limiting the generality and notwithstanding the provisions of paragraph 6(b) herein, the Sublessee and the Lessee further acknowledge and expressly agree that the Port Authority shall have the right to enforce the Sublease directly against the Sublessee, including but not limited to all insurance provisions thereof.

11. The Lessee and the Sublessee acknowledge and agree that, except as may be specifically and expressly set forth in the Lease and subject to the terms and conditions of the Lease, the Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with the Sublease or the use and occupancy of the Space thereunder, including without limitation any obligation to provide or install or cause to be provided or installed any meters or submeters. Without limiting the generality of the foregoing, whenever the Port Authority undertakes pursuant to the Lease to sell, furnish and supply directly to the Sublessee a particular service or utility (e.g., Section 41 of the Lease), the Sublessee shall take the same from the Port Authority and make payment directly to the Port Authority, as required by the Lease, including but not limited to the payment as directed by the Port Authority of any charge, fee or rent or increase thereof (or the portion thereof allocated by the Port Authority to the Space or the operations therein) which any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, makes or increases.

12. (a) In addition to the insurance required to be maintained by the Lessee under the Lease, the Sublessee during the period the Sublease shall remain in effect shall in its own name as insured and including the Port Authority and the Lessee as additional insureds obtain, maintain and pay the premiums on a policy or policies of commercial general liability insurance, covering bodily injury, including death, products liability and property damage liability, the foregoing to provide for coverage in the limits set forth below. All the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protection afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority or Lessee, or both, but such endorsement shall not limit, vary, change or affect the protection afforded the Port Authority and Lessee as additional insureds. Further, the said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the indemnity obligations assumed by the Sublessee hereunder.

	Minimum Limit
Commercial General Liability: Combined single limit per occurrence for death, bodily injury and property damage liability	$2,000,000

Liquor Liability $2,000,000

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

The Port Authority at any such time may make additions, deletions, amendments to or modifications of the above-scheduled insurance requirements, including an increase in such minimum limits, and may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem advisable and the Sublessee shall promptly comply therewith.

(b) As to the insurance required by the provisions of this paragraph, a certified copy of the policies or a certificate or certificates or binders satisfactory to the Port Authority evidencing the existence thereof, shall be delivered by Lessee to the Port Authority within fifteen (15) days after delivery of this Consent to the Port Authority. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. In the event a binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain an additional endorsement providing that the insurance carrier shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority. Renewal certificates of insurance shall be delivered to the Port Authority upon expiration of each expiring policy, except for any policy expiring after the date of expiration of the Sublease. The aforesaid 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 Sublessee shall promptly obtain a new and satisfactory policy in replacement thereof. Sublessee agrees to provide Lessee and the Port Authority with thirty (30) days written notice of cancellation of any of the policies required herein unless the policy to be cancelled is reinstated or replaced with another policy in compliance with the requirements herein prior to the cancellation date.

13. The granting of this Consent by the Port Authority shall not be or be deemed to operate as a waiver of the rights of the Port Authority or as a consent as to any subsequent use, occupancy or sublease (by the Lessee or by the Sublessee) of the Space or any other portion or area of the premises under the Lease, or to any assignment of the Lease or the Sublease or of any rights under either of them, whether in whole or in part.

14. Reference herein to the "Sublessee" shall mean and include the Sublessee, its officers, agents, employees and also others on the Airport with the consent of the Sublessee.

15. No Commissioner, director, officer, agent or employee of any party shall be charged personally by the other parties with any liability, or held liable to the other parties, under any term or provision of this permit, or because of the party 's execution or attempted execution, or because of any breach thereof.

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

17. Certain Definitions.

(a) "**Airport**" shall mean LaGuardia Airport, consisting of certain premises identified as "LaGuardia Airport" on Sheet LGA-1 of Exhibit A, and more particularly described in Exhibit B, annexed to the City Lease, and such other property and premises as may be acquired in connection with and added to such premises pursuant to the terms of the City Lease.

(b) "**City**" shall mean The City of New York, a municipal corporation of the State of New York.

(c) "**City Insureds**" shall mean the following entities: The City of New York, the officials and employees of The City of New York (to the extent that the officials and employees of the Port Authority of New York and New Jersey are likewise insured) and the New York City Economic Development Corporation, a local development corporation formed pursuant to Section 1411 of the Not-For-Profit Corporation Land of the State of New York, or such successor entity as may be designated by the City.

(d) "**City Lease**" shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and The Port Authority of New York and New Jersey, as Tenant, dated as of November 24, 2004 and recorded in the office of the City Register of the City on December 3, 2004 under City Register File No. 2004000748687, as the same may have been or may be amended or supplemented.

18. The City Lease.

(a) The Lessee and the Sublessee acknowledge that they have received a copy of, and are familiar with the contents of, the City Lease (excepting exhibits, schedules and appendices referenced therein, copies of which are available to, but were not requested by, the Lessee and Sublessee). The Permittee acknowledges that no greater rights or privileges are hereby granted to the Lessee and the Sublessee than the Port Authority has the power to grant under the City Lease.

(b) In accordance with the provisions of the City Lease, the Port Authority, the Lessee and the Sublessee hereby agree as follows:

(i) This Consent is subject and subordinate to the City Lease and to any interest superior to that of the Port Authority;

(ii) The Lessee and the Sublessee shall not pay the fees or other sums under this Consent for more than one (1) month in advance (excluding security and other deposits required under this Consent). Sublessee agrees that amounts due to Landlord under Section 14.3 of the Sublease are Landlord's damages and do not and are not intended to constitute rent payable in advance in the ordinary course of business in contravention of this Section 18(b)(ii);

(iii) With respect to this Consent, the Lessee and the Sublessee on the termination of the City Lease will, at the option of the City, enter into a direct consent on identical terms with, the City;

(iv) The Lessee and the Sublessee shall indemnify the City with respect to all matters described in Section 31 of the City Lease to the extent sucb matters are referenced in, with respect to the Lessee, Lessee's indemnification obligations in the Lease, and with respect to the Sublessee, Sublessee's indemnification obligations in the Sublease and in this Consent

(v) The Lessee and the Sublessee shall not use any portion of the Airport for any use other than as permitted under the City Lease;

(vi) The Lessee and the Sublessee shall exercise the privileges granted under the Lease and the Sublease, respectively, in a manner consistent with the Port Authority's obligations under Section 28 of the City Lease to the extent applicable to, for the Lessee, Lessee's obligations under the Lease, and for the Sublessee, Sublessee's obligations under the Sublease and this Consent;

(vii) The failure of the Lessee and the Sublessee to comply with the foregoing provisions (after, with respect to the Lessee, the notice and the cure period provided in Section 18(a)(10) of the Lease) shall be an event of default under this Consent, which shall provide the Port Authority with the right to terminate this Consent and exercise any other rights that the Port Authority may have as the grantor of the privilege hereunder; and

(viii) The City Insureds (as such term is defined in the City Lease) shall be named as additional insureds or loss payees, as applicable, under each policy of insurance procured by the Lessee and the Sublessee pursuant to the terms of the Lease, the Sublease and this Consent, as applicable.

19. The Lessee and the Sublessee acknowledge and agree that, in the event the Port Authority exercises its right to revoke or terminate this Consent for any reason other than "without cause", the Lessee and the Sublessee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses, if any, 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 Consent (on failure of the Lessee or the Sublessee to have it restored), preparing such space for use by a succeeding sublessee, 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).

20. The Lessee and the Sublessee acknowledge and agree that, in the event that upon conducting an examination and audit as described in Section 5.6 of the Sublease the Port Authority determines that unpaid amounts are due to the Port Authority by the Sublessee, the Sublessee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount of five percent (5%) of each amount determined by the Port Authority audit findings to be unpaid. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Sublessee under this Consent or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority to payment of any late charge(s) or other service charge(s) payable under the provisions of this paragraph with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this paragraph is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Consent, including, without limitation, the Port Authority's rights to revoke this Consent or (ii) any obligations of the Sublessee under this Consent.

21. The Sublessee 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.

22. This Consent is subject to the requirements of the United States Department of Transportation's regulations, 49 CFR Part 23. The Sublessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement or any management contract, or subcontract, purchase or lease agreement or other agreement covered by 49 CFR Part 23. The Sublessee agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters and cause those businesses to similarly include the statements in further agreement. Further, the Sublessee agrees to comply with the terms and provisions of Schedule G, attached hereto and hereto made a part hereof.

23. Labor Harmony at the Airport

(a) General. In connection with its operations at the Airport under this Consent, the Sublessee shall serve the public interest by promoting labor harmony, it being acknowledged that strikes, picketing, or boycotts may disrupt the efficient operation of the Terminal. The Sublessee recognizes the essential benefit to have continued and full operation of the Airport as a whole and the Terminal as a transportation center. The Sublessee shall immediately give oral notice to the Port Authority (to be followed reasonably promptly by written notices and reports) of any and all impending or existing labor-related disruptions and the progress thereof.

If any type of strike, picketing, boycott or other labor-related disruption is directed against the Sublessee at the Terminal, or against its operations thereat pursuant to this Consent, which in the opinion of the Port Authority (i) physically interferes with the operation of the Airport, the Terminal or the Space, or (ii) physically interferes with public access between the Space and any portion of the Terminal or the Airport, or (iii) physically interferes with the operations of other operators at the Airport or the Terminal, or (iv) presents a danger to the health and safety of users of the Airport or the Terminal, including persons employed thereat or members of the public, the Port Authority shall have the right at any time during the continuance thereof to take such actions as the Port Authority may deem appropriate including, without limitation, revocation of this Consent.

(b) Labor peace agreement. The Sublessee represents that, prior to or upon entering into this Consent, it has delivered to the Port Authority either: (1) evidence that the Sublessee has entered into a signed "labor peace agreement", in the form attached hereto as Exhibit X. or (2) written notification from an officer of the Sublessee on the Sublessee's letterhead that no labor organization (as defined by 29 U.S.C. Section 152(5)) has sought to represent the employees of the Sublessee at the Airport as of the date of such notification.

(c) Employee Retention. If the Sublessee's concession at the Space is of the same type (i.e., food, retail, news/gifts or duty-free concession) as that of the immediately preceding concession operator at the Space (the "**Predecessor Concession**"), the Sublessee agrees to offer continued employment for a minimum period of ninety (90) days, unless there is just cause to terminate employment sooner, to employees of the Predecessor Concession who have been or will be displaced by cessation of the operations of the Predecessor Concession and who wish to work for the Sublessee at the Space. The foregoing requirement shall be subject to the Sublessee's commercially reasonable determination that fewer employees are required at the Space than were required by the Predecessor Concession; except, however, that the Sublessee shall retain such staff as is deemed commercially reasonable on the basis of seniority with the Predecessor Concession at the premises. The Port Authority shall have the right to demand from the Sublessee documentation of the name, date of hire, and employment occupation classification of all employees covered by this provision. In the event the Sublessee fails to comply with this provision, the Port Authority have the right at any time during the continuance thereof to take such actions as the Port Authority may deem appropriate including, without limitation, revocation of this Consent.

(d) Applicability of Provision. The provisions of this section shall apply to concession operators which employ ten (10) or more persons at the Space.

24. OFAC Compliance.

(a) *Sublessee's Representation and Warranty*. The Sublessee hereby represents and warrants to the Port Authority that the Sublessee (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 Sublessee acknowledges that the Port Authority is entering into this Permit 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 Consent

(b) Sublessee's Covenant. Sublessee covenants that (i) during the term of this Consent 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 this Consent by the Port Authority, in addition to any and all other remedies provided under this Consent 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) Sublessee's Indemnification Obligation. The Sublessee 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 Sublessee breach of any of its representations and warranties made under this Consent. Upon the request of the Port Authority, the Sublessee 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.

25. Except if and where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Until further notice, the Port Authority hereby designates its Executive Director as its officer upon whom notices and requests may be served, and the Lessee designates Paul O. McGinn, its President, as its representative upon whom notices and requests may be served; and the Port Authority designates its office at 225 Park Avenue South, New York, NY 10003 as its office where notices and requests may be served, and the Lessee designates its office at One Wells Avenue, Newton, MA 02459 as its office where notices and requests may be served. The Port Authority may, for informational purposes only, send a copy by regular first class mail of all

such notices and requests to the Lessee's counsel as follows: DLA Piper LLP (US), 33 Arch Street, 26th Floor, boston, Massachusetts 02110, Attention: Anita S. Agajanian. Failure on the part of the Port Authority to send the informational copy shall not however be or be deemed to be a breach of this Agreement, or impair or affect the validity of the notice or request actually given.

The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent Agreement as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent Agreement as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the registered or ertified mailing thereof.

26. Entire Agreement. This Consent is a complete statement of all agreements among the parties with respect to its subject matter. The recitals to this Consent are incorporated herein and made a part of this Consent as if set forth in full in the body of this Consent.

[Signature page to follow]

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

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By

Print Name David Kagan
Assistant Director
Business, Properties & Airport Development

(Title)

ATTEST:

Secretary

MARKETPLACE LAGUARDIA LIMITED PARTNERSHIP

By: Marketplace LaGuardia, Inc., General Partner

By

Print Name Paul D. McGinn

(Title) President

(Corporate Seal)

ATTEST:

Asst Secretary

~~AMERICAN EXPRESS TRAVEL RELATED~~ SERVICES COMPANY, INC.

By Carol V. Schwartz

Print Name Carol V. Schwartz

(Title) Secretary

(Corporate Seal)

American Express Travel Related Services Company, Inc. CORPORATE SEAL 1982 State of New York

APPROVED	
TERMS	FORM

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

ATTEST:

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

_____
Secretary

By _____

Print Name _____

(Title) _____

ATTEST:

MARKETPLACE LAGUARDIA LIMITED PARTNERSHIP

By: Marketplace LaGuardia, Inc., General Partner

_____
Secretary

By _____

Print Name _____

(Title) _____
(Corporate Seal)

ATTEST:

AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC.

Carol V Schwartz
Secretary

By _____

Print Name Susan Chapman-Hughes

(Title) SVP, Global Real Estate and Workplace Enablement
(Corporate Seal)

EXHIBIT X

EVIDENCE OF SIGNED LABOR PEACE AGREEMENT

AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC. (the "Company") has complied with Board Resolution "All Airports - Labor Harmony Policy" passed October 18, 2007, which stipulates that the Company must sign a Labor Peace Agreement with a labor organization that seeks to represent the Company's employees and that contains provisions under which the labor organization and its members agree to refrain from engaging in any picketing, work stoppages, boycotts or any other economic interference with the Company's operations.

FOR THE COMPANY:	FOR THE UNION:
AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC.	[Insert Name of Labor Organization
By: Carl V. Schwartz	By: _____
Date: 9-24-13	Date: _____

Initialed:

For the Port Authori

For the Lessee

Sub

For the ~~Sub~~lessee

SCHEDULE G

AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PARTICIPATION

In accordance with regulations of the US Department of Transportation 49 CFR Part 23, the Port Authority has implemented an Airport Concession Disadvantaged Business Enterprise (ACDBE) program under which qualified firms may have the opportunity to operate an airport business. The Port Authority has established an ACDBE participation goal, as measured by the total estimated annual gross receipts for the overall concession program. The goal is modified from time to time and posted on the Port Authority's website: www.panynj.gov.

The overall ACDBE goal is a key element of the Port Authority's concession program and Concessionaire shall take all necessary and reasonable steps to comply with the requirements of the Port Authority's ACDBE program. The Concessionaire commits to making good faith efforts to achieve the ACDBE goal. Pursuant to 49 CFR 23.25 (f), ACDBE participation must be, to the greatest extent practicable, in the form of direct ownership, management and operation of the concession or the ownership, management and operation of specific concession locations through subleases. The Port Authority will also consider participation through joint ventures in which ACDBEs control a distinct portion of the joint venture business and/or purchase of goods and services from ACDBEs. In connection with the aforesaid good faith efforts, as to those matters contracted out by the Concessionaire in its performance of this agreement, the Concessionaire shall use, to the maximum extent feasible and consistent with the Concessionaire's exercise of good business judgment including without limit the consideration of cost competitiveness, a good faith effort to meet the Port Authority's goals. Information regarding specific good faith steps can be found in the Port Authority's ACDBE Program located on its above-referenced website. In addition, the Concessionaire shall keep such records as shall enable the Port Authority to comply with its obligations under 49 CFR Part 23 regarding efforts to offer opportunities to ACDBEs.

Qualification as an ACDBE

To qualify as an ACDBE, the firm must meet the definition set forth below and be certified by the New York State or New Jersey Uniform Certification Program (UCP). The New York State UCP directory is available on-line at www.nysucp.net and the New Jersey UCP at www.njucp.net.

An ACDBE must be a small business concern whose average annual receipts for the preceding three (3) fiscal years does not exceed $47.78 million and it must be (a) at least fifty-one percent (51%) owned and controlled by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially or economically disadvantaged individuals who own it. The personal net worth standard used in determining eligibility for purposes of part 23 is $750,000.

The ACDBE may, if other qualifications are met, be a franchisee of a franchisor. An airport concession is a forprofit business enterprise, located on an airport, which is subject to the Code of Federal Regulations 49 Part 23, subpart F, that is engaged in the sale of consumer goods or services to the public under an agreement with the sponsor, another concessionaire, or the owner or operator of a terminal, if other than the sponsor. The Port Authority makes a rebuttable presumption that individuals in the following groups who are citizens of the United States or lawful permanent residents are "socially and economically disadvantaged":

a. Women;

b. Black Americans which includes persons having origins in any of the Black racial groups of Africa;

c. Hispanic Americans which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

d. Native Americans which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

e. Asian-Pacific Americans which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Naura, Federated States of Micronesia or Hong Kong;

f. Asian-Indian Americans which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal and Sri Lanka; and

g. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. Section 637(a)).

Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis. For example, a disabled Vietnam, veteran, an Appalachian white male, or another person may claim to be disadvantaged. If such individual requests that his or her firm be certified as ACDBE, the Port Authority, as a certifying partner in the New York State and New Jersey UCPs will determine whether the individual is socially or economically disadvantaged under the criteria established by the Federal Government. These owners must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

Certification of ACDBEs hereunder shall be made by the New York State of New Jersey UCP. If Concessionaire wishes to utilize a firm not listed in the UCP directories but which the Concessionaire believes should be certified as an ACDBE, that fir, shall submit to the Port Authority a written request for a determination that the firm is eligible for certification. This shall be done by completing and forwarding such forms as may be required under 49 CFR Part 23. All such requests shall be in writing, addressed to Lash Green, Director, Office of Business and Job Opportunity, 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 designate from time to time. Contact objocert@panynj.gov for inquiries or assistance.

General

In the event the signatory to this agreement is a Port Authority permittee, the term Concessionaire shall mean the Permittee herein. In the event the signatory to this agreement is a Port Authority lessee or sublessee, the term Concessionaire shall mean the Lessee or Sublessee herein, as applicable.

Initialed:

For the Port Authority

For the ~~L~~ Sub essee

For the ~~Sub~~ essee

4th Floor, New York, New York 10003 or such other address as the Port Authority may designate from time to time. Contact objocert@panynj.gov for inquiries or assistance.

General

In the event the signatory to this agreement is a Port Authority permittee, the term Concessionaire shall mean the Permittee herein. In the event the signatory to this agreement is a Port Authority lessee or sublessee, the term Concessionaire shall mean the Lessee or Sublessee herein, as applicable.

Initialed:

For the Port Authority

For the Lessee

For the Sublessee

EXECUTION VERSION

Central Terminal Building, LaGuardia Airport

Retail Sublease

between

MarketPlace LaGuardia Limited Partnership

and

American Express Travel Related Services Company, Inc.

(d/b/a American Express)

Central Terminal Building, LaGuardia Airport
Retail Sublease

This instrument is a Sublease between **MarketPlace LaGuardia Limited Partnership**, a Delaware limited partnership (the "Landlord") and American Express Travel Related Services Company, Inc., a New York corporation (the "Tenant").

The parties to this instrument hereby agree with each other as follows:

ARTICLE 1
DEFINITIONS AND ATTACHMENTS

Section 1.1 Basic Data.

Each reference in this Sublease to any of the following subjects shall incorporate the data or definition specified below:

Date:	September 6, 2012
Landlord:	MarketPlace LaGuardia Limited Partnership
Landlord's Address:	*One Wells Avenue* Newton, MA 02459 Attn: President
Address for Payment of Rental:	As directed by Landlord
Address of Payment of Electric and Water Charges:	Port Authority of New York and New Jersey P.O. Box 17309 Newark, NJ 07194
Landlord's Counsel:	DLA Piper LLP (US) 33 Arch Street, 26th Floor Boston, Massachusetts 02110 Attention: Anita S. Agajanian
Tenant:	American Express Travel Related Services Company, Inc., a New York corporation
Tenant's Taxpayer Identification Number:	Ex. 1/4
Tenant's Address:	As set forth in Section 16.3
Tenant's Trade Name:	American Express
Premises:	Lounge: that portion of the Retail Area shown on Schedule A hereto and designated thereon as Location 3F1, *containing approximately 5,365 square feet (the* "Lounge"). Storage Space: that portion of the Retail Area shown on Schedule A hereto and designated thereon as Location CSBS7, containing approximately 408 square feet.

Retail Area:	That portion of the Terminal leased to Landlord under the Prime Lease as such area may be reduced or enlarged from time to time by Landlord in its sole discretion.
Permitted Use:	For the Lounge, only as a first-class airport lounge including food and alcoholic and non-alcoholic beverage service (which food and beverage service shall be without charge), card member services, travel services, concierge services and spa services and for no other purpose. For Location CSBS7, storage of Tenant's equipment, inventory and supplies used in connection with the operation of the Lounge and for no other purpose. Tenant shall be permitted to install and maintain one or more refrigeration units in Location CSBS7, provided that Tenant shall be responsible for ensuring that such units will comply with applicable code requirements.
Operating Hours:	6 a.m. to 8 p.m., subject to change as provided in Section 4.1.
Term:	Sixty (60) calendar months (plus the initial partial calendar month, if any, following the Commencement Date) beginning on the Commencement Date established pursuant to Section 3.1.
Commencement Date:	As determined in Section 3.1.
Time Estimated for Completion of Tenant's Work:	One Hundred Eighty (180) days
Fixed Minimum Rent:	
	Ex. 2.a.
Percentage Rental Rate:	
Percentage Rent Breakpoint:	
Security Deposit:	$22,916.67, either in cash or in the form of a Letter of Credit (in accordance with Section 5.8)
Initial Promotional Contribution:	None.
Annual Promotional Contribution:	

Tenant's Required Insurance Coverage:

A. Commercial General Liability Insurance (written on an occurrence coverage form) with:

(i) Minimum Limits of Liability:

General Aggregate *$10,000,000*

Each Occurrence $5,000,000

Products/Completed Ops $5,000,000

Personal Adv. Injury $1,000,000

Fire Damage $500,000

Medical Expense $5,000

(ii) Coverage Extensions:

Severability of Interest Clause

Contractual Liability including this Sublease and any amendments

Punitive Damages covered where permissible by law

B. Workers' Compensation as per applicable state law and Employers' Liability, with:

(i) Limits of Liability:

Bodily Injury by Accident - $100,000 each accident

Bodily Injury by Disease - $500,000 policy limit

Bodily Injury by Disease - $100,000 each employee

(ii) Coverage Extensions:

Longshore & Harborworkers' Compensation Act, if any basis

Maritime Coverage, if any basis

Voluntary Compensation Coverage

C. Property Coverage: All Risk Property coverage including flood and earthquake, with:

(i)	Valuation:	Replacement Cost with agreed amount endorsement
(ii)	EDP Coverage:	If Any
(iii)	Boiler & Machinery Coverage:	If Any

D. Automobile Liability with:

(i)	Limits of Liability:	$2,000,000 – Combined Single Limit for Bodily Injury and Property Damage

(ii)	Covered Vehicles	"Any Auto" including all owned, non-owned, leased and hired cars
Tenant's Additional Required Insurance:		Liquor Law Liability (on occurrence basis) with: limits of liability of $10,000,000 per occurrence.

Tenant shall deliver certificates of insurance evidencing such coverage, as well as evidence of payment of all premiums thereof, within thirty (30) days of the execution of this Sublease. Each of Tenant's certificates of insurance shall contain:

(i) Confirmation that the following statement known as the "Port Authority Immunity Clause" is included on the commercial general liability and automobile liability policies:

"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."

(ii) the statement, "the general liability and automobile liability policies include cross-liability coverage for the additional insured,"

(iii) the Port Authority's agreement number (AGA-317) on each and every page of the certificate of insurance, including any supplementary pages,

(iv) the following as the Certificate Holder: MarketPlace LaGuardia Limited Partnership, LaGuardia Airport, Central Terminal Building, 3rd Floor West, Flushing, NY 11371, and

(v) confirmation that the following entities are included as additional insured parties on the general liability and automobile liability policies with respect to the indemnification provisions herein (this list may be changed from time to time by Landlord upon notice to Tenant):

a) MarketPlace Development, Inc.

b) MarketPlace Development, Limited Partnership

c) MarketPlace LaGuardia, Inc.

d) MarketPlace LaGuardia Limited Partnership

e) The Port Authority of New York and New Jersey

f) The City of New York and its officials and employees

g) The New York City Economic Development Corporation

h) NED Management Limited Partnership

Section 1.2 Additional Defined Terms.

As used herein, the following terms shall have the meanings specified below:

(a) "Airport" means LaGuardia Airport, New York City, New York.

(b) "Common Areas" means those areas and facilities in the Terminal which may be furnished by Landlord or the Port Authority for the common use of Landlord, tenants and other occupants of the Retail Area, and others entitled thereto, their officers, agents and employees, including, without limitation, all loading docks and areas, delivery passages, pedestrian corridors, food courts, ramps, stairways, escalators, elevators, comfort stations or rest rooms, management and other similar areas. Landlord reserves the right, in its sole discretion, to designate, change, reduce or enlarge such areas, facilities or improvements from time to time.

(c) "Consumer Price Index" or "C.P.I." means the "Consumer Price Index for all Urban Consumers – (CPI-U), All Items Unadjusted Index (1982-84 = 100) N.Y., N.Y. – Northern New Jersey, Long Island, NY – NJ-CT" published by the U.S. Department of Labor, Bureau of Labor Statistics. If publication of the Consumer Price Index is discontinued, Landlord shall select whatever index published by the United States Department of Labor at that time is most nearly comparable as a measure of changes in the cost of living in the metropolitan New York City area, or, if such index is not available, a comparable index or statistics on the purchasing power of the consumer dollar published by a responsible financial periodical shall be selected by Landlord in substitution therefor.

(d) "Default Rate" means an annual rate of interest equal to the lesser of the maximum rate of interest for which Tenant may lawfully contract in New York, or four (4) percentage points over the rate announced from time to time by Chase Manhattan Bank at its main office in New York City as its "prime rate."

(e) "Lease Year" shall have the following meaning: the first Lease Year shall mean the period from the Commencement Date through the end of the calendar year in which the Commencement Date occurs; thereafter Lease Year shall mean each succeeding calendar year (or any partial calendar year at the end of the Term).

(f) "Port Authority" means The Port Authority of New York and New Jersey, 225 Park Avenue South, New York, New York 10003, landlord under the Prime Lease, and its successors and assigns.

(g) "Premises Delivery Date" means that date on which Landlord delivers notice to Tenant that Landlord's Work in the Premises (as described on Schedule B attached hereto) is substantially complete, final plans for Tenant's Work have been approved by Landlord and the Port Authority and that the Premises are available to Tenant to commence Tenant's Work.

(h) "Prime Lease" means the lease dated September 19, 1994 between the Port Authority (as landlord) and Landlord (as tenant), covering certain premises in the Terminal, as such lease may be amended from time to time.

(i) "Retail Common Areas" means those portions of the Common Areas which are located near the Retail Area and which Landlord is obligated, under the Prime Lease, to maintain and repair.

(j) "Schedule A" means Schedules A (Location of Premises) attached hereto and made a part hereof. Nothing in Schedule A shall be treated as a representation or warranty that the Premises shall be precisely of the dimensions or shapes shown thereon, it being the intention of the parties only to show diagrammatically rather than precisely on Schedule A the layout of the Premises; similarly, the use designations, and the names of specific tenants, tenant mixes or airlines, if any, reflected on Schedule A are for convenience only and are not to be treated as a representation or warranty that the indicated portions of the Terminal will be put to, or remain available for, any such use. Tenant hereby acknowledges that, in entering into this Sublease, Tenant has not relied on any information shown or reflected on Schedule A except for the approximate location of the Premises.

(k) "Taxes" shall mean all real estate taxes, ad valorem taxes and assessments, general and special assessments, user fees (including, for example, without limitation, any fire user or similar fee), taxes on Landlord's gross receipts, or any other tax imposed upon or levied against Landlord on account of its leasehold interest in the Retail Area or against real estate or upon lessees or lessors of real estate as such (rather than persons generally) with respect to the Retail Area, together with the reasonable costs (including fees of attorneys, consultants, and appraisers) of any negotiation, contest, or appeal pursued by Landlord in an effort to reduce the same.

(l) "Terminal" means the building currently known as the Central Terminal Building at the Airport.

Section 1.3 Attachments.

The following documents attached hereto or delivered separately to Tenant, as well as all drawings and documents prepared pursuant thereto, are hereby made a part hereof:

Schedule A	-	**Plan Showing the Retail Area and Location of Premises**
Schedule B	-	**Construction**
Schedule C	-	**Certificate of Vote**
Schedule D	-	***Nondiscrimination Requirements***
Schedule E	-	**Contractor Bid Conditions**
Schedule F	-	**Rules and Regulations for the Retail Area**
Schedule G	-	**Port Authority Consent to Sublease**
Schedule H	-	**Intentionally Omitted**
Schedule I	-	**Intentionally Omitted**
Schedule J	-	***Form of Letter of Credit***

ARTICLE 2
PREMISES

Section 2.1 Demise.

(a) Landlord hereby subleases to Tenant, and Tenant hereby subleases from Landlord, the Premises for the Term and at the Rental hereinafter described. Landlord grants to Tenant and its agents, employees and (where such areas are open to the public) its customers, a non-exclusive license to use, in common with others entitled thereto during the Term, the Common Areas, subject to the exclusive control and management thereof at all times by Landlord and the Port Authority and subject to the right of Landlord to designate and change from time to time the portions so to be used, and subject, further, to the rights of Landlord set forth in Section 9.6.

Tenant agrees that Landlord shall have the right to place in the Premises (but in such manner as not unreasonably to interfere with Tenant's use of the Premises) utility lines, telecommunication lines, shafts, pipes and the like, for the use and benefit of Landlord and other tenants and occupants of the Terminal, and to replace and *maintain and repair such lines, shafts, pipes and the like, in, over and upon the Premises; Landlord shall endeavor,* to the extent commercially practicable, to place any such lines, shafts, pipes and the like above the finished ceiling, within columns or risers, or otherwise not visible within the usable area of the Premises. Such lines, shafts, pipes and the like, shall not be deemed part of the Premises under this Sublease. Tenant shall have no rights with respect to the land or improvements below the floor slab or above the interior surface of the ceiling of the Premises.

(b) This Sublease and Tenant's rights hereunder are and at all times shall remain subject and subordinate to the Prime Lease, as it may be amended, supplemented or extended from time to time. This Sublease shall not take effect without the prior written consent of the Port Authority, except Tenant agrees that if it takes possession of the Premises for any period prior to receipt of such consent it will perform all of its obligations hereunder as fully as if such Sublease was in effect during such period. Tenant hereby agrees to execute the Port Authority's consent to sublease, substantially in the form attached hereto as **Schedule G** and as the same may be revised from time to time by the Port Authority, and return the same to Landlord within ten (10) days after receipt of a request for execution of such consent by Tenant. Failure by Tenant to fully execute and deliver such consent in a timely manner shall be an Event of Default under this Sublease. Any amendment, supplement, extension or other modification of this Sublease shall be subject to and require the express written approval of the Port Authority thereto and, in the event such consent has not been obtained, such amendment, supplement, extension or other modification shall be, and be deemed to be, void and of no force or effect whatsoever. The Port Authority shall have the right (but not the obligation) to enforce the terms and conditions of this Sublease, directly, against Tenant to the same extent as if the Port Authority were Landlord hereunder. Tenant agrees not to take any action or permit any condition to exist within the Premises (or in any other area in the Terminal used or controlled by Tenant) which would cause Landlord to be in default of its obligations under the Prime Lease.

Except as set forth in Section 3.2, this Sublease shall terminate simultaneously with the termination for any reason whatsoever of the Prime Lease, unless the Port Authority shall notify Tenant and Landlord at or prior to such

effective date of termination of the Prime Lease that the Port Authority shall and does assume the rights and obligations of Landlord hereunder from the date of such notice. In the event the Port Authority gives such notice to Tenant and Landlord, the rights, obligations and liabilities of Landlord under this Sublease from the date of such notice (except with respect to (i) any prior acts or defaults of Landlord under this Sublease, which shall not be the subject of any claim of whatever kind by Tenant against the Port Authority or entitle Tenant to an offset against or deduction from any amounts then or thereafter owed by it under this Sublease or to be relieved of any of its obligations under this Sublease and Tenant shall have recourse solely against Landlord with respect thereto, (ii) the application or return of any Security Deposit not actually received in hand by the Port Authority or (iii) any prepayment of Rental by Tenant) shall be deemed to have been assigned to and assumed by the Port Authority and Tenant shall be deemed to have fully attorned to the Port Authority on the foregoing basis for the balance of the term of the subletting and to have agreed that the Port Authority may further assign its rights and interest under this Sublease to any third party of the Port Authority's choice and as of the effective date of such assignment to such third party the Port Authority shall no longer have any obligation or liability under this Sublease.

In the event that the Port Authority notifies Landlord that it has revoked its consent to this Sublease or elected to terminate this Sublease without cause, Landlord may terminate this Sublease without cause upon thirty (30) days' written notice to Tenant. Termination of this Sublease shall not relieve Tenant of any liabilities or obligations under this Sublease which shall have accrued on or prior to, or which shall take effect on, the effective date of termination. Termination of this Sublease shall have the same effect as though such date were the scheduled expiration of the Term specified in Section 1.1 and shall create no obligation on the part of the Landlord or the Port Authority.

In the event that under the provisions of Section 1(e) of the Prime Lease, the Port Authority terminates the Prime Lease with respect to a portion of the Retail Area, and such portion includes any portion of the Premises, and as a consequence thereof the Port Authority revokes its consent to this Sublease (or as to a portion of the Premises) then Landlord agrees to pay to Tenant an amount equal to the Tenant's unamortized capital investment in the Premises (prorated on a square foot basis if less than all of the Premises are involved). The Subtenant's unamortized capital investment shall be calculated as provided in Section 45(h) of the Prime Lease, with (i) amortization being calculated on a straight-line basis over the initial term of this Sublease and (ii) expenses for engineering, architectural, professional and consulting services and the supervision of construction being limited to thirty percent (30%) of the costs of work actually performed and labor and materials actually furnished in connection with the construction of the Premises. Such payment will be made after submission to and approval by the Port Authority of necessary evidence of such expenditures as provided in the Prime Lease and will be made either directly by the Port Authority or by Landlord promptly upon receipt from the Port Authority.

ARTICLE 3
TERM

Section 3.1 Commencement Date.

If Section 1.1 specifies a fixed Commencement Date, the Term shall commence on and the Commencement Date shall be the fixed Commencement Date; otherwise, the Commencement Date shall be the earlier to occur of the following:

(a) The day on which Tenant opens for business to the public in the Premises with the permission of Landlord, or

(b) The day which is the number of days specified in Section 1.1 as Time Estimated for Completion of Tenant's Work after the Premises Delivery Date.

Landlord and Tenant agree, upon demand of the other, to execute a declaration setting forth the Commencement Date.

Section 3.2 Termination.

(a) This Sublease shall terminate on the scheduled expiration of the Term specified in Section 1.1 without the necessity of, and Tenant hereby waives all rights to, any notice to terminate, vacate or quit the Premises. Notwithstanding the foregoing, Landlord will endeavor to provide at least six (6) months notice prior to the expiration of the Term, provided that failure to do so shall not result in any liability to Landlord, extension of the Term or other amendment to the terms of this Sublease.

(b) Tenant 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 or Landlord obtains possession of the Premises in any lawful manner.

(c) Tenant covenants and agrees to surrender possession of the Premises upon termination of this Sublease (whether by termination, expiration or otherwise) in as good condition as at the commencement of the Term hereunder (or in the case of improvements or alterations made or fixtures installed subsequent thereto, then as of the date such improvements, alterations or fixtures were made or installed) except for reasonable wear and tear (but not the result of any delay or failure to maintain and repair hereunder) which does not adversely affect the efficient or proper utilization thereof and damage by fire or other casualty or taking excepted (except to the extent of Tenant's obligations in Article 12).

If upon such termination Tenant shall fail to remove any personal property or trade fixtures (which Tenant is allowed under the terms hereto to remove) affixed to the Premises in any way, whether permanent or temporary (removable, however, without any damage to the Premises) on or before the date of termination, Landlord may remove such property to a public warehouse for deposit or retain the property in its own possession, and sell the property at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, second to any sums owed by Tenant to Landlord, with any balance remaining to be paid to Tenant, or may dispose of such property as waste; if the expenses of such removal, storage and sale shall exceed the proceeds of sale, Tenant shall pay such excess to Landlord upon demand. Tenant hereby agrees to reimburse Landlord for the cost of the removal or disposal of any improvements to the Premises that incorporate, reflect or display Tenant's trade name, trademark, trade dress, copyright or service mark, after the expiration or termination of the Term.

Notwithstanding anything to the contrary contained herein, Tenant acknowledges and agrees that, in the event of the expiration of the Prime Lease prior to the end of the Term of this Sublease, this Sublease shall continue in full force and effect as a direct lease with the Port Authority as Landlord hereunder.

Section 3.3 Holding Over.

Any holding over by Tenant after the expiration of the Term with the written consent of Landlord shall be on a month-to-month basis, terminable by either party on thirty (30) days' notice, and shall be at the same Rental specified herein (prorated on a monthly basis) and shall otherwise be on the terms and conditions set forth herein, so far as applicable. Any holding over without the written consent of Landlord shall be treated as a tenancy at sufferance and shall be on the terms and conditions set forth herein, so far as applicable, except that (i) the Fixed Minimum Rent payable hereunder for each month during the holdover period shall be equal to twice the monthly installment of Fixed Minimum Rent payable during the last full month of the Term, (ii) the installments of Percentage Rental payable hereunder for each such month shall be equal to one-sixth (1/6th) of the average Percentage Rental payable hereunder for the last three (3) Lease Years of the Term, or if the Term is less than three (3) Lease Years, then such installments shall be equal to one-ninth (1/9th) of the Percentage Rental payable hereunder for the last complete Lease Year preceding expiration of the Term, and (iii) all Additional Rental payable hereunder shall be payable at twice the rates in effect for the last month of the Term. All payments of Fixed Minimum Rent, Percentage Rental, and Additional Rental shall be prorated on a daily basis for the period of any such holdover.

ARTICLE 4
USE

Section 4.1 Prompt Occupancy and Use; Operating Hours.

The Premises shall be used for the Permitted Use only and for no other purpose whatsoever. Tenant shall, at its expense, procure any and all governmental licenses and permits, including, without limitation, any approvals of the Port Authority required for the conduct of Tenant's business on the Premises and shall, at all times, comply with the requirements of each such license and permit. In no event shall Tenant install, maintain, operate or permit any vending machine or device designed to dispense or sell food, beverages, tobacco, tobacco products or merchandise of any kind or any equipment or device for the furnishing to the public of service of any kind.

The Premises shall be occupied as of the Commencement Date and shall thereafter be continuously and uninterruptedly occupied during the Operating Hours on each and every calendar day during the Term (specifically including Sundays and legal holidays) for the Permitted Use except during periods of alterations or renovations to the Premises approved by Landlord in accordance with the provisions of this Sublease governing Tenant improvements, construction and alterations, or other temporary closures to accommodate Tenant's legitimate business needs (such as conducting inventory), of which Landlord shall receive at least ten days prior notice, provided, however, that such temporary closures shall be limited to a maximum of two days per 12-month period if for inventory purposes and, for alterations, to the shortest period of time reasonably practicable in Landlord's reasonable judgment. Landlord may change the Operating Hours from time to time by notice to Tenant, which in all events shall be consistent with the requirements of the Prime Lease. Tenant's operating hours are subject to Port Authority's operating rules for the Terminal and applicable federal, state and local laws.

Tenant acknowledges that: (i) certain tenants of the Retail Area may from time to time not be required to be open for business during Operating Hours; (ii) Tenant's continuous use and occupancy obligations under this Section 4.1 are a material inducement for Landlord to enter into this Sublease and but for such continuous use and occupancy agreement, Landlord would not have entered into this Sublease; (iii) Tenant's required operation of the Permitted Use in the Premises is necessary for Landlord to maintain a proper mix of products, services and specific merchandise in the Retail Area and is integral to the proper and successful operation of the Retail Area and the Terminal; and (iv) in entering into this Sublease, Tenant has not relied upon, nor has Landlord made any express or implied warranties to Tenant with respect to, the leasing of other space within the Retail Area or the Port Authority's operations within the Terminal, and that Tenant's obligations hereunder are in no way conditioned or dependent upon the leasing of other space in the Retail Area or the Port Authority's operations within the Terminal.

Section 4.2 Tenant's Trade Name.

Tenant will conduct its business in the Premises under the name set out in Section 1.1 as Tenant's Trade Name or a revised trade name approved in advance by Landlord in writing and under no other trade name. Notwithstanding the foregoing, Tenant may conduct its business under a different trade name provided (i) Tenant has given Landlord thirty (30) days notice of Tenant's desire to change its Trade Name at the Premises; (ii) the new name is used by a majority of Tenant's other similar stores; (iii) the new name is dignified, tasteful and in keeping with the Landlord's high quality retail operations at the Terminal; and (iv) the new name will not, in Landlord's reasonable discretion, result in any confusion or conflict with any other tenant in the Retail Area.

ARTICLE 5
RENTAL

Section 5.1 Rentals Payable.

Tenant agrees to pay to Landlord as rental ("Rental") for the Premises, the following:

(a) the Fixed Minimum Rent; plus

(b) the Percentage Rental; plus

(c) Tenant's Proportionate Share of Operating Costs; plus

(d) all additional sums, charges or amounts of whatever nature to be paid by Tenant to Landlord under this Sublease.

All sums referred to in the preceding clauses (c) and (d) and all charges for electricity and other utilities utilized by Tenant at the Premises which charges are payable by Tenant directly to the Port Authority or other provider, are referred to in this Sublease as "Additional Rental."

Section 5.2 Fixed Minimum Rent.

Fixed Minimum Rent shall be payable in equal monthly installments of one-twelfth ($1/12^{th}$) of such annual sum, in advance, on the first day of each full calendar month during the Term. On the Commencement Date, Tenant shall also pay any prorated Fixed Minimum Rent for the period from the Commencement Date to the first day of the first full calendar month in the Term. In the event that any Lease Year is less than a period of twelve calendar months, the Fixed Minimum Rent shall be appropriately prorated.

Section 5.3 Percentage Rental.

During the Term, Tenant shall pay Percentage Rental in accordance with the terms of this Section 5.3. Percentage Rental shall be due and payable on a monthly basis on or before the tenth (10th) day following the end of each calendar month during the Term. Each monthly payment of Percentage Rental shall be equal to (a) the Percentage Rental Rate multiplied by the amount by which the Tenant's year-to-date Gross Sales during such Lease Year exceed the Percentage Rent Breakpoint less (b) the sum of the Percentage Rental payments made previously by Tenant with respect to such Lease Year.

As soon as practicable after the end of each Lease Year (but in no event later than 45 days after the end of such Lease Year), the Percentage Rental paid or payable with respect thereto shall be adjusted between Landlord and Tenant. Tenant shall pay any underpayment to Landlord simultaneously with the delivery of the annual statement of Gross Sales required by Section 5.5. Provided that Tenant is not then in default under any of the terms or covenants of this Sublease, any overpayment shall be credited against Rental subsequently due (or, if such adjustment is to be made after the expiration of the Term, any overpayment shall be paid to Tenant).

For the purposes of calculating Percentage Rental: (i) each Lease Year during the Term shall be considered an independent accounting period and the amount of Gross Sales in any Lease Year shall not be carried over into any other Lease Year; and (ii) in the event any Lease Year is less than a period of twelve calendar months (for example, in the first and last Lease Years during the Term) the Percentage Rent Breakpoint(s) shall be reduced by multiplying the breakpoint by a fraction, the numerator of which is the number of days in such Lease Year and the denominator of which is 365.

Section 5.4 "Gross Sales" Defined.

"Gross Sales" means the actual sales prices of all goods, wares and merchandise sold, leased, licensed or delivered and the actual charges for all services performed by Tenant, in, at, from, or arising out of the use of the Premises, whether for wholesale, retail, cash, credit, or otherwise, without reserve or deduction for inability or failure to collect. Gross Sales shall include, without limitation, sales and services (i) where the orders therefore originate in, at, from or arising out of the use of the Premises; (ii) made or performed from the Premises in response to mail, telephone or internet orders, (iii) made or performed by means of mechanical or other vending devices in the Premises; and (iv) that Tenant, in the normal and customary course of its business, would credit or attribute to its operations at the Premises or any part thereof. Gross Sales shall also include any so-called "retail display allowances" or other promotional or advertising income received by or credited to Tenant on account of displays, promotions, advertising or other activities at the Premises, any sponsorship-related income and any income from day passes or other fees charged for access to the Premises. Any deposit not refunded shall be included in Gross Sales. All proceeds from Tenant's business interruption insurance policies relating to Tenant's operations in the Premises

shall be included Gross Sales. Each installment or credit sale shall be treated as a sale for the full price in the month during which such sale is made, regardless of the time when Tenant receives payment therefor.

Notwithstanding anything to the contrary contained or implied herein, it is expressly agreed that Tenant is using the Premises as an airport lounge and that only those goods, wares and merchandise sold and services to be performed by Tenant in the operation of an airport lounge shall be included within Gross Sales. Gross Sales shall not include (x) purchases made by mail, telephone or internet from the Premises from a retailer or service provider other than Tenant, (y) Purchases made in person, by mail, telephone or internet for any goods, wares, merchandise or services offered by Tenant, or any of its parents, subsidiaries, affiliates or business partners, that are not directly related to use and enjoyment by passengers of the airport lounge (including, without limitation, travel or related services or products, such as airline or hotel bookings, financial or banking services, or insurance services) or (z) any purchases made by mail, telephone or internet from the Premises using any Card issued by Tenant, or any of its parents, subsidiaries, affiliates or business partners, that are not directly related to use and enjoyment by passengers of the airport lounge. As used herein, "Card" shall mean or include charge, credit, debit, smart and stored value payment devices, including, but not limited to, a smart chip or electronic payment device, service or system, stored value instruments, virtual cards and wireless payment instructions. Thus, by way of example only, if a passenger uses internet or telephone service made available in Tenant's lounge to book a hotel at such passenger's destination, whether through American Express or otherwise, any such transaction shall not be included in Gross Sales. If the passenger uses his or her American Express Card to complete this same transaction, any transaction fees or interest or other charges assessed by American Express in connection with the transaction shall not be included in Gross Sales.

The following shall be deducted from Gross Sales for purposes of determining Percentage Rent (and each such deduction shall be shown on the Gross Sales statements delivered to Landlord pursuant to Section 5.5 hereof): any exchange of merchandise between stores of Tenant where such exchange is made solely for the convenient operation of Tenant's business and not for the purpose of consummating a sale made in, at or from the Premises, or for the purpose of depriving Landlord of the benefit of a sale which would otherwise be made in or at the Premises, returns to shippers or manufacturers, cash or credit refunds to customers on transactions (not to exceed the actual selling price of the item returned) otherwise included in Gross Sales, sales of trade fixtures, machinery and equipment after use thereof in the conduct of Tenant's business, and amounts collected and paid by Tenant to any government for any sales with respect to sales or services included in Gross Sales.

Section 5.5 Statements of Gross Sales.

Tenant shall deliver to Laudlord: on or before the **tenth (10th)** day following each calendar month during the Term (including the **tenth (10th)** day of the month following the expiration or sooner termination of the Term) a written statement (on the form required by Landlord detailing Gross Sales for each day during the applicable period) certified by the chief financial officer of Tenant showing the amount of Gross Sales for such calendar month and for the year to date, as determined in accordance with the provisions of this Sublease and with generally accepted accounting principles (including in its first report the amount of Gross Sales for the fractional calendar month, if any, at the commencement of the Term).

In addition, Tenant shall deliver to Landlord (i) within ten (10) days after the close of each calendar year and after the expiration or sooner termination of the Term, a statement of Gross Sales, as determined in accordance with generally accepted accounting principles, for the preceding calendar year, such annual statement to be certified by an independent certified public accountant or by the chief financial officer of Tenant, (ii) as and when such statement is furnished to the taxing authority, copies of any sales tax, franchise tax, income tax or other statement furnished to any federal, state or local taxing authority showing the amount of Tenant's sales from the Premises, whether or not such statement is required to list all income which is included within Gross Sales and (iii) not later than sixty (60) days after the expiration or earlier termination of this Sublease, a statement certified by an independent certified public accountant of all Gross Sales arising out of Tenant's operations at the Premises during the Term. If Tenant operates at more than one location within the Terminal, all statements of Gross Sales will be broken down by location. If Tenant shall fail to deliver such certified annual statement to Landlord within said period, Landlord shall have the right thereafter to employ an independent certified public accountant to examine such books and records, including, without limitation, all records required by Section 5.6, as may be necessary to

certify the amount of Tenant's Gross Sales for such calendar year, and Tenant shall pay to Landlord the cost of such audit, as Additional Rental, upon demand.

Section 5.6 Tenant's Records.

Tenant agrees that the business upon the Premises shall be operated so that a duplicate sales slip, invoice or non-resettable cash register receipt, serially numbered, or such other device for recording sales as Landlord approves, shall be issued with each sale or transaction, whether for cash, credit or exchange. During business hours, Landlord, the Port Authority and their employees and representatives shall have the right to inspect the operation of all equipment used by Tenant, including, but not limited to, cash registers.

Tenant will keep, in accordance with generally accepted accounting principles, and preserve during the Term hereof and thereafter until otherwise notified by the Port Authority, original or duplicate books and records which shall disclose all information required to determine and verify Gross Sales ("Tenant's Records"). Tenant's Records shall be kept in a single location (at all times within the Port of New York District), either on the Premises or at Tenant's Address specified in Section 1.1. For purposes of this Sublease, Tenant's Records shall mean the gross income, franchise, sales and occupation tax returns with respect to each calendar year and all pertinent original sales records; pertinent original sales records shall include, without limitation: (i) cash register tapes, including tapes from temporary registers; (ii) serially numbered sales slips; (iii) the originals of all mail orders at and to the Premises; (iv) the original records of all telephone orders at and to the Premises; (v) the original records showing that merchandise returned by customers was purchased at the Premises by such customers; (vi) memorandum receipts or other records of merchandise taken out on approval; (vii) such other sales records, if any, which would normally be examined by an independent accountant pursuant to accepted auditing standards in performing an audit of Tenant's sales; and (viii) the records specified in (i) to (viii) above of any permitted concessionaires or licensees of Tenant. Landlord, the Port Authority, their agents and accountants, shall have the right to make any examination or audit of Tenant's Records (including the records of any company which is owned or controlled by Tenant, as well as the records of any company which owns or controls Tenant selling goods or performing services similar to those sold or performed by Tenant in the Port of New York District) which Landlord or the Port Authority may desire at any time during business hours during the Term of this Sublease and thereafter until otherwise notified by the Port Authority. Tenant will make such records available to Landlord within forty-eight (48) hours of Landlord's request, or immediately upon the Port Authority's request. If such audit shall disclose a liability in any calendar year for Percentage Rental in excess of the Percentage Rental previously paid for such calendar year, Tenant shall promptly pay such liability, together with interest thereon at the Default Rate from the time such payment should have been made. Should any such liability for Percentage Rental equal or exceed three percent (3%) of the Percentage Rental previously paid for such calendar year, Tenant shall, in addition, promptly pay the cost of audit.

Landlord agrees that all information gained from Tenant's Records, financial statements, inspections or audits furnished to or conducted by or on behalf of Landlord shall be confidential and shall not be disclosed other than to carry out the purposes hereof, provided, however, that Landlord shall be permitted to divulge such information to the Port Authority, lender or prospective lender, any prospective purchaser of the Retail Area or Landlord's rights therein or investor in Landlord or in connection with any administrative or judicial proceeding in which Landlord is involved and where Landlord is required to divulge such information.

Section 5.7 Payment of Rental.

Tenant shall pay all Rental when due and payable, without any setoff, deduction or prior demand therefor whatsoever. If any payment of Rental is not made within ten (10) days after the due date, there shall be added thereto, as Additional Rental to compensate Landlord for the inconvenience, administrative burden and expense created thereby, an amount equal to of the amount due, making the total Rental due including the Additional Rental, one hundred of the Rental that would otherwise be due, which will continue thereafter as the Rental due so long as said Rental, including the Additional Rental, remains unpaid, due and payable; if any Rental is not paid within thirty (30) days after the due date, Tenant shall, in addition to the foregoing late charge, pay interest at the Default Rate on all Rental (but not late charges) from the due date until paid. Such late charge and interest on overdue Rental shall be in addition to, and not in limitation of, Landlord's other rights and remedies in the event of such late payment. In the event that the interest and late charges which would be required to be paid by Tenant under this Section exceed the maximum interest and late charges which may be

permitted by the laws of the state of New York, the interest obligation of Tenant shall be that amount which, when added to the applicable late charges, equals such maximum permitted amount.

Any Additional Rental due shall be payable, unless otherwise provided herein, with the next monthly installment of Fixed Minimum Rent. Rental and statements required of Tenant shall be paid and delivered to Landlord at Landlord's Address or at such other place as Landlord may, from time to time, designate by notice to Tenant. No payment by Tenant or acceptance by Landlord of a lesser amount than shall be due from Tenant to Landlord shall be treated as other than a payment on account, nor shall any endorsement or statement on a check for a lesser amount, or upon any letter accompanying such check, that such lesser amount is payment in full, be deemed an accord and satisfaction or given any effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant.

Tenant agrees to make all Rental payments to the "Address for Payment of Rental" set out in Section 1.1, or to such other address as may be specified by Landlord by written notice. (Tenant hereby acknowledges that in the event that the payment of Rental or any other sums payable under this Sublease is to be made directly to the Port Authority, such payment and acceptance by the Port Authority of such amounts shall not constitute an assumption by the Port Authority of any or all of the obligations of Landlord under this Sublease.)

Section 5.8 Security Deposit.

Tenant agrees to submit to Landlord upon execution and delivery of this Sublease the amount specified as the Security Deposit in Section 1.1, either as cash or in the form of a letter of credit. The Security Deposit shall be held by Landlord as security for the performance by Tenant of all obligations imposed on Tenant under this Sublease.

If Tenant delivers the Security Deposit as a letter of credit, Tenant shall maintain in effect at all times during the Term (and through the period that is thirty (30) days following the Expiration Date), a clean, unconditional and irrevocable letter of credit (in the form attached hereto as Schedule J) in the amount specified as the Security Deposit in Section 1.1 (the "Letter of Credit"). The Letter of Credit shall be drawn on a bank approved in writing by Landlord and located in the New York/New Jersey metropolitan area (the "Bank"). The Letter of Credit shall be addressed to Landlord, shall permit partial draws, and shall be payable upon simple demand by Landlord accompanied by a sworn statement of an authorized officer or agent of Landlord stating that the drawing represents amounts due to Landlord from Tenant under this Sublease. The Letter of Credit provider must have and maintain a long term credit rating of "A" or better by either Moody's or Standard & Poors.

The Letter of Credit shall be issued for a term of not less than twelve (12) months, provided the Letter of Credit shall be automatically extended without amendment for an additional twelve (12) months from the initial and each future expiration date (except the Letter of Credit issued during the final year of the Term shall not expire until thirty (30) days after the end of the Term of the Sublease), unless not less than sixty (60) days prior to the then-relevant expiration date, the issuer notifies the Landlord in writing that the issuer has elected not to renew the Letter of Credit. Following notification from the issuer not to renew, Landlord shall be entitled to draw on the Letter of Credit unless Tenant shall furnish to the Landlord a replacement Letter of Credit not later than thirty (30) days prior to the expiration of the then-current Letter of Credit. It shall be considered an immediate Event of Default under this Sublease if Tenant fails to replace the Letter of Credit upon its expiration for any reason (including without limitation, non-renewal by issuer or the expiration owing to the end of the term of the then-current Letter of Credit) at least thirty (30) days prior to the expiration of the then current Letter of Credit with a replacement letter of credit that meets the requirements of this Section 5.8 and is acceptable to Landlord or, with a cash security deposit in lieu of a replacement letter of credit.

Failure to provide a substitute Letter of Credit (or a cash security deposit) within the time required shall be an Event of Default entitling Landlord to draw on the Letter of Credit and to convert the Letter of Credit into a cash Security Deposit to be held in accordance with the provisions of this Section.

It is agreed that in the event Tenant defaults in respect of any of the terms, covenants or provisions of this Sublease, including, but not limited to, the payment of any Rent, and such default continues beyond the applicable grace or cure period, if any, or if any Letter of Credit is terminated by the Bank and is not replaced at least thirty

(30) days prior to its expiration, that (A) Landlord shall have the right to require the Bank to make payment to Landlord of so much of the entire proceeds of the letter of credit as shall be reasonably necessary to cure the default (or the entire proceeds if notice of termination is given as aforesaid and the letter of credit is not replaced as aforesaid), and (B) Landlord may apply said sum so paid to it by the Bank to the extent required for the payment of any Rental or any other sum as to which Tenant is in default beyond applicable grace and cure periods or for any sum which Landlord may expend or may be required to expend by reason of Tenant's default beyond applicable grace and cure periods in respect of any of the terms, covenants and conditions of this Sublease, including, but not limited to, any damages or deficiency in the reletting of the Premises, whether such damages or deficiency accrue before or after summary proceedings or other re-entry by Landlord, without thereby waiving any other rights or remedies of Landlord with respect to such default. If Landlord applies any part of the proceeds of a Letter of Credit, Tenant, upon demand, shall deposit with Landlord promptly the amount so applied or retained (or increase the amount of the Letter of Credit) so that the Landlord shall have the full deposit on hand at all times during the Term. If, subsequent to a Letter of Credit being drawn upon, a new Letter of Credit meeting all the requirements set forth in this Section 5.8 is delivered to Landlord, any proceeds of the former Letter of Credit then held by Landlord shall be promptly returned to Tenant. If a Letter of Credit is drawn upon, any proceeds received by Landlord which are not applied to the curing of the default shall be held by Landlord subject to the provisions hereof.

If Tenant shall faithfully perform all such obligations, then the Security Deposit shall be returned to Tenant upon expiration of the Term and surrender of the Premises. Otherwise, Landlord shall be entitled to apply the Security Deposit, pro tanto, against any damages (including estimated damages) that it may sustain by reason of Tenant's failure to perform such obligations, but such application shall not preclude Landlord from recovering greater damages if the same can be established. If Landlord applies any of the Security Deposit as aforesaid and the Security Deposit is held in cash, Tenant shall, upon demand, pay to Landlord the amount so applied to be added to the Security Deposit in order that the Security Deposit shall at all times be equal to the amount specified in Section 1.1. Landlord shall, unless otherwise required by law, have no obligation to pay interest on the Security Deposit and shall have the right to commingle the same with Landlord's other funds. If Landlord conveys Landlord's interest under this Sublease, the Security Deposit, or any part thereof not previously applied, may be turned over by Landlord to Landlord's grantee, and, if so turned over, Tenant agrees to look solely to such grantee for the proper application and return thereof in accordance with the terms of this Section 5.8. Tenant agrees that Tenant will not assign, encumber or pledge, attempt to assign, encumber or pledge the moneys deposited herein as security, and that neither Landlord, nor its successors and assigns, shall be bound by any such assignment, encumbrance or pledge, attempted assignment, attempted pledge, or attempted encumbrance.

The Port Authority shall not be responsible to Tenant for the return or application of any such Security Deposit, whether or not it succeeds to the position of Landlord hereunder, unless such Security Deposit shall have been received in hand by the Port Authority.

ARTICLE 6
OPERATING COSTS; PROMOTIONAL COSTS

Section 6.1 Tenant to Pay Proportionate Share of Operating Costs.

In each calendar year Tenant will pay Landlord, as Additional Rental, Tenant's Proportionate Share of Landlord's Operating Costs (as defined in Section 6.2). The provisions of this Section 6.1 shall apply to any partial calendar year, but Tenant's Proportionate Share of Operating Costs for such partial calendar year shall be subject to a pro-rata adjustment based on the number of days in such partial calendar year. Such proportionate share shall be paid by Tenant in monthly installments in such amounts as are estimated by Landlord for each calendar year, each such installment being due on the first day of each calendar month. From time to time during any calendar year, Landlord, in exercise of its good faith judgment, may revise its estimate of the Operating Costs for such calendar year and provide Tenant with a statement explaining in reasonable detail the basis for such revised estimate. Thereafter the monthly installments on account of Tenant's Proportionate Share of Operating Costs shall be appropriately adjusted in accordance with the revised estimate so that by the end of such calendar year, the total payments of Tenant's Proportionate Share of Operating Costs shall equal Tenant's Proportionate Share of the amount of such revised estimate. Within one hundred twenty (120) days after the end of each calendar year, Landlord shall deliver to Tenant a statement of Operating Costs for such year and Tenant's Proportionate Share thereof paid or payable with respect thereto shall be adjusted between Landlord and Tenant. Tenant shall pay

Landlord, or, provided that Tenant is not then in default under any of the terms or covenants of this Sublease (and subject to Landlord's right to offset against amounts owing from Tenant), Landlord shall credit Tenant's account or (if such adjustment is at the end of the Term) pay Tenant, as the case may be, within thirty (30) days of receipt of such statement, such amounts as may be necessary to effect such adjustment. Failure of Landlord to provide the statement called for hereunder within the time prescribed shall not relieve Tenant of any of its obligations hereunder.

Section 6.2 "Landlord's Operating Costs" Defined.

The term "Landlord's Operating Costs" means the costs and expenses incurred by Landlord in operating and maintaining the Retail Area and Retail Common Areas in a manner which Landlord deems reasonable and appropriate and in the best interests of the Retail Area. Landlord's Operating Costs shall include, without limitation, all costs and expenses of operating, maintaining, repairing, lighting, signing, cleaning, and painting the Retail Area and Retail Common Areas; maintenance of sprinkler, electrical, plumbing and mechanical systems serving the Retail Area and Retail Common Areas, removal of trash and debris from the Retail Common Areas, costs and expenses of inspecting and depreciation of machinery and equipment used in the operation and maintenance of the Retail Area and Retail Common Areas and personal property taxes and other charges incurred in connection with such equipment; the cost of maintaining signage and other materials aimed at directing passengers to any portion of the Retail Area or to other areas in the Terminal or informing passengers in the Retail Area of flight times or similar information; costs and expenses incurred in the rental of music program services and loudspeaker systems, including furnishing electricity therefor; costs of providing energy to light, heat, ventilate and air-condition the Retail Common Areas; cost of water; services, janitorial services (including costs of materials and equipment) if any, furnished by Landlord for non-exclusive use of all tenants; costs of providing any receiving and delivery services for the use of tenants (if provided); costs and expenses of personnel providing services in connection with the operation, maintenance, repairing, cleaning and protection of the Retail Area and the Retail Common Areas (including amounts incurred for wages, salaries and other compensation for services, payroll, social security, unemployment and similar taxes, workmen's compensation insurance, disability benefits, pensions, hospitalization, retirement plans and group insurance, uniforms and working clothes and the cleaning thereof, tools and equipment used by such personnel, and expenses imposed on Landlord or its agents pursuant to any collective bargaining agreement); any Taxes imposed on Landlord with respect to the Retail Area and the Retail Common Area; and Landlord's insurance costs, which shall include all premiums paid by Landlord for all insurance obtained by Landlord with respect to the Retail Area and Retail Common Areas, including, without limitation, the fire and extended coverage insurance carried by Landlord pursuant to Section 11.5, liability insurance for personal injury, death and property damage, insurance against theft or other casualties, fidelity bonds for personnel, insurance against liability for defamation and claims of false arrest occurring on and about the Retail Area and Retail Common Areas, and plate glass insurance for any glass in the Retail Area or Retail Common Areas for which Landlord (and not an individual subtenant is responsible; and any insurance (such as rent insurance) required by the Port Authority to be maintained by Landlord. Any such costs and expenses incurred which are capital expenditures (as determined in accordance with generally accepted accounting principles) shall be amortized over the depreciable life of the applicable capital item and only the allocable portion of such expenditure shall be included in the calculation of Operating Costs. Such costs and expenses shall not include (i) any costs and expenses, the responsibility for payment of which lies with any other tenant under any sublease of space within the Retail Area; (ii) depreciation (other than depreciation as above specified; (iii) the items described in Section 6.3 or Section 6.4 herein; (iv) any management fee to Landlord; (v) interest on indebtedness relating to any financing for the Retail Area; (vi) costs Landlord, its agents, servants or employees; (vii) reserves for anticipated future expenses; (viii) legal and other fees, leasing commissions and other costs incurred in connection with the original leasing or releasing of the Retail Area; (ix) outside legal fees paid in connection with disputes with other tenants; (x) costs paid to affiliates of the Landlord to the extent they exceed arms-length competitive rates; (xi) any bad debt loss, rent loss or reserves for bad debts or rent loss: (xii) costs of improvements within the premises of any other tenant exclusively serving such tenant; or (xiii) costs and expenses associated with the operation of the business of the entity which constitutes the Landlord (as distinguished from the costs of operation of the Retail Area) (xiv) costs of investigating and removing, or otherwise responding to. the existence of. or actual or threatened release of. any hazardous or toxic substances or materials, including asbestos; (xv) transfer or recordation taxes or any other costs or charges incurred in connection with the transfer of any interest in the Retail Area; (xvi) costs incurred due to violations by the Landlord of any of the terms and conditions of any other lease or agreement affecting the Retail Area or any governmental laws, orders, rules or regulations with which, under the terms of this Lease or the Prime Lease, the Landlord is required to comply. Excluded items under item (xiii) shall specifically include costs of the formation of the entity, internal accounting and legal matters or

costs of financing, mortgaging or selling Landlord's interest in the Retail Area. Notwithstanding anything to the contrary contained herein, to the extent that the cost of items or services are included in Landlord's Operating Costs, such costs shall not be duplicated and charged to Tenant under other provisions of this Sublease.

Section 6.3 Commercial Rent Tax.

Tenant agrees to be responsible for and to make payment of any commercial rent tax, occupancy tax, or other similar tax resulting from the use or occupancy of commercial real estate (referred to herein as "Commercial Rent Tax") directly to the taxing authority.

In the event that and to the extent that Landlord incurs any Commercial Rent Tax on account of Tenant's use and occupancy of the Premises, Tenant agrees to be responsible for and to reimburse Landlord the full amount of such tax.

Section 6.4 Tenant Participation in Promotional Activities.

Tenant agrees to participate fully with the marketing, advertising and promotional programs for the Retail Area sponsored by Landlord. Tenant shall pay, as Additional Rental, (i) the Initial Promotional Contribution, such amount to be payable within thirty (30) days after Landlord bills Tenant for same, whether such billing occurs prior to or after Tenant's initial opening for business in the Retail Area; and (ii) for each year during the term hereof, the Annual Promotional Contribution (or a pro rata portion thereof for any partial year) such amount to be paid in equal monthly installments on the first day of each calendar month, subject to annual C.P.I. increases provided below. Landlord will use the Annual Promotional Contribution and the Initial Promotional Contribution solely for marketing and advertising the Retail Area and providing services to patrons of the Retail Area which are intended to enhance such patrons' impressions of the Retail Area or make using the Retail Area more convenient. The failure of any other tenant or occupant of space within the Retail Area to participate in advertising for the Retail Area or make promotional contributions to Landlord shall not relieve Tenant of any of its obligations under this Section 6.4.

On January 1 of each full or partial calendar year during the Term, the Annual Promotional Contribution shall increase to an amount equal to the Annual Promotional Contribution for the immediately preceding calendar year, increased by the preceding year's cost of living determined by reference to the Consumer Price Index.

At least ten (10) days prior to the first day of the second calendar year and each calendar year thereafter until the end of the Term, Landlord shall provide Tenant with written notice of the increases in the Annual Promotional Contribution for the upcoming calendar year. No delay by Landlord in providing said written notice shall affect Tenant's obligation to pay the Annual Promotional Contribution, as escalated, retroactively from the beginning of such calendar year. The Annual Promotional Contribution for any year of the Term after the first calendar year or any subsequent calendar year, as the case may be, shall never be less than the preceding calendar year contribution.

In the event the level of the C.P.I. shall not be available to Landlord as of the commencement of any year of the Term, the Annual Promotional Contribution for the preceding year shall be used to calculate the Annual Promotional Contribution for the current year until the C.P.I. is published for the month necessary to compute the adjustment provided in this Paragraph; at such time as such adjustment can be calculated, Landlord shall notify Tenant of (x) the total amount of any increase due from the Tenant for the then current year of the Term and (y) as to the necessary adjustment to be made to each monthly payment thereafter due from Tenant for the balance of such year of the Term (as to result in Tenant having paid the full amount of any such increase by the end of the year for which the same is effective and applicable).

Section 6.5 Calculation of Tenant's Proportionate Share.

Tenant's Proportionate Share shall be determined by Landlord based upon an allocation formula which in Landlord's determination fairly allocates the Operating Costs among all space in the Retail Area rented to Tenants (except tenants operating under leases originally entered into by the Port Authority prior to the date of the Prime Lease). Tenant has been provided with a copy of Landlord's current allocation formula, but Landlord may revise

such formula from time to time during the Term as Landlord deems appropriate. Landlord will provide a copy of its allocation formula to Tenant with Landlord's annual estimate of Operating Costs and with its year-end statement of actual Operating Costs (provided that Landlord's failure to do so shall not relieve Tenant of any of its obligations hereunder) and at any other time upon request of Tenant.

Landlord's determination of Tenant's Proportionate Share of Operating Costs shall be binding upon Tenant provided that (i) it is calculated in accordance with Landlord's then-current allocation formula and (ii) the allocation formula provides for all costs of bussing tables and removing trash from food courts to be allocated only to the food and beverage tenants located adjacent to a food court; and (iii) the sum of the proportionate shares of Operating Costs paid by all tenants in the Retail Area for a particular calendar year shall not exceed the actual Operating Costs for such year.

ARTICLE 7
IMPROVEMENTS

Section 7.1 Intentionally Omitted.

Section 7.2 Condition of the Premises.

Tenant agrees that the Premises will be delivered by Landlord and accepted by Tenant in "AS IS" condition and that Landlord shall not be required to perform any work in or make any alteration to the Premises upon delivery to Tenant. All Tenant's Work shall be the responsibility of Tenant pursuant to Section 7.3 hereof.

Section 7.3 Tenant's Work.

(a) On or before the Commencement Date, Tenant shall, at its sole cost and expense, complete all work required to be performed pursuant to Schedule B ("Tenant's Work") in accordance with Schedule B and the Tenant Design Manual. A copy of the Tenant Design Manual has been furnished to Tenant and is incorporated herein in full. Tenant agrees that its investment in Tenant's Work, per square foot of the Premises, shall not be less than Ex. 2.a. per square foot. Tenant will be permitted by Landlord to enter the Premises prior to the Commencement Date for the purpose of performing Tenant's Work and for the purpose of installing its fixtures and other equipment, provided Tenant shall have obtained Landlord's and the Port Authority's written approval of the Final Plans, and Tenant shall have deposited with Landlord the policies or certificates of insurance required in Section 11.3 and Section 11.4. Tenant's activities shall be conducted so as not to unreasonably interfere with or unreasonably disrupt the operations of other tenants of the Retail Area who are already open for business or of the persons using the Terminal. Tenant shall, at its expense, remove from the Premises and Retail Common Areas all trash which may accumulate in connection with Tenant's activities and, should Tenant fail to do so, Landlord may, in addition to any other right or remedy of Landlord, remove such trash without notice to Tenant, at Tenant's expense, and the expenses so incurred by Landlord shall be due and payable by Tenant, as Additional Rent, upon demand. During such period, Tenant shall perform all duties and obligations imposed by this Sublease, including, without limitation, those provisions relating to insurance and indemnification, saving and excepting only the obligation to pay Rental (other than any Additional Rental arising out of any failure of Tenant to perform its obligations under this Sublease), which obligation shall commence when the Term commences. Upon the expiration of the Term or earlier termination of this Sublease, all improvements to the Premises made or performed by Tenant pursuant to Section 7.3 or Section 9.4 and Schedule B shall be Landlord's property and shall be surrendered to Landlord, or shall be removed by Tenant upon Landlord's request.

(b) Tenant recognizes and acknowledges that Landlord and the Port Authority are vitally interested that the store improvements, fixtures and furnishings in, and the décor of, the Premises be dignified, up-scale and of high mercantile quality in keeping with the high-quality, décor, character and standards of the Retail Area and that Landlord, accordingly, intends strictly to apply the criteria set out in the Tenant Design Manual (as the same may be amended from time to time by Landlord) when Landlord reviews Tenant's Preliminary Space Plans and Working Drawings for the Premises and fixturing plan (whether the original plans or plans and specifications for any alterations in accordance with Section 9.4). Accordingly, to provide Landlord with assurances in that regard and as a material inducement to Landlord to enter into this Sublease, Tenant agrees to construct, improve, fixture and

furnish a high-quality, up-scale lounge in the Premises in keeping with Landlord's design criteria and the high-quality, décor, character and standards of the Retail Area, as determined by Landlord.

Section 7.4 Effect of Opening for Business.

By opening for business, Tenant shall, in the absence of notice given to Landlord to the contrary, be deemed to have certified for the benefit of Landlord and the Port Authority that Tenant has: (i) accepted the Premises; (ii) agreed that the obligations of Landlord and the Port Authority under **Schedule B** have been fully performed; (iii) waived any claim that the size, location, layout, dimensions or construction of the Premises, the Retail Area or the Retail Common Areas were not completed or furnished in accordance with the terms of this Sublease; and (iv) certified that the Term and the obligation to pay Rental have both commenced, that Tenant has no claim for offsets or deductions against Rental and that no event has occurred which, with notice or the passage of time, or both, would constitute a default on the part of either Landlord or Tenant under this Sublease.

Section 7.5 *Mechanic's Liens.*

No work which Landlord permits Tenant to do or which Tenant is obligated to perform pursuant to this Sublease, whether in the nature of erection, construction, alteration or repair, shall be deemed to be for the immediate use and benefit of Landlord so that no mechanic's or other lien shall be allowed against the estate of Landlord by reason of any consent given by Landlord to Tenant to improve the Premises. Tenant shall pay promptly all persons furnishing labor or materials with respect to any work performed by Tenant or its contractor on or about the Premises. Tenant shall procure unconditional waivers and releases of lien claims (and/or notices of completion) in form acceptable to Landlord from all persons furnishing labor or materials with respect to any work performed on behalf of Tenant in the Premises, at the time each progress payment and/or final payment is made.

In the event any mechanic's or other lien shall at any time be filed against the Premises by reason of work, labor, services or materials performed or furnished, or alleged to be performed or furnished, to Tenant or to any one holding the Premises through or under Tenant, Tenant shall, within five (5) days of its recordation, cause the same to be discharged of record or bonded to the satisfaction of Landlord. If Tenant shall fail to cause such lien forthwith to be so discharged or bonded after being notified of the filing thereof, then, in addition to any other right or remedy of Landlord, Landlord may, after ten (10) days notice to Tenant, discharge the same by paying the amount claimed to be due or may cause the same to be bonded, and the amount so paid by Landlord including reasonable attorney's fees incurred by Landlord in either defending against such lien or procuring the discharge or bonding of such lien, together with interest thereon at the Default Rate, shall be due and payable by Tenant to Landlord, as Additional Rental, upon demand.

Section 7.6 Tenant's Trade Fixtures.

Provided that Tenant shall not at such time be in default of any terms or covenants of this Sublease, all trade fixtures and apparatus (as distinguished from leasehold improvements) owned by Tenant and installed in the Premises shall remain the property of Tenant shall be removable at any time, including upon the expiration of the Term, provided that Tenant shall repair any damage to the Premises caused by the removal of said fixtures and shall restore the Premises to its condition prior to the installation of said fixtures.. If Tenant is in default, Tenant shall not remove or permit the removal of said property until all defaults have been cured. The parties further agree that the foregoing phrase "trade fixtures and apparatus (as distinguished from leasehold improvements)" shall refer only to those items of equipment and trade apparatus that can be removed from the Premises without causing any damage to the Premises (i.e., any equipment, fixture or apparatus that is intended to be permanently affixed to the Premises in any way may not be removed from the Premises).

ARTICLE 8
OPERATIONS

Section 8.1 Operations by Tenant.

(a) Tenant will conduct its operation solely within the Premises and will not place or maintain any merchandise, any sign or other thing of any kind in the entry of the Premises or in the corridor or other Retail Common Areas or Common Areas or elsewhere on the exterior of the Premises, except such signs as are permitted hereunder.

(b) Tenant will not commit or suffer to be committed waste upon the Premises or any public or private nuisance or other act or thing which may disturb the quiet enjoyment of any occupant or user of the Terminal. Tenant will conduct its business in the Premises in all respects in a dignified manner and in accordance with high standards of retail store operation. Tenant shall not maintain any loudspeaker or other device in such manner as to be audible to anyone not within the Premises. Tenant shall take all steps which may be necessary to eliminate vibration from the Premises. Tenant shall not use the Retail Common Areas for solicitations, demonstrations, advertising or in any manner which would constitute a nuisance to shoppers, passengers or others at the Terminal. In no event shall any unusual, noxious or objectionable odors, vapors or smoke be emitted from the Premises.

(c) Tenant will at its sole cost and expense, comply with all laws and ordinances and all rules, regulations and requirements of all county, municipal, state, federal and other governmental authorities, now in force or which may hereafter be in force, pertaining to Tenant's construction or installations within the Premises and Tenant's use and occupancy of, or operations of or at, the Premises (including without limitation the National Board of Fire Underwriters, and the Fire Rating Organization of New York). Tenant shall not make or permit any use of the Premises (i) which would invalidate, conflict with or cause an increase in premiums for any policy of fire, extended coverage or rental insurance covering all or any portion of the Premises or the Airport, or (ii) which in the opinion of the Landlord or the Port Authority could constitute an extra-hazardous condition, so as to increase the risks normally attendant upon the operations contemplated under subleases in the Terminal approved by the Port Authority. Tenant agrees to comply with all recommendations of any public or private agency having authority over insurance rates with respect to the use and occupancy of the Premises by Tenant. Tenant shall not keep or store any flammable materials at the Premises, without Landlord's prior written consent. If such consent is obtained, Tenant shall not keep or store during any 24-hour period flammable liquids in excess of the Lessee's working requirements during the said 24-hour period. Any such liquids having a flash point of less than 110° F shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories or the Factory Mutual Insurance Association. Tenant will install and maintain any fire extinguishing apparatus required by local regulations, the Port Authority or the requirements of insurance underwriters. Tenant shall use and maintain the Premises in such a way as to, at all times, minimize air pollution, water pollution or any other type of pollution emanating from the Premises and Landlord reserves the right to require Tenant to design and construct at Tenant's sole cost, any reasonable structures, equipment and other facilities as may be appropriate to accomplish such purposes.

(d) The Tenant shall not dispose of nor permit any one to dispose of any waste material (whether liquid or solid) by means of the toilets, manholes, sanitary sewers or storm sewers in the Premises or on the Airport except after treatment in installations or equipment included in plans and specifications submitted to and approved by the Port Authority.

(e) *The Tenant shall not operate or permit others to operate or fuel or defuel any engine or any item* of automotive equipment in the Terminal.

(f) The Tenant shall not use or permit the use of any truss or structural supporting member of the Terminal 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.

(g) Tenant will maintain the Premises in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pests. Tenant will keep the inside and outside of all glass in doors and windows of the Premises clean and shall maintain any security gate in good working order. Tenant shall not permit the

accumulation of rubbish, trash, garbage and other refuse in and around the Premises, and will remove the same in accordance with the provisions of Section 10.6 hereof.

(h) Tenant will not conduct any auction, fire, bankruptcy or so-called "going out of business" sales, or conduct its business in any manner other than in the normal course of Tenant's continuing business operation. Tenant shall not conduct its business in a manner which is commonly known and accepted in the retail trade as a "discount store" or "wholesale store" or "outlet store" or "surplus store."

(i) Tenant shall receive and deliver goods and merchandise only in the manner, at such times, and in such areas as may be designated by Landlord from time to time.

(j) Tenant and its employees shall comply with all rules and regulations promulgated by the Port Authority for the Terminal, the Retail Areas, the Common Areas or the Airport, including without limitation the Port Authority's Airport Rules and Regulations, a copy of which has been delivered to Tenant. In addition, Tenant and its employees shall comply with Landlord's Rules and Regulations for Retail Area attached here as **Schedule F** as the same may be amended from time to time by notice to Tenant, as well as any other rules and regulations promulgated by Landlord for the Retail Area or the Common Areas (specifically including but not limited to rules and regulations implementing any smoking policy established by Landlord from time to time). Tenant will, upon request of Landlord, require its employees to wear or carry badges or other suitable means of identification. In addition, upon objection by Landlord concerning the conduct, demeanor or appearance of any officer, employee, agent, representative, contractor, guest or invitee of Tenant, Tenant shall take reasonable steps to remove the cause of the objection.

(k) Tenant acknowledges the interest of Landlord in maintaining the retail portions of the Terminal in a condition which is highly dignified, not offensive to passengers using the Terminal, and not of a nature which will cause controversy or attract unwanted attention to the Terminal, the Retail Area, the Port Authority or the Airport. Accordingly, Tenant agrees that the Premises shall not be used for the sale, display, rental or other dissemination of any pornographic or so-called "adult" material, weapons of any kind, or any other material which Landlord determines, in their reasonable discretion, is not appropriate for sale, display, rental or dissemination at the Airport. Tenant agrees that upon notice from Landlord, it will immediately remove any such materials, and the failure to promptly remove any item referred to in such notice will constitute an Event of Default without any requirement for further notice.

(l) Tenant agrees to use its best efforts in every proper manner to develop and increase the business conducted by it under this Sublease; operate its business so as to maximize its revenues in accordance with business standards observed generally by well-run business enterprises of regional or national scope and not divert, or cause or allow to be diverted, any business from the Terminal or the Airport.

(m) <u>Intentionally Omitted</u>.

(n) Tenant shall not place any load upon any floor in the Premises exceeding the load which the floor was designed to carry or which is allowed by law, whichever is less. Tenant shall repair any floor, including supporting members, and any paved area damaged by overloading. Landlord reserves the right to further limit the weight of heavy objects and designate their positions.

(o) In the event the Permitted Use of the Premises under this Sublease is a restaurant or provides for sale of food and/or beverages, Tenant further agrees, in connection with its operations at the Premises:

(i) Employees of Tenant shall wear clean, washable uniforms and employees shall wear caps or nets. The employees shall be clean in their habits and shall thoroughly wash their hands before beginning work and immediately after each visit to the toilet and shall keep them clean during the entire work period. No person affected with any disease in a communicable form or who is a carrier of such disease shall work or be permitted to work;

(ii) All food and beverages shall be clean, fresh, pure, of first-class quality and safe for human consumption;

(iii) The Premises and all equipment and materials used shall at all times be clean, sanitary, and free from rubbish, refuse, dust, dirt, offensive or unclean material, flies, and other insects, rodents and vermin. All apparatus, utensils, devices, machines and piping used shall be constructed so as to facilitate the cleaning and inspection thereof and shall be properly cleaned after each period of use (the interval between cleanings, however, never to exceed eight hours) with hot water and a suitable soap or detergent and shall be rinsed by flushing with hot water. Where deemed necessary by Landlord or the Port Authority, final treatment by live steam under pressure or other sterilizing procedure shall be used. All trays, dishes, crockery, glassware, cutlery, and other equipment of such type shall be cleaned and sterilized immediately before using same;

(iv) All packing materials, including but not limited to wrappers, stoppers, caps, enclosures and containers, shall be clean and sterile and shall be so stored as to be protected from dust, dirt, flies and other insects, rodents, vermin, unsanitary handling and unclean materials;

(v) Particular care shall be taken to wash any dishes and perform any cleaning necessary to maintain in a clean and sanitary condition, free of all vermin, any kitchen areas or any other areas in the Premises in which beverages or foods may be prepared or dispensed;

(vi) It is intended that the standards and obligations imposed by this Section 8.1(o) shall be maintained or complied with in addition to compliance with all applicable governmental laws, ordinances and regulations, and in the event that any of said laws, ordinances and regulations shall be more stringent than such standards and obligations, such laws, ordinances and regulations shall be complied with;

(vii) Tenant shall be responsible for ensuring that any Common Areas permitted by Landlord to be used for Tenant's deliveries are broom clean after any such deliveries. Tenant acknowledges that in light of the nature of Tenant's use, Landlord is particularly concerned that a high level be maintained with respect to the sanitary condition of the Premises and any such Common Areas;

(viii) Tenant shall provide and install, at its sole cost and expense, an under-sink grease trap within the Premises;

(ix) Tenant shall apply for and obtain all health permits required under state and local laws and shall promptly forward copies of any such application (and upon receipt, any such permit) to Landlord. In addition, Tenant shall notify Landlord immediately upon receipt by Tenant of notice from any such permitting authority of any violations.

(p) In the event that the Permitted Use expressly allows for the sale of alcoholic beverages, Tenant agrees as follows:

(i) Tenant will comply with all municipal, state and other governmental laws, regulations and rules with respect to the sale of beer, wine and other alcoholic beverages (including, without limitation, obtaining and complying with the provisions of a New York liquor license for the sale of beer, wine and other alcoholic beverages (including any renewal or modification thereof, the "Liquor License").

(ii) At the time that it shall make any filing with or shall receive a notice or other communication from any governmental authority concerning the sale of beer, wine or alcoholic beverage, Tenant shall deliver a copy of such filing, notice or other

communication to Landlord. The revocation of or inability to obtain a Liquor License shall not relieve Tenant of any of its obligations hereunder. The failure to obtain, revocation or suspension of any Liquor License shall constitute a material breach of Tenant's obligations under this Sublease.

(iii) As security for the performance by Tenant of its obligations under this Sublease, Tenant hereby pledges and grants to Landlord (to the extent permitted by law) a security interest in the Liquor License (and any additional Liquor Licenses hereafter acquired by Tenant with respect to the Premises) and any extensions, renewals or replacements thereof, together with all of Tenant's rights and interests therein. Tenant agrees that this Sublease shall constitute a security agreement for purposes of the Uniform Commercial Code and that Tenant will execute any financing statement or other documentation as Landlord may reasonably request in order to confirm the granting of such interest and to enable Landlord to perfect and protect such interest. Tenant agrees not to give any other party any interest (including a security interest) in such Liquor License.

(iv) Upon the expiration or any earlier termination of this Sublease, Tenant agrees to assign (to the extent permitted by law) any Liquor License applicable to the Premises to such replacement tenant as Landlord may direct, or to cooperate with Landlord or such replacement tenant to permit the replacement tenant to operate with the benefit of Tenant's Liquor License for an interim period while its license application is pending (in which event such replacement tenant will execute and deliver an agreement to indemnify tenant from and against any liability in connection with such operation), and to execute any and all documents reasonably requested by Landlord in connection therewith.

(v) Tenant shall use best efforts to maintain order and decorum in and around the Premises and to avoid any conduct by patrons which would be considered by Landlord or the Port Authority to be improper or offensive.

Section 8.2 Signage and Advertising.

(a) Tenant will not place or suffer to be placed or maintained on the exterior of the Premises (or on the interior visible from the exterior or at or on any other portion of the Airport outside the Premises) any sign, advertising matter or any other thing of any kind, and will not place or maintain any decoration, lettering, or advertising matter on the glass of any window, door of the Premises or the exterior demising walls of the Premises unless and to the extent permitted by Landlord and approved by the Port Authority, provided that Landlord agrees that Tenant shall have the right to use its then-current corporate logo in any signage erected and maintained by Tenant in or on the Premises, subject to reasonable conditions and limitations imposed by Landlord in its reasonable discretion. Tenant will, at its sole cost and expense, maintain such sign, decoration, lettering, advertising matter, or other thing as may be permitted hereunder in good condition and repair at all times.

Upon the expiration of the Term or earlier termination of this Sublease, Tenant shall, at Tenant's cost at the request of Landlord, remove or cover any and all signs and restore the Premises and any portion of the Terminal affected by such signs to the condition it was in prior to the installation of any such signs.

(b) Landlord shall have the right to review and approve any advertising or promotion of Tenant's operations at the Premises or in the Airport, to ensure consistency with Landlord's and the Port Authority's promotional materials and strategies and with the image of the Retail Area and the Airport which Landlord and the Port Authority are then attempting to establish or preserve.

Section 8.3 Painting, Displays and Merchandising by Tenant.

Tenant will not paint or decorate any part of the exterior of the Premises, or any part of the interior visible from the exterior thereof, without first obtaining Landlord's written approval. In addition, Tenant recognizes and acknowledges that Landlord is vitally interested that the operation in and the decor of the Premises be dignified and

of high mercantile quality in keeping with the high quality, character and standards of the Retail Area, and that but for Tenant's assurances given below, Landlord would not enter into this Sublease. Accordingly, to provide Landlord with assurances in that regard and as a material inducement to Landlord to enter into this Sublease, Tenant covenants with Landlord as follows:

(a) In addition to the provisions herein governing Tenant alterations, construction, improvements, operations, painting and displays, Tenant agrees that the type, quality and location of the fixtures to be originally installed by Tenant and the furnishings and movable articles to be originally placed by Tenant in the Premises, the storefront, and all replacements thereof (which replacements shall be of at least equal type and quality), shall be subject to Landlord's prior written approval; all of said fixtures, furnishings, movable articles and storefront shall be properly maintained by Tenant throughout the Term of this Sublease;

(b) In addition to the provisions herein governing Tenant operations, painting and displays, Tenant agrees that all merchandise shall be neatly and attractively displayed in the Premises throughout the Term of this Sublease in accordance with a written merchandising layout plan and display guidelines, which merchandising layout plan and display guidelines, and any amendments or modifications thereto, shall be subject to Landlord's prior written approval; and

(c) In addition to the provisions herein governing Tenant operations and displays, Tenant shall fully and adequately staff the Premises with sufficient employees.

Section 8.4 Hazardous Materials.

Without limiting the generality of its other covenants hereunder, Tenant agrees in regard to the use and occupancy of the Premises to comply with all environmental laws, rules, regulations, statutes and ordinances, including, without limitation, those applicable to Hazardous Substances, as defined herein. Tenant shall not dispose of any Hazardous Substances at the Premises or the Terminal. Tenant unconditionally, absolutely and irrevocably indemnifies and agrees to defend and hold harmless Landlord, the Port Authority and their respective officers, employees, agents, contractors and those claiming by, through or under Landlord or the Port Authority, from and against all loss, cost and expense (including, without limitation, attorney's fees) of whatever nature suffered or incurred by Landlord or the Port Authority on account of the use on the Premises, or the release or discharge from the Premises, of Hazardous Substances, including, without limitation, any claims, costs, losses, liabilities and expenses arising from the violation (or claimed violation) of any environmental laws or the institution of any action by any party against Tenant, Landlord or the Port Authority, based upon nuisance, negligence or other tort theory alleging liability due to the improper generation, storage, disposal, removal, transportation or treatment of Hazardous Substances or the imposition of a lien on any part of the Retail Area, the Common Area or the Terminal under the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, et seq., as amended ("CERCLA"), or any other federal, state or local laws pursuant to which a lien may be imposed due to the existence of Hazardous Substances. Tenant further unconditionally, absolutely and irrevocably guarantees the payment of any fees and expenses incurred by Landlord or the Port Authority in enforcing or seeking enforcement of the liability of Tenant under this indemnification.

For the purposes of this Section, "Hazardous Substances" shall mean and include, but shall not be limited to, any element, substance, compound or mixture, including disease-causing agents, which after release into the environment or work place and upon exposure, ingestion, inhalation or assimilation into any organism, either directly or indirectly, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction or physical deformations in such organisms or their offspring, and all hazardous and toxic substances, wastes or materials, any pollutants or contaminants (including, without limitation, asbestos and raw materials which include hazardous constituents), or any other similar substances, or materials which are included under or regulated by any local, state or federal law, rule or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, CERCLA and regulations adopted pursuant to such Act, the Toxic Substances Control Act of 1976, as heretofore or currently in effect ("TSCA") and the Resource Conservation and Recovery Act of 1976, as heretofore or currently in effect ("RCRA").

Section 8.5 Street Pricing.

(a) Tenant shall offer all items for sale at the Premises at prices not to exceed "Street Prices", which shall be defined as follows:

(i) If Tenant conducts a similar business in off-airport locations in the Greater New York City – Northern New Jersey Metropolitan Area (the "Metro Area"), "Street Prices" shall mean the price regularly charged by Tenant for the same or similar item in the Metro Area;

(ii) If Tenant does not conduct a similar business in off-airport locations in the Metro Area, "Street Prices" shall mean the average price regularly charged in the Metro Area by similar retailers for the same or similar item; and

(iii) If neither Tenant nor other similar retailers sell a particular item in the Metro Area, "Street Prices" shall mean the price regularly charged by Tenant or similar retailers for the same or similar item in any other geographic area, with a reasonable adjustment for any cost of living variance between such area and the Metro Area.

(b) Tenant shall post and maintain one or more notices in form and substance satisfactory to Landlord and the Port Authority, in a location approved by Landlord and the Port Authority, to the effect that Tenant guarantees that it subscribes to the "Street Pricing" policy set out in subsection (a) above, such notice to be clearly visible and unobstructed. In the event Landlord adopts a standard sign and/or standard language setting forth such information, Tenant agrees to use the standard signage and/or language, to be posted in locations approved by Landlord.

(c) Tenant agrees that upon Landlord's request it will provide a list of the prices of each item offered or to be offered at the Premises, as well as any other information reasonably requested by Landlord in order to assure Tenant's compliance with the provisions of this Section 8.5.

(d) Tenant shall offer a "money back guarantee" of its Street Prices, which means that it will promptly refund the price of any item purchased at the Premises by any customer who can establish that the price charged for such item exceeded the "Street Price" for such item as provided in Section 8.5.

(e) As a means of implementing the Port Authority's street pricing policy and enforcing the provisions of Section 8.5(a) Landlord may, at its sole discretion, levy "fines" of up to $1,000 per day on any tenant who fails to comply with any of the provisions of this Section 8.5 within 24 hours of receipt of any demand to do so from Landlord. Tenant agrees to pay, as Additional Rent, any such "fine" as may be levied upon it by Landlord. Landlord and Tenant agree and acknowledge that it is impossible to calculate the damages to Landlord and to the Landlord's retail program at the Airport in the event Tenant fails to comply with the Street-Pricing Policy set forth in this Section. The parties hereby agree that the fines referenced above are intended by the parties to represent liquidated monetary damages and are not intended as a penalty. To the extent such fines exceed the maximum amount permitted to be collected under applicable law, this Section shall be deemed to require only as much as may be permitted in accordance with applicable law. Landlord's rights under this Section shall be in addition to any other rights Landlord may have following an Event of Default.

Section 8.6 Intentionally Omitted.

Section 8.7 Employee Training.

Tenant will properly train all of its employees in the proper operation of its business (including, if applicable, proper food handling procedures), the compliance with any applicable laws and regulations and the provisions of this Sublease, and the provision of good service to customers. In the event that Landlord initiates one or more customer service programs for employees of tenants in the Retail Area, Tenant will fully participate (and cause its employees to participate) in such programs and will pay to Landlord its share of such costs. Tenant's share will be paid to Landlord in accordance with the provisions of Section 6.1, except that Landlord may allocate the

costs of any such program among tenants in the Retail Area in any manner which it deems appropriate, rather than in accordance with each tenant's Proportionate Share.

Section 8.8 Intentionally Omitted.

ARTICLE 9
REPAIRS AND ALTERATIONS

Section 9.1 Repairs To Be Made By Landlord.

Landlord agrees to keep in good order, condition and repair the Retail Common Areas (except any condition caused by any act, omission or neglect of Tenant or any contractor of Tenant or any party for whose conduct Tenant is responsible) except as provided in Article 12 and except as such areas may be affected by the ongoing construction at the Terminal. Without limitation, Landlord shall not be responsible to make any improvements or repairs other than as expressly provided in this Section, and Landlord shall not be liable for any failure to make such repairs unless Tenant has given notice to Landlord of the need to make such repairs and Landlord has failed to commence to make such repairs within a reasonable time thereafter.

Section 9.2 Repairs To Be Made By Tenant.

All repairs to the Premises or any installations, equipment or facilities therein, other than those repairs required to be made by Landlord pursuant to Section 9.1 hereof or Article 12 hereof, shall be made by Tenant at its expense, using contractors approved by the Landlord. Without limiting the generality of the foregoing, Tenant will keep the interior of the Premises, together with all electrical, plumbing, HVAC and all other mechanical systems serving the Premises, and all plate glass windows, walls, floors, ceilings, partitions and doors, in good order, condition and repair and will make all replacements thereto from time to time required at its expense; and will surrender the Premises at the expiration of the Term or at such other time as it may vacate the Premises in as good condition as when received, excepting only ordinary wear and tear (but not obsolescence) and casualty (except to the extent of Tenant's obligations in Article 12). Tenant will not overload the electrical wiring serving the Premises or within the Premises, and will install at its expense, subject to the provisions of Section 9.4, any additional electrical wiring which may be required in connection with Tenant's apparatus. Tenant shall obtain and maintain throughout the Term, at its sole expense, a repair and maintenance agreement for the HVAC system serving the Premises. Tenant shall provide Landlord with a copy of such repair and maintenance agreement within ten (10) days of the Commencement Date.

Section 9.3 Damage to Premises.

Tenant will repair promptly, at its expense, any damage to the Premises and, upon demand, shall reimburse Landlord, as Additional Rental, for the cost of the repair of any damage elsewhere in the Retail Area, Common Areas or the Terminal caused by Tenant, its agents, employees or contractors or by bringing into the Premises any property for Tenant's use, or by the installation or removal of such property, regardless of fault or by whom such damage shall be caused (unless caused by Landlord, its agents, employees, or contractors).

In the event Tenant fails to commence to maintain, clean, repair, replace or paint the Premises within a period of five (5) days after notice from Landlord or the Port Authority that the condition of the Premises does not meet the requirements set out in this Sublease, or fails diligently to continue to completion the repair, replacement, rebuilding or painting of all of the Premises required to be repaired, replaced, rebuilt or painted by Tenant under the terms of this Sublease, Landlord or the Port Authority may, at its option, exercise self help rights provided in Section 16.10 and in addition to any other remedies which may be available to it, maintain, repair, replace, rebuild or paint all or any part of the Premises included in the said notice, and the cost thereof shall be payable by Tenant as Additional Rental.

Section 9.4 Alterations by Tenant.

Tenant will not make any alterations, renovations, improvements or other installations in, on, or to the Premises or any part thereof (including, without limitation, any alterations of the storefront or signs, structural alterations, or any cutting or drilling into any part of the Premises or any securing of any fixture, apparatus, or equipment of any kind to any part of the Premises) until Tenant shall have received Landlord's and the Port Authority's prior written approval. Any such approved alterations, additions or improvements shall: (i) be in accordance with complete plans and specifications approved in advance by Landlord and the Port Authority; (ii) be made by contractors or mechanics approved by Landlord; (iii) be in compliance with all applicable codes and rules, regulations, and all procedures and requirements of Landlord and the Port Authority including the requirements of Section 7.3, Section 7.6 and **Schedule B**; (iv) be made at Tenant's sole expense and at such times (specifically excluding peak travel times) and in such manner as Landlord may from time to time designate without interference with or disruption of the operations of tenants or other occupants of the Retail Area; (v) become part of the Premises and the property of Landlord; and (vi) be made in compliance with and all contractors performing work on the Premises (and subcontractors thereof, at any tier of construction) shall comply with those requirements set forth in **Schedule D** and **Schedule E** and Tenant shall include and require its contractors (and subcontractors thereof at any tier of construction) to include in its construction contracts as direct obligations of the parties to such contracts, the requirements set forth on **Schedule E**. Tenant shall pay Landlord or Landlord's contractor for the reasonable costs of review of the plans and specifications for such alterations, renovations, additions or improvements, and general supervision of Tenant's construction work (which items combined shall not exceed $10,000 with respect to Tenant's Work and which items combined shall not exceed $5,000 with respect to other alterations, renovations, additions or improvements during the initial Term of this Sublease).

Section 9.5 Changes and Additions to Retail Area.

(a) Landlord reserves the right at any time and from time to time, without the same constituting breach of Landlord's covenant of quiet enjoyment (express or implied) or an actual or constructive eviction, and without incurring any liability to Tenant or otherwise affecting Tenant's obligations under this Sublease: to make such changes, alterations, improvements, repairs or replacements in or to the Retail Area (including the Retail Common Areas) and the fixtures and equipment thereof, and in or to other areas of the Terminal, as Landlord may deem necessary or desirable in connection with the remodeling, reconstruction, redevelopment, redesigning or expansion of the Retail Area or otherwise, and in connection therewith, to change the arrangement and/or location of entrances or passageways, parking areas, doors and doorways, access ramps, corridors, elevators, escalators or other public parts of the Retail Area, Retail Common Areas or the Terminal; to make additions, alterations, and modifications to and rearrangements and reductions of the Retail Area, including the Retail Common Areas; to change the dimensions and types of stores; to convert Retail Common Areas into leasable areas; and to expand the size of the Retail Area by acquiring or making available additional area in the Terminal; provided, however, that no such changes shall permanently deny reasonable access to and egress from the Premises. Landlord shall use commercially reasonable efforts not to materially adversely affect the visibility of the Premises unless otherwise required by the Port Authority.

(b) Tenant acknowledges that Landlord or the Port Authority may, as of the date hereof or anytime hereafter, make improvements to the Retail Area or the Terminal, and that such improvements may require substantial construction work in the Retail Area during normal business hours, which may disrupt Tenant's business operations and create noise, dust and other concomitants of construction work. Tenant agrees that it shall have no right whatsoever to any abatement of Rental or other compensation or to any claim of breach of Landlord's covenant of quiet enjoyment (express or implied) or an actual or constructive eviction or for loss of business or inconvenience, or in any event for consequential damages on account of any such construction work, and without incurring any liability to Tenant or otherwise affecting Tenant's obligations under this Sublease. Without limiting the generality of the foregoing: Landlord or the Port Authority may enter the Premises for any of the purposes in this Sublease authorized, or for repairing, altering, remodeling, reconstructing, redeveloping, or expanding any portion of the Retail Area or the Terminal; Landlord or the Port Authority may stop or interrupt any service or utility system, when necessary by reason of accident or emergency or construction work until the necessity for said interruption or stoppage has ended; Landlord or the Port Authority may temporarily or permanently close, alter, change, modify and/or relocate any entrances, passageways, doors and doorways, corridors, elevators, escalators or other parts of the Retail Area, Common Areas or the Terminal; and Landlord or the Port Authority may at any time

and from time to time make such changes, alterations, additions, improvements, repairs or replacements in or to the Retail Area (including the Premises and Common Areas) and the fixtures and equipment thereof and the Terminal, as well as in or to the entrances, passages, elevators, escalators, and stairways thereof, as it may deem necessary or desirable, and to change the arrangement and/or location or entrances, passageways, doors and doorways, and corridors, elevators, stairs, toilets, or other public parts of the Retail Area, Common Areas or the Terminal.

(c) Landlord agrees to provide Tenant with reasonable prior notice of any improvements performed by or on behalf of Landlord that affect access to or visibility of the Premises, and, to the extent Landlord receives notice from the Port Authority, it will provide Tenant with notice of any such improvements to be performed by the Port Authority.

Section 9.6 Management and Operation of Common Areas.

Landlord will operate and maintain or will cause to be operated and maintained the Retail Common Areas in a manner deemed by Landlord to be reasonable and appropriate and in the best interests of the Retail Area. Landlord will have the right (i) to establish, modify and enforce reasonable rules and regulations with respect to the Common Areas; (ii) to enter into, modify and terminate agreements pertaining to the use and maintenance of the Common Areas; (iii) to close all or any portion of the Common Areas from time to time; and (iv) to do and perform such other acts in and to the Common Areas as Landlord shall determine to be advisable.

ARTICLE 10
UTILITIES

Section 10.1 Utilities.

Except as expressly provided in this Article 10, Tenant shall be responsible for arranging for the provision of all utility services directly with the supplier and Tenant shall make payment for any such services directly to the supplier. Landlord shall have no obligation to provide any services of any nature whatsoever to Tenant or to, in or for the benefit of the Premises, or to observe or perform any obligations of Landlord under this Sublease in any case where any services, or obligations are required under the Prime Lease to be provided, performed or observed by the Port Authority for the benefit of Landlord with respect to the Premises. Landlord shall not be responsible in any way whatsoever for the quality, impairment, interruption or stoppage of utilities (except water and sewer services required to be provided under Section 10.3) and Tenant agrees to look solely and directly to the Port Authority (or the utility supplier, as applicable) for the furnishing of any such utilities. Tenant shall have no claim against Landlord for any such default by the Port Authority under the Prime Lease. Tenant shall be solely responsible for the operation of all equipment, systems, piping, tie-ins, utilities, lines and connections, mechanical, electrical, communication and other systems located within the Premises and shall perform, in accordance with the provisions of Section 9.4, all preventative maintenance, repairs, replacements and rebuilding of such systems.

Tenant shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of any drainage and sewerage system, water system, ventilation, air-conditioning and heating systems, communications system, elevators and escalators, electrical system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses and other utility and other systems, if any, installed or located on, under, in or adjacent to the Premises now or in the future.

Section 10.2 Electricity.

Tenant shall purchase, in reasonable quantity, electricity directly from the Port Authority at the same charge which would be made by the public utility supplying electricity to the Terminal based on the quantity used solely by Tenant (among other factors or conditions that would be applied by the public utility in determining such charge) but in no event less than the amount which would reimburse the Port Authority for its cost of obtaining and supplying electricity to Tenant.

The Port Authority may separately meter (or require Tenant to separately meter) the Premises for the purposes of measuring Tenant's usage, however, in the event that the Premises are not separately metered or the

meter is, for any reason, unable to record Tenant's usage during any period, Tenant's usage for that period will be determined based on Landlord's (or the Port Authority's) reasonable estimate of Tenant's actual use for the applicable period.

Tenant shall be solely responsible for making all connections and tie-ins to the electrical service at the point designated by the Port Authority. In addition, Tenant shall be solely responsible for transforming and distributing the electricity so supplied throughout the Premises, as appropriate to Tenant's requirements. The Port Authority may discontinue such service by giving notice to Tenant fifteen (15) days prior to such discontinuance. Tenant shall, following the discontinuance, be responsible for acquiring electrical service directly from the public utility.

Payment shall be made (by check payable to the Port Authority) by Tenant to the Port Authority (or otherwise as directed by the Port Authority) at the Address for Payment of Electric and Water Charges set forth in Section 1.1, within ten days of receipt by Tenant of a bill for such services. Any failure on the part of Tenant to make such payment shall be a breach or default under this Sublease with the same effect as a failure to pay Rental and shall be considered an Event of Default entitling Landlord to terminate this Sublease and the Port Authority to withdraw or revoke its consent to this Sublease and to cause its termination for cause.

Section 10.3 Water and Sewer.

Tenant shall purchase domestic cold water and sewerage services from the Port Authority for use at the Premises in reasonable quantities at a rate to be determined by the Port Authority. The Tenant will separately meter the Premises for the purpose of measuring Tenant's water consumption, however, in the event the Premises are not separately metered or the meter, for whatever reason, is unable to record Tenant's consumption during any period, Tenant's consumption for that period will be determined based on the Port Authority's reasonable estimate of Tenant's actual consumption for the applicable period.

Section 10.4 Heat and Air Cooling.

Pursuant to the terms of the Prime Lease, the Port Authority has agreed to heat the Premises to an even and comfortable working temperature from October 1 through April 30 on such days and during such hours as the Terminal and the Premises are open for the conduct of retail business serving the public and to furnish air-cooling sufficient to maintain the Premises (except for storage and locker room areas) at a comfortable temperature from May 1 through September 30 on such days and during such hours as the Terminal and the Premises are open for the conduct of retail business serving the public. Such air-cooling shall be furnished subject to the terms of the Prime Lease and in accordance with the following:

(a) If the air-cooling on the Premises can be controlled by mechanisms within the Premises or portions thereof, Tenant shall shut off the air-cooling before closing and leaving any particular portion of the Premises at any time for any period. Landlord or Port Authority shall have the right to enter the Premises for the purpose of observing Tenant's compliance with the provisions hereof and Landlord or Port Authority may, at Tenant's expense, lock, seal or install any timing device on or in connection with any air-cooling control mechanism so as to provide that each portion of the Premises shall only be air-cooled during the hours and days stipulated hereunder;

(b) If Tenant, in accordance with this Sublease, erects any partitions or makes any improvements, which partitions or improvements stop, hinder, obstruct or interfere with the cooling of the air or the heating of the Premises, then Tenant shall be responsible for installing supplementary heating or cooling capacity at its expense. No such action by Tenant shall impose any obligation on the Landlord or Port Authority to install facilities, fixtures or equipment for air-cooling or for heating additional to those presently existing or presently contemplated or to increase the capacity or output of existing or presently contemplated facilities, equipment or fixtures and Tenant shall not in any such event be relieved of any of its obligations hereunder because a comfortable temperature is not maintained. No approval given by Landlord or the Port Authority to the erection of partitions or the making of any improvements shall be or be deemed to be a representation that the work approved of will not stop, hinder, obstruct or interfere with either the cooling of the air or the heating of the Premises or any portion thereof;

(c) Tenant shall not waste or dissipate the air-cooling or heating service by any act or omission including but not limited to the permitting of outside doors or windows to remain open. Without otherwise affecting any rights or remedies in the event of any breach by Tenant of its obligations under this Section 10.4, the Port Authority shall have the right to discontinue the heating or air-cooling service during any period of such waste or dissipation and any failure of the Port Authority to supply any such service under such conditions shall not affect any of Tenant's obligations under this Sublease. It is hereby understood further that the installation by Tenant of any equipment which itself requires air-cooling or which requires additional quantities of air-cooling or which requires additional quantities of air-cooling at the portion of the Premises where such equipment is installed, or the concentration in any portion of the Premises of such a number of people so as to require additional quantities of air-cooling, shall not impose any obligation on the Port Authority to increase the capacity or output of initially existing facilities, equipment or fixtures for the supply of chilled water and Tenant shall not in any such event be relieved of any of its obligations hereunder; and

(d) The Port Authority may at its option furnish the air-cooling either in whole or partially by installing complete units on the Premises and no such installation on the Premises shall be construed to be an eviction of Tenant or shall be grounds for any diminution or abatement of the Rental payable hereunder.

Section 10.5 Government Regulation.

If any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, makes or increases any charge, fee or rent on the Port Authority for any service, system or utility now or in the future supplied to or available to the Premises (including but not limited to any sewer rent or charge for the use of sewer systems), Tenant shall, at the option of the Port Authority exercised at any time and from time to time by notice to Tenant, pay, in accordance with the said notice, such charge, fee or rent or increase thereof (or the portion thereof allocated by the Port Authority to the Premises or the operations therein) either directly to the governmental body, authority or agency or to the public utility or directly to the Port Authority.

Section 10.6 Trash and Garbage Removal.

Tenant shall be solely responsible, at Tenant's expense, for removal of trash, garbage, debris and other waste material from the Premises, on a daily basis, in a manner approved by Landlord unless the Landlord elects to provide such services. Tenant shall contract with the Port Authority's disposal contractor at the Terminal for the disposal of its trash, garbage, debris and other waste material. In the event Landlord elects to provide such services, the Landlord's costs of providing such services shall be included in Landlord's Operating Costs in accordance with the provisions of Section 6.2 and Tenant shall pay to Landlord the Tenant's Proportionate Share of such costs in accordance with the provisions of Section 6.1. All trash, garbage and debris, while on the Premises, shall be temporarily stored in suitable waste receptacles, made of metal or other suitable material, with tight-fitting covers, sufficient to safely store whatever is to be contained therein as determined by the Landlord.

Section 10.7 Cleaning Services.

Tenant shall, at its expense, provide the Premises (including, without limitation, exterior plate glass, exterior doors and framing, exterior wall, exterior signs and the service entrance) with those janitorial, window cleaning, pest and vermin control, waste removal, repainting and other services required to maintain the Premises in a clean, sanitary, safe, and attractive condition in accordance with the standards of first class, upscale retail establishments, but in any event not less than the standards of the Retail Area. In the event that either Landlord or the Port Authority provide pest and vermin control services for the Premises and other locations within the Retail Area, Tenant will reimburse Landlord for the cost of providing such services to the Premises; Tenant shall supplement such services if necessary in order to keep the Premises free from pests and vermin.

Section 10.8 Discontinuance and Interruptions of Services.

Neither Landlord nor the Port Authority shall be liable to Tenant in damages or otherwise (i) if any utility shall become unavailable from the Port Authority or from any public utility company, public authority or any other person or entity supplying or distributing such utility, or (ii) for any interruption in any service hereunder (including,

without limitation, any heating, ventilation or air-conditioning) caused by the making of any necessary repairs or improvements or by any cause beyond the reasonable control of Landlord (or the Port Authority, as the case may be), and the same shall not constitute a termination of this Sublease or an eviction of Tenant. In no event shall Port Authority or Landlord be liable to Tenant for indirect or consequential damages.

The Port Authority is under no obligation to supply services if and to the extent and during any period that the supplying of any such service or the use of any necessary component shall be prohibited or rationed by any federal, state or municipal law, rule, regulation, requirement, order or direction and if the Port Authority deems it in the public interest to comply therewith even though such law, rule, regulation, requirement, order or direction may not be mandatory on the Port Authority as a public agency. The Port Authority is not obligated to perform or furnish (and may cease performance of) any service whatsoever in connection with the Premises at any time while Tenant wastes any such services (or Landlord wastes any services to it under the Prime Lease) or is in default under this Sublease (or Landlord is in default under the Prime Lease.)

Section 10.9 Deliveries.

Tenant shall, at Tenant's sole cost and expense, make deliveries in a timely manner, to a designated area in accordance with the Landlord's rules and regulations. Landlord may, at its option, provide receiving and delivery services to tenants in the Retail Area. In such event Tenant shall use such service for all of its deliveries to the Terminal and the Premises, and the cost of providing such services shall be included in the Landlord's Operating Costs in accordance with the provisions of Section 6.2 and Tenant shall pay its Proportionate Share of such cost in accordance with the provisions of Section 6.1.

In the event that Landlord determines that allocating the cost of receiving and the delivery service in accordance with Tenant's Proportionate Share, would not be an equitable manner in which to allocate such costs, the Landlord, in its sole discretion, acting reasonably, may make an allocation of such costs and Tenant agrees to pay its share, as determined by Landlord. Landlord will upon request provide Tenant with Landlord's basis for such allocation, in reasonable detail.

ARTICLE 11
INDEMNITY AND INSURANCE

Section 11.1 Indemnity by Tenant.

To the maximum extent permitted by law, Tenant shall indemnify and save harmless Landlord, the directors, officers, agents and employees of Landlord, and those in privity of estate with Landlord, the Port Authority, the commissioners, employees, representatives, directors and officers of the Port Authority, and the City of New York from and against all claims, expenses (including, without limitation, attorney's fees) or liability of whatever nature: (i) arising from any default, act, omission or negligence of Tenant, or Tenant's contractors, licensees, agents, servants or employees, or the failure of Tenant or such persons to comply with any rule, order, regulation or lawful direction now or hereafter in force of any public authority, in each case to the extent the same are related, directly or indirectly, to the Premises or Tenant's use thereof; or (ii) arising, directly or indirectly, from any accident, injury or damage, however caused, to any person or property on or about the Premises; or (iii) arising directly or indirectly, out of default by Tenant under any of the terms or covenants of this Sublease, or in connection with any mechanical, electrical, plumbing, or any other equipment or installations that are to be maintained or repaired by Tenant; or (iv) arising from any accident, injury or damage to any person or property occurring outside of the Premises but within the Terminal or the general area of the Terminal, where such accident, injury or damage results, or is claimed to have resulted from, any act, omission or negligence on the part of Tenant, or Tenant's contractors, licensees, agents, servants or employees or customers, or anyone claiming by, through or under Tenant.

Without limiting the generality of this Section 11.1, Tenant agrees to indemnify Landlord and save it harmless from and against all claims relating to the sale or other distribution of beer, wine and other alcoholic beverages in the Premises and arising from (1) any act, omission or negligence of Tenant, or Tenant's contractors, licensees, agents, servants or employees, or (2) any accident, injury or damage whatsoever caused to any person or to the property of any person occurring from and after the Commencement Date and until the end of the Term hereof, whether such accident, injury or damage occurs within the Premises, the Retail Area, the Common Areas,

the Terminal, or otherwise. This indemnity and hold harmless agreement shall include indemnity against all costs, expenses (including, without limitation, reasonable attorneys' fees) and liabilities incurred in or in connection with any such claim, or any action or proceeding brought thereon. If any action or proceeding be brought against Landlord by reason of any such claim, Tenant upon notice from Landlord shall at Tenant's expense resist or defend such action or proceeding and employ counsel therefor acceptable to Landlord.

Notwithstanding the foregoing, Tenant shall not be obligated to indemnify Landlord from any claims, expenses or liability of whatever nature to the extent arising from the negligence or intentional misconduct of the Landlord, its agents, employees, contractors and servants.

The provisions of this Section 11.1 shall survive the expiration or termination of this Agreement.

Section 11.2 Landlord Not Responsible for Acts of Others.

Landlord shall not be responsible or liable to Tenant, or to those claiming by, through or under Tenant, for any loss or damage which may be occasioned by or through the acts or omissions of the Port Authority or of persons occupying space adjoining the Premises or any other part of the Retail Area, or, to the maximum extent permitted by law, for any loss or damage resulting to Tenant, or those claiming by, through or under Tenant, or its or their property, from the breaking, bursting, stoppage or leaking of electrical cable and wires, and water, gas, sewer or steam pipes. To the maximum extent permitted by law, Tenant agrees to use and occupy the Premises, and to use such other portions of the Retail Common Areas and Retail Area, as Tenant is herein given the right to use, at Tenant's own risk.

Section 11.3 Tenant's Insurance.

At all times after the execution of this Sublease, Tenant will take out and keep in force, at its expense Tenant's Required Insurance Coverage specified in Section 1.1, specifically including but not limited to:

(a) commercial general liability insurance, written on an occurrence basis and including contractual liability coverage to cover any liabilities assumed under this Sublease and including cross-liability coverage, insuring against all claims for injury to or death of persons or damage to property on or about the Premises; the limit of such public liability coverage shall be not less than the limit specified in Section 1.1;

(b) all-risk property insurance, written at replacement cost value and with an agreed amount endorsement, covering all of the leasehold improvements and Tenant's personal property in the Premises (including, without limitation, inventory, trade fixtures, floor coverings, furniture and other property removable by Tenant under the provisions of this Sublease);

(c) if and to the extent required by law, worker's compensation or similar insurance with limits and additional coverage as described in Section 1.1;

(d) if requested by Landlord, business interruption insurance, rent insurance, sprinkler damage insurance, and such other types of insurance coverages and amounts as the Landlord may reasonably require, such amounts to be consistent with other major airports in North America, or as the Port Authority may require, in its sole and absolute discretion; and

(e) Tenant agrees to maintain Tenant's Additional Required Insurance specified in Section 1.1 hereof.

Notwithstanding the foregoing, Landlord reserves the right upon thirty (30) days' notice to Tenant to require that it increase the coverage limits on such insurance. The foregoing insurance shall be in compliance with the requirements of this Article 11 and shall insure against all claims, demands or actions for injury to, or death of, one or more persons in one or more accidents, and for damage to property, as well as for damages due to time loss or means of support; so that at all times Landlord and the Port Authority will be fully and completely protected against any claims that may arise by reason of the dispensing of beer, wine and other alcoholic beverages in the Premises.

Section 11.4 Tenant's Contractor's Insurance.

Tenant shall require any contractor of Tenant performing work on the Premises to take out and keep in force, at no expense to Landlord, the insurance coverages set out in **Schedule B**, attached hereto.

Section 11.5 Landlord's Insurance.

Landlord shall take out and keep in force all insurance required pursuant to the terms of the Prime Lease, as amended from time to time, to be maintained by Landlord.

Section 11.6 Policy Requirements.

The company or companies writing any insurance which Tenant is required to take out and maintain or cause to be taken out or maintained pursuant to Section 1.1, Section 11.3 and Section 11.4 hereof as well as the form of such insurance shall at all times be subject to Landlord's and the Port Authority's approval and any such company or companies shall be licensed to do business in New York and shall have an A.M. Best rating of A-VII or better, unless such insurance is procured from a captive insurance company or through a government or, for so long as American Express Travel Related Services Company, Inc. is the Tenant, self-insurance scheme. Each policy evidencing insurance required in Section 11.3(a) and Section 11.3(e) shall name Landlord (including MarketPlace LaGuardia Limited Partnership and MarketPlace LaGuardia, Inc.), the Port Authority, all parties to be named as additional insureds pursuant to Section 1.1 hereof and such persons as are in privity of estate with Landlord (as may be set forth in a notice given from time to time by Landlord) and Tenant as additional insureds (collectively, "Insured Parties"), as their respective interests appear, each with the same effect as if separately insured. Landlord shall have the right to change the Insured Parties from time to time upon notice to Tenant, provided that at all times Landlord, Tenant, and the Port Authority shall be Insured Parties. Each such policy, or a certificate thereof, shall be deposited with Landlord by Tenant promptly upon commencement of Tenant's obligation to procure the same. If Tenant shall fail to perform any of its obligations under Section 11.3 or Section 11.4, then in addition to any other right or remedy of Landlord, Landlord may perform the same and the cost thereof shall be deemed Additional Rental and shall be payable upon Landlord's demand. In the event Tenant carries limits of insurance higher than those required under the terms of this Sublease, such higher limits shall be applicable to the Insured Parties in addition to Tenant. Tenant agrees to provide Landlord and the Port Authority with thirty (30) days written notice of cancellation of any policies required herein unless the policy to be cancelled is reinstated or replaced with another policy in compliance with the requirements herein prior to the cancellation date.

In the defense of any claim, demand, expense or liability which is to be covered under insurance policies by Tenant as described in this Sublease (even if such claim, demand, expense or liability is groundless, false or fraudulent), Tenant agrees on its own behalf, and shall cause its insurers to agree, not to, 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.

Section 11.7 Increase in Insurance Premiums.

Tenant will not do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Premises which will contravene Landlord's policies of hazard or liability insurance or which will prevent Landlord from procuring such policies with companies acceptable to Landlord. If anything done, omitted to be done or suffered by Tenant to be kept in, upon or about the Premises shall cause the rate of fire or other insurance on the Premises or on other property of Landlord or of others within the Retail Area to be increased beyond the minimum rate from time to time applicable to the Premises or to any such property for the use or uses made thereof, Tenant will pay, as Additional Rental, the amount of any such increase upon demand. Landlord acknowledges that Tenant's use of the Premises strictly in accordance with the terms of this Sublease for the Permitted Use shall not cause the rate of such insurance to be increased beyond the minimum rate applicable to the Premises.

Section 11.8 Waiver of Right of Recovery.

Insofar as, and to the extent that, the following provision may be effective without invalidating or making it impossible to secure insurance coverage obtainable from responsible insurance companies doing business in New York (even though extra premium may result therefrom), Landlord and Tenant mutually agree that, with respect to any hazard which is covered by insurance then being carried by them (or required under the terms of this Sublease to be covered by them), respectively, the one carrying (or required hereunder to carry) such insurance and suffering such loss releases the other of and from any and all claims with respect to such loss; and they further mutually agree that their respective insurance companies shall have no right of subrogation against the other on account thereof. If the release of either party provided above shall contravene any law with respect to exculpatory agreements, the liability of the party for whose benefit such release was intended shall remain but shall be secondary to that of the other party's insurer.

ARTICLE 12
DAMAGE AND DESTRUCTION

Section 12.1 Casualty.

In the event the Premises are damaged or destroyed, as a result of fire or other casualty (without fault on the part of Tenant, its employees, officers, guests, invitees, contractors or persons doing business with Tenant) Landlord may, at its election, repair such damage or terminate the Sublease, with respect to all or any portion of the Premises.

If the Landlord elects to repair such damage, Landlord shall within sixty (60) days after the date upon which such damage occurs, provide written notice to Tenant of Landlord's estimated time for completion of repairs (the "Estimated Time to Repair"). Alternatively, if Landlord elects not to repair such damage, it will provide written notice to Tenant within such sixty (60) day period. In the event the Estimated Time to Repair exceeds one hundred and twenty (120) days, Tenant may terminate this Sublease by giving Landlord notice of its election, in writing, not later than that date which is ten (10) days after the date of the Landlord's notice of the Estimated Time to Repair (in which case Tenant shall restore or assign insurance proceeds to permit Landlord to restore the Premises to their condition as of the Premises Delivery Date). Such termination shall be effective sixty (60) days after the date of Tenant's notice of its election to terminate. In the event Tenant does not exercise its right to terminate this Sublease and the Landlord thereafter fails to repair or restore such damage to the extent reasonably necessary to enable the Tenant's use of the Premises within that period of time equal to 125% of the Estimated Time to Repair ("Landlord's Repair Period"), Tenant may terminate this Sublease by giving the Landlord notice of its election to terminate within fifteen (15) days after the expiration of the Landlord's Repair Period, provided Landlord has not so restored or repaired the Premises prior to the expiration of such fifteen-day period. In the event Tenant reopens its business at the Premises, Tenant shall be deemed to have waived it rights to terminate.

In the event the Sublease or the Prime Lease is terminated as a result of any fire or other casualty this Sublease shall expire as of the effective termination date in such notice of termination.

In the event Landlord elects to rebuild or repair any or all of the Premises, Tenant shall be obligated to rebuild, repair and/or replace the leasehold improvements in the Premises (including those items set forth on Schedule B hereof), at Tenant's expense, to substantially the same condition as the condition prior to such casualty.

Section 12.2 Condemnation.

If the Premises (or any portion thereof), or twenty-five percent (25%) or more of the Terminal shall be taken by condemnation or right of eminent domain or any other action or proceeding by any governmental agency, or by the Port Authority under applicable provisions of the Prime Lease, Landlord shall have the right to terminate this Sublease, by written notice, with respect to all or any portion of the Premises. Such termination shall be effective as of the date specified in such notice. Tenant hereby agrees to deliver such portion of the Premises, as requested, on the date specified in such notice.

In the event the Sublease is terminated with respect to any portion of the Premises, Tenant shall, at Tenant's cost, restore the remainder of the Premises, as nearly as practicable, to its condition prior to such condemnation or taking.

If more than thirty percent (30%) of the Premises (other than minor portions in connection with intrusions for pipes, conduits and the like) are permanently taken by condemnation or right of eminent domain or other proceeding by any governmental agency, the Tenant may, by giving Landlord written notice not later than ten (10) days after the date of such taking, elect to terminate the Sublease. Such termination shall be effective as of the date Tenant is deprived of the use of such portion of the Premises.

Landlord shall have and Tenant hereby grants and assigns to Landlord, all rights to recover for damages to the Premises and the Terminal and the leasehold interest hereby created, and to compensation accrued or to accrue by reason of such taking or damages. Tenant covenants to deliver such further assignments and assurances of such assignment as Landlord may from time to time request.

Tenant shall not assert any claim to any compensation, award or part thereof against Landlord, the condemning authority or the Port Authority as a result of any condemnation, Tenant hereby acknowledging that Landlord and the Port Authority shall be entitled to all awards made or to be made and all consideration of Rental free of any claim of right of the Subtenant. Nothing herein shall limit Tenant's right to prosecute in any condemnation proceedings, a claim for the value of any of Tenant's trade fixtures installed in the Premises by Tenant, at Tenant's expense, or for relocation expenses provided that such action shall not affect the amount of compensation otherwise recoverable hereunder by Landlord or the Port Authority from the taking authority.

No taking or conveyance pursuant to this Section 12.2 shall be or be construed as an eviction of Tenant or a breach of this Sublease and Tenant shall have no basis for any claim against Landlord or the Port Authority for damages, consequential or otherwise.

ARTICLE 13
ASSIGNMENT AND SUBLETTING

Section 13.1 Assignment and Subletting Prohibited.

Tenant will not assign this Sublease, in whole or in part, nor sublet all or any part of the Premises, nor license concessions or sublease departments therein, nor grant leasehold mortgages or collateral assignments affecting this Sublease, without first obtaining the written consent of Landlord and the Port Authority. This prohibition includes any subletting or assignment which would otherwise occur by operation of law, merger, consolidation, reorganization, transfer or other change of Tenant's corporate or proprietary structure, or an assignment or subletting to or by a receiver or trustee in any Federal or state bankruptcy, insolvency, or other proceedings. Consent by Landlord or the Port Authority to any assignment or subletting shall not constitute a waiver of the requirement for such consent to any subsequent assignment or subletting.

Notwithstanding the foregoing, Landlord agrees, upon receipt of consent by the Port Authority to any assignment by Tenant, that it will not unreasonably withhold its consent to a request for assignment provided (i) the assignee has a net worth immediately prior to and following such assignment of greater than or equal to $1 billion (as demonstrated in balance sheets and profit and loss statements certified by a certified public accountant furnished to Landlord at the time Tenant requests Landlord's approval); (ii) the assignee is a reputable party with experience operating similar operations; (iii) the Premises shall be operated solely for the Permitted Use under the Tenant's Trade Name or, subject to Section 4.2 above, the successor-tenant's re-branded trade name, (iv) Tenant is not in default at the time the Tenant requests Landlord's consent or at the time of the transfer; and (v) Tenant shall remain fully liable during the unexpired Term of this Sublease.

Notwithstanding anything to the contrary contained in this Article 13, Tenant shall have the right, without the prior consent of Landlord (but subject to any consent required under the Prime Lease) to assign this Sublease or sublease the entire Premises to an entity which controls, is controlled by or is under the common control of Tenant (a "Permitted Transfer"). Any Permitted Transfer pursuant to this Section 13.1 shall be subject to the following

conditions: a) Tenant shall remain fully liable during the unexpired Term of this Sublease; b) any such Permitted Transfer shall be subject to all of the terms, covenants and conditions of this Sublease, and any such assignee or sublessee shall expressly assume the obligations of Tenant under the Sublease by a document reasonably satisfactory to Landlord and the Port Authority; c) such assignee or sublessee shall continue to use the Subleased Premises in accordance with the provisions of this Sublease; d) the principal purpose of such assignment or sublease is not the acquisition of Tenant's interest in this Sublease or to circumvent the provisions of this Section 13.1; e) Tenant shall provide Sublessor with at least ten (10) days' prior written notice of the Permitted Transfer and any documentation reasonably requested by Landlord in connection with such Permitted Transfer; and f) Tenant shall provide counterparts of fully executed assignment or sublease documents within ten (10) days following the earlier of the date of execution of the document or the effective date of the Permitted Transfer.

Section 13.2 Transfer of Corporate Shares.

If Tenant (or Tenant's Guarantor) is a corporation (other than a corporation the outstanding voting stock of which is listed on a "national securities exchange", as defined in the Securities Exchange Act of 1934), partnership, business trust or other entity having transferable shares or interests, and if at any time after execution of this Sublease a transfer of fifteen percent (15%) or more of the shares or interests of Tenant (or Tenant's Guarantor) entity by sale, assignment, bequest, inheritance, operation of law or other disposition (including such a transfer to or by a receiver or trustee in Federal or state bankruptcy, insolvency, or other proceedings) shall be deemed to be an assignment of this Sublease. Tenant agrees to give Landlord written notice of such proposed event and a request for Landlord's approval, at least thirty (30) days prior to the date of such proposed transfer.

Section 13.3 Acceptance of Rent From Transferee.

The acceptance by Landlord or the Port Authority of the payment of Rental following any assignment or other transfer prohibited by this Article shall not be deemed to be a consent by Landlord or the Port Authority to any such assignment or other transfer nor shall the same be deemed to be a waiver of any right or remedy of Landlord or the Port Authority hereunder.

Section 13.4 Other Assignment and Subletting Requirements.

If Tenant subleases all or any portion of the Premises or assigns or otherwise transfers this Sublease or Tenant's interest therein, Tenant shall pay to Landlord, at the times and in the manner specified by Landlord, one hundred percent (100%) of any Excess Rent (as defined below). For purposes of this Section, the term "Excess Rent" shall mean the difference between all amounts which Tenant receives from an assignee or sublessee by virtue of an assignment or sublease pursuant to the provisions of this ARTICLE 13 and the total charges due under this Sublease for the subleased or assigned area, provided such difference is greater than zero. In any case, the Tenant originally named herein shall remain fully liable for Tenant obligations hereunder, including, without limitation, the obligation to pay the rent and other amounts provided under this Sublease. Tenant also hereby agrees to pay as additional rent to Landlord, within fifteen (15) days of billing therefor, all legal and other fees and administrative expenses incurred by Landlord in connection with reviewing any assignment, other transfer or subletting by Tenant or change in or transfer of the control of Tenant (whether or not such assignment, subletting, transfer or change is approved), including without limitation any costs or expenses incurred in obtaining the Port Authority's consent, and with related documentation. It shall be a condition of the validity of any assignment or other transfer or subletting that the assignee or transferee or subtenant agree directly with Landlord, in form satisfactory to Landlord, to be bound by all Tenant obligations hereunder from and after the effective date of the assignment, transfer or sublease, including, without limitation, the obligation to pay rent and other amounts provided for under this Sublease and the covenant against further assignment or other transfer or subletting. It shall also be a condition of the validity of any assignment or other transfer or subletting that the assignee or transferee or subtenant agree in writing to the standard consent agreement of the Port Authority, which consent shall be in form satisfactory to the Port Authority.

ARTICLE 14
DEFAULT

Section 14.1 "Event of Default" Defined.

Any one or more of the following events shall constitute an "Event of Default":

(a) Tenant shall fail to pay the Rental or other charges on or before the same becomes due hereunder, and such failure continues for five (5) days after written notice of such failure from Landlord;

(b) Tenant shall fail to perform or observe any term or condition of this Sublease which, because of its character, would immediately jeopardize Landlord's interest (such as, but without limitation, failure to maintain public liability insurance) and such failure continues for 48 hours after notice (which may be oral, provided that a written communication follows as soon as reasonably possible) from Landlord thereof;

(c) Tenant fails to comply with any request by Landlord to conform to the requirements of Landlord's Street Pricing policy set forth in Section 8.5;

(d) Tenant ceases, suspends or significantly reduces its operations, without Landlord's prior written approval, for a substantially continuous period of twenty-four (24) hours or more except for a temporary suspension as may be expressly allowed under this Sublease;

(e) Tenant shall fail to perform or observe any other term or condition contained in this Sublease within the time specified or in the event there is no time specified for such performance, within three (3) days after notice from Landlord thereof (unless such default is of such a nature that it cannot be cured within such three-day period, in which event no Event of Default shall occur so long as Tenant shall commence the curing of the default within such three-day period and shall thereafter promptly and diligently prosecute the curing of the same);

(f) Tenant shall vacate or abandon the Premises for any reason other than a temporary vacancy as a result of (i) alterations approved by the Port Authority and the Landlord or (ii) casualty, as described in Section 12.1 hereof;

(g) Tenant shall fail to take possession of the Premises within fifteen (15) days after the Premises Delivery Date, or if Tenant has taken possession of the Premises within such fifteen-day period, thereafter fails to promptly and diligently perform Tenant's Work;

(h) Intentionally Omitted.

(i) except as otherwise provided by applicable law, if the estate hereby created shall be taken on execution or by other process of law, or if Tenant shall be judicially declared bankrupt or insolvent according to law, or if any assignment shall be made of the property of Tenant for the benefit of creditors, or if a receiver, guardian, conservator, trustee in involuntary bankruptcy or other similar officer shall be appointed to take charge of all or any substantial part of Tenant's property by a court of competent jurisdiction, or if a petition shall be filed for the reorganization of Tenant under any provisions of law now or hereafter enacted, and such proceeding is not dismissed within forty-five (45) days after it is begun, or if Tenant shall file a petition for such reorganization, or for arrangements under any provisions of such laws providing a plan for a debtor to settle, satisfy or extend the time for the payment of debts;

(j) as a result of any action by Tenant (or failure to act when required), Landlord shall receive a notice of default under the Prime Lease from the Port Authority;

(k) any other event expressly identified as an "Event of Default" in this Sublease;

provided, however, that if Landlord is required hereunder to give Tenant notice of such default and Landlord shall have sent to Tenant two (2) notices of any such default, even though such defaults shall have been cured and this

Sublease not terminated, and during the same calendar year in which Landlord shall have sent such two (2) notices of default to Tenant, Tenant shall thereafter during such calendar year default in any matter ("Subsequent Default"), then such Subsequent Default shall be deemed to be an Event of Default upon Landlord giving Tenant notice thereof and Tenant shall have no grace period within which to cure such Subsequent Default.

Section 14.2 Remedies.

Upon the occurrence and continuance of an Event of Default, Landlord, without notice to Tenant in any instance (except where expressly provided for below), may do any one or more of the following:

(a) Landlord may exercise its right of self-help provided in Section 16.10.

(b) Landlord may, at any time thereafter, at Landlord's option, give written notice to Tenant stating that this Sublease and the Term shall expire and terminate on the date specified in such notice, which date shall not be less than three (3) days after the giving of such notice, whereupon this Sublease and the Term and all rights of Tenant under this Sublease shall automatically expire and terminate as if the date specified in the notice given pursuant to this Section 14.2(b) were the originally scheduled expiration date and Tenant shall immediately quit and surrender the Premises, but Tenant shall remain liable for damages as provided herein or pursuant to law. Thereupon Landlord may re-enter the Premises, by summary proceedings or otherwise, and may remove Tenant and all other persons and property from the Premises, and may store such property in a public warehouse or elsewhere at the cost of and for the account of Tenant without resort to legal process and without Landlord being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby and without prejudice to any other remedies which Landlord may have hereunder, at law or in equity.

(c) Landlord may exercise any other legal or equitable right or remedy which it may have.

(d) Landlord may decline to retake possession of the Premises and may sue for the Rental as the same becomes due or sue for the present value of the Rental to accrue under this Sublease and other damages or remedies to which Landlord may be entitled.

(e) Landlord may elect to retake possession of the Premises and, without initially reletting the Premises, sue for the present value of the Rental to accrue under this Sublease and other damages or remedies to which Landlord may be entitled.

(f) Landlord may retake possession of the Premises, relet the Premises and sue for damages. During the period of time that Landlord is trying to relet the Premises, Tenant will be liable for the full Rental. Landlord may sue from month to month for the damages which accrue in accordance with this subsection, or may sue for the present value of the total damages which will be due throughout the remaining Term in accordance with the measure of damages set forth in Section 14.3. The election of whether to sue on a month-to-month basis or for the total amount shall be at the sole option and discretion of Landlord.

(g) If Tenant vacates or abandons the Premises, Landlord shall have the right, but not the obligation, to relet the Premises for the remainder of the Term of this Sublease. Nothing herein shall be construed as in any way denying Landlord the right in the event of any breach or default under this Sublease to treat the same as an entire breach at Landlord's option and immediately sue for the entire damages occasioned thereby, including the present value of all future damages to be incurred.

(h) Landlord's re-entry or taking of possession of the Premises shall not be construed as an election to terminate this Sublease unless Landlord gives written notice of such termination. Any re-entry or taking of possession by Landlord shall not affect or diminish the ongoing obligation or liability of Tenant for all Rental and other obligations due and owing under this Sublease. Re-entry by Landlord will not obligate Landlord to mitigate damages by reletting. Wherever in this Sublease Landlord has reserved or is granted the right of re-entry into the Premises, the use of such word is not intended, nor shall it be construed to be limited to its technical legal meaning. If Landlord re-enters, it may take possession of the Premises, remove all persons and property from the Premises

and store such property at Tenant's expense or resort to legal process without being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby.

(i) Landlord may relet the Premises or any part thereof for such term or terms (which may extend beyond the Term), and at such rentals and upon such other terms and conditions as Landlord in its sole discretion deems *advisable and such reletting shall not in any way relieve Tenant from the obligations and liabilities under this* Sublease. Any and all amounts received upon such reletting and all rentals received by Landlord therefrom shall be applied first to any indebtedness owed by Tenant to Landlord other than Rental due hereunder, then to pay any cost and expense of reletting, including brokers' and attorneys' fees and costs of alterations and repairs, then to the Rental due hereunder; if there is any residue, it shall be applied to any deficiencies of future Rental that may become due under this Sublease. At the expiration of the Term any funds due Tenant shall then be paid. It is understood that said funds shall not draw interest while held by Landlord as security for Tenant's obligations hereunder.

(j) Notwithstanding any reletting without termination, Landlord may, at any time in the future after said reletting, elect to deem this Sublease terminated for any prior breach or default.

(k) The covenant to pay Rental and other amounts hereunder and to perform all obligations hereunder are independent covenants from the other terms and provisions of this Sublease and Tenant shall have no right to hold back, offset or fail to pay any such amounts for any alleged default by Landlord or for any other reason whatsoever.

(l) The remedies described herein are not exclusive and are cumulative, and Landlord will be entitled to any and all other remedies now or hereafter provided by law or in equity in the event of any default or breach by Tenant of the terms of this Sublease. Landlord may pursue one or more remedies against Tenant and need not elect its remedy until such time as findings of fact have been made by judge or jury, whichever is applicable, in a trial court of competent jurisdiction. To the extent permitted by law, Tenant waives any right of redemption, re-entry or repossession.

(m) Tenant acknowledges that the continued operation of business in the Premises in the manner and upon the terms set forth in this Sublease are of a special importance to the commercial viability of the Retail Area. Therefore, in the event this Sublease is not canceled and terminated upon the occurrence of the events set forth in Section 14.1(i), then Tenant, and the trustee in bankruptcy or other representative of Tenant, or, in the event of an assignment, Tenant's assignee shall, prior to the assumption of this Sublease by such representative or trustee or assignee, comply with all of the provisions of Article 13 hereof and, in addition, provide adequate assurance to Landlord: of the source of Rental and other consideration payable under this Sublease; that any Percentage Rental payable under this Sublease shall not decline substantially after the date of such assumption or assignment, as the case may be; that assumption or assignment of this Sublease will not breach any provision of the Prime Lease and will not breach substantially any provision in any other sublease, financing agreement, or master agreement relating to the Retail Area; of the continued use of the Premises in accordance with the Permitted Use only, Tenant hereby acknowledging that only in the operating of such business for the Permitted Use may Landlord be adequately assured that assumption or assignment of this Sublease will not disrupt substantially the tenant mix or balance in the Retail Area; that the quality of goods to be sold in the Premises will not decline; that the operation of the business in the Premises shall continue to be of the high standard compatible with Landlord's other tenants in the Retail Area; that Tenant's suppliers of merchandise or goods for sale in the Premises are willing to continue to furnish such merchandise and goods of the same quality and caliber as theretofore sold in the Premises, of the source of funds necessary to pay for Tenant's merchandise and goods to be sold in the Premises, all on a current basis; of the continuous operation of business in the Premises in strict accordance with the requirements of Article 4 hereof; that the design and furnishings of the Premises shall continue to be acceptable to Landlord in accordance with the terms hereof; and of such other matters as Landlord may reasonably require at the time of such assumption or assignment. The furnishing of assurances in accordance with the foregoing, or as may be directed by a court of competent jurisdiction, shall not be deemed to waive any of the covenants or obligations of Tenant set forth in this Sublease. In the event that any person assuming this Sublease, or taking the same by assignment, shall desire to make alterations to the Premises, Landlord may further require adequate assurance, by lien and completion bond, cash deposit or such other means as Landlord may approve, of the source of payment for the estimated cost of any work to be performed in connection therewith. Notwithstanding the foregoing, such alterations shall be subject in all respects to the rights and obligations of Landlord or Tenant relating to such alterations, including, without limitation, those set forth in Article 9 hereof.

Section 14.3 Damages.

(a) If Landlord elects to terminate this Sublease under the provisions of Section 14.2 above, Landlord may recover from Tenant damages computed in accordance with the following formula in addition to its other remedies:

(i) the worth at the time of award of any unpaid Rental which has been earned at the time of such termination; plus

(ii) the worth at the time of award of the amount by which any unpaid Rental which would have been earned after termination until the time of award exceeds the amount of such Rental less that Tenant proves could have been reasonably avoided; plus

(iii) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Sublease or which in the ordinary course would be likely to result therefrom including, without limitation, late charges owing to the Port Authority as a result of delays caused by Tenant, the cost of repairing the Premises and reasonable attorneys' fees; plus

(iv) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable state law. Damages shall be due and payable from the date of termination. For the purposes of clauses (i) and (ii) of this Section, the "worth at the time of award" shall be computed by adding interest at the Default Rate to the past Rental due.

(b) For the purpose of this Article, "Rental" for each calendar year of the unexpired Term shall be the Rental (including Annual Fixed Minimum Rent, Annual Percentage Rental and Additional Rental) payable during the preceding year, or, if the default occurs less than one (1) year from the Commencement Date, an amount equal to one and one-half (1.5) times the average Annual Fixed Minimum Rent for the initial Term set forth in Section 1.1.

(c) In addition to the foregoing, Tenant also agrees to indemnify and save Landlord harmless from and against all reasonable expenses and attorney's fees which Landlord may incur in connection with any termination of this Sublease or reentry or repossession or the re-letting of the Premises, that Landlord may re-let the Premises, or any portion thereof, for a period which may, at Landlord's option, be less than or exceed the period which would otherwise have constituted the balance of the Term, and may grant commercially reasonable concession or free rent, and to reimburse Landlord, upon demand therefor, for the unamortized portion of (x) the costs incurred by Landlord (including, without limitation, buildout costs, construction allowance, architect's and engineer's fees, and attorney's fees for preparation and negotiation of this Sublease) in connection with the improvement and/or preparation of the Premises for occupancy by Tenant and (y) any brokerage commission incurred by Landlord with respect to this Sublease (in both cases, the unamortized portions shall be calculated as of the date of termination of the Sublease and shall include interest thereof at the Default Rate). Any suit brought to collect the amount of deficiency for any month shall not prejudice in any way the right of Landlord to collect the deficiency for any subsequent month by a similar proceeding.

(d) In the event of any default by Tenant hereunder, Tenant will reimburse Landlord for all expenses and reasonable attorneys' fees incurred by Landlord in collecting any amount due from Tenant, enforcing any obligation of Tenant hereunder, curing any default of Tenant or in obtaining possession of, or in re-letting the Premises; and Tenant shall pay all reasonable attorneys' fees and expenses arising out of any litigation in which Landlord shall become involved by reason of any default, act or failure to act, or negligence of Tenant or anyone acting under Tenant.

(e) In addition to all other remedies provided in this Sublease, Landlord shall be entitled to restrain by injunction any violation, or any attempted or threatened violation, of any of the covenants, conditions, or provisions of this Sublease.

Section 14.4 Landlord's Default.

Landlord shall in no event be in default in the performance of any of Landlord's obligations hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days after written notice by Tenant to Landlord properly specifying wherein Landlord has failed to perform any such obligation (unless such default is of a nature that it cannot be cured within such thirty day period, in which event no default shall occur so long as Landlord shall commence the curing of the default within the thirty day period and promptly prosecute the curing of the same). In no event shall Landlord ever be liable to Tenant for indirect or consequential damages.

Further, if the Port Authority notifies Tenant that the Port Authority has assumed Landlord's rights under this Sublease, Tenant shall not assert any right to deduct the cost of repairs or any monetary claims against Landlord theretofore accrued from Rental thereafter due and payable, but shall look solely to Landlord and not the Port Authority for satisfaction of such claim.

In the event Tenant shall claim under any provision of this Sublease that Landlord has unreasonably withheld or delayed its consent or approval to some request of Tenant, Tenant shall have no claim for damages by reason of such alleged withholding or delay, and Tenant's sole remedy therefor shall be declaratory or injunctive relief, but in any event without the recovery of damages.

Section 14.5 Miscellaneous.

Nothing herein contained shall be construed as limiting or precluding the recovery by Landlord against Tenant of any sums or damages to which, in addition to the damages particularly provided above, Landlord may lawfully be entitled by reason of any default hereunder on the part of Tenant. Further, if this Sublease is guaranteed on behalf of Tenant, all of the foregoing provisions of this Article 14 with respect to bankruptcy, etc. of Tenant shall be treated as reading "Tenant or the guarantor" hereof and shall, accordingly, apply fully to any such guarantor.

ARTICLE 15
LANDLORD'S ACCESS TO THE PREMISES

Section 15.1 Landlord's Right of Access.

Landlord and the Port Authority shall have the right to enter the Premises at all reasonable hours (or at any time in the event of an emergency) for the purpose of inspecting or of making repairs, alterations or additions to the Premises, the Retail Area or the Terminal and Landlord shall also have the right to make access available at all reasonable hours to prospective purchasers of any part of the Retail Area. Except in the event of an emergency or as may be required by the Port Authority, Landlord agrees to give reasonable prior notice of Landlord's entry and will use reasonable efforts to minimize interference with the conduct of Tenant's operations in the Premises. In addition, the Port Authority shall have all rights of access and entry reserved in Section 14 of the Prime Lease. Tenant shall not place any additional lock on or change any lock on the operational mechanism of any door of the Premises without the prior consent of Landlord.

For a period commencing three (3) months prior to the expiration of the Term, Landlord may have reasonable access to the Premises at all reasonable hours for the purpose of exhibiting the same to prospective tenants.

Section 15.2 Access During the Last Month of Term.

If during the last month of the Term, Tenant shall have removed substantially all of Tenant's property therefrom (not including property which will be owned by Landlord at the expiration of the Term), Landlord may immediately enter and alter, renovate and redecorate the Premises, without elimination or abatement of Rental, or incurring liability to Tenant for any compensation, and such acts shall have no effect upon otherwise applicable terms of this Sublease.

ARTICLE 16
MISCELLANEOUS

Section 16.1 Covenant of Quiet Enjoyment.

Subject to the terms and provisions of this Sublease and the Prime Lease and on payment of Rental and compliance with all of the terms and provisions of this Sublease, Tenant shall lawfully, peaceably and quietly have, hold, occupy and enjoy the Premises during the Term hereof, without hindrance or ejection by Landlord or by any persons lawfully claiming under Landlord; the foregoing covenant of quiet enjoyment is in lieu of any other covenant, express or implied.

Section 16.2 Brokerage.

Landlord and Tenant each warrants and represents to the other that it has dealt with no broker in connection with the consummation of this Sublease. In the event of any brokerage claims against Landlord or Tenant from any party predicated upon dealings with the other party named herein Landlord and Tenant each agree to defend the same and hold the other harmless from and indemnify the other against such claim.

Section 16.3 Notices.

Any notice, demand, request, approval, consent or other instrument which may be or is required to be given under this Sublease shall be in writing and shall be deemed to have been given when sent by telegram or mailgram, when mailed by United States registered or certified mail, return receipt requested, postage prepaid, or when received or refused, if sent by overnight courier or delivery service, addressed to Landlord at the addresses set forth in Section 1.1 of this Sublease or to Tenant at each of the addresses below, and in the case of notices to Landlord with a copy to Landlord's Counsel set forth in Section 1.1, or to such other address or addresses as either party may designate by notice to the other in accordance with this Section.

American Express Travel Related Services Company, Inc.
Three World Financial Center
200 Vesey Street
New York, New York 10285
Attn: Vice President R/L – Americas, Global Real Estate and Workplace Enablement

and

American Express Lease Administration
c/o CB Richard Ellis, Inc.
5100 Poplar Ave., Suite 1000
Memphis, TN 38137

and

American Express Real Estate
Attn: Marydale Reeves
1755 North Brown Rd.
M/S 13829-04-06
Lawrenceville, GA 30043

and

American Express
Attn: Horace Cox
777 American Expressway
Mail Drop 05-01-10C
Ft. Lauderdale, FL 33337

and

Sills Cummis & Gross P.C.
One Riverfront Plaza
Newark, New Jersey 07102
Attn: Mark S. Levenson, Esq.

Section 16.4 No Personal Liability of Landlord.

Tenant agrees to look solely to Landlord's then equity interest in the Retail Area and the Prime Lease for recovery of any judgment from Landlord; it being specifically agreed that neither Landlord (whether Landlord be an individual, partnership, firm, corporation, trustee or other fiduciary) nor any of the partners comprising Landlord, nor any beneficiary of any trust of which any person holding Landlord's interest is trustee nor any successor in interest to any of the foregoing shall ever be personally liable for any such judgment, or for the payment of any monetary obligation to Tenant. The covenants of Landlord contained in this Sublease shall be binding upon Landlord and Landlord's successors only with respect to breaches occurring during Landlord's and Landlord's successors' respective periods of ownership of Landlord's interest hereunder.

Section 16.5 Non-Discrimination.

Tenant herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, and this Sublease is made and accepted upon and subject to the following conditions: that there shall be no discrimination against or segregation of any person or group of persons on account of sex, marital status, race, color, creed, religion, national origin, ancestry, or otherwise as prohibited by law, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises or the Retail Area, nor shall Tenant itself, or any person claiming under or through Tenant, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Premises or the Retail Area; and that Tenant, its successors and assigns hereby agree to comply with the Nondiscrimination Requirements, as amended from time to time by the Port Authority, attached hereto as Schedule D.

Section 16.6 Subordination.

Tenant's rights under this Sublease are, and shall remain subject and subordinate to, all matters of public record, as they now exist or may hereafter be amended, with respect to the Retail Area.

Section 16.7 Status Report.

Recognizing that Landlord may find it necessary to establish to third parties, such as the Port Authority, accountants, banks, lenders or the like, the then-current status of performance hereunder, Tenant shall, upon the request of Landlord from time to time, promptly furnish a statement of the status of any matter pertaining to this Sublease. Without limiting the generality of the foregoing, Tenant specifically agrees, promptly upon the commencement of the Term hereof, to acknowledge to Landlord satisfaction of any requirements with respect to construction except for such matters as Tenant may set forth specifically in said statement.

Section 16.8 Recording.

Tenant agrees not to record this Sublease, but each party hereto agrees, on the request of the other, to execute, acknowledge and deliver a Memorandum of Sublease or Short Form Sublease reasonably satisfactory in form to Landlord's attorneys. In no event shall such document set forth the Rental or other charges payable by Tenant under this Sublease; and any such document shall expressly state that it is executed pursuant to the provisions contained in this Sublease, and is not intended to vary the terms and conditions of this Sublease. In the event of termination of this Sublease, Tenant agrees to execute a recordable instrument setting forth the fact of and date of such termination and hereby irrevocably designates and appoints Landlord as its attorney-in-fact to execute in the name of Tenant and to record such instrument.

Section 16.9 Intentionally Omitted.

Section 16.10 Self-Help.

Upon three (3) days' prior notice to Tenant (except in the event of an emergency, in which event no notice or cure period shall be required) Landlord shall have the right, but shall not be required, to pay such sums or do any act which requires the expenditure of moneys which may be necessary or appropriate by reason of the failure or neglect of Tenant to perform any of the provisions of this Sublease, whether or not Landlord has given notice to Tenant of the need for such action or payment and whether or not Tenant has commenced to cure the default or condition complained of by Landlord. In the event of the exercise of such right by Landlord, Tenant agrees to pay to Landlord forthwith upon demand all such sums, with interest thereon from the date Landlord pays such sums at the Default Rate; and if Tenant shall default in such payment, Landlord shall have the same rights and remedies as Landlord has hereunder for the failure of Tenant to pay the Rental.

Section 16.11 Unavoidable Delays.

In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, inability to procure labor or materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, fire or other casualty or other reason of a similar or dissimilar nature beyond the reasonable control of the party delayed in performing work or doing acts required under the terms of this Sublease, then performance of such act shall be excused for the period of the delay and the period from the performance of any such act shall be extended for a period equivalent to the period of such delay (any such delay is herein referred to as an "Unavoidable Delay"). During the period of performance of Tenant's Work, the provisions of this Section 16.11 shall not operate to excuse Tenant from completing construction of the Premises within the Time Estimated for Completion of Tenant's Work unless Tenant gives written notice of the delaying event to Landlord within three (3) days of the occurrence of such delaying event. Such written notice shall specify the nature of the delaying event and the number of days of delay claimed to be resulting therefrom. The Time Estimated for Completion of Tenant's Work shall be extended for a period equivalent to the period of actual delay. After the Commencement Date, the provisions of this Section shall not operate to extend the Term. This Section 16.11 shall not be applicable to Tenant's obligations to procure insurance or to pay Rental or any other sums, moneys, costs, charges or expenses required to be paid by Tenant hereunder. Unless Tenant gives notice to Landlord within ten (10) days after becoming aware that an event described above will delay its performance hereunder, such event shall not excuse such delay. Tenant shall not be entitled to more than ten days extension for any delay caused by the failure of Landlord to fulfill its obligations hereunder or to take any other action except to the extent that such delays are caused by Landlord's failure to take such action within five days after Tenant has given notice to Landlord stating the action required to be taken and the manner in which Tenant may be delayed if Landlord fails to take such action.

Section 16.12 No Joint Venture.

Any intention to create a joint venture or partnership relation between the parties is hereby expressly disclaimed. The provisions of this Sublease in regard to the payment by Tenant and the acceptance by Landlord of a percentage of Gross Sales is a reservation for rent for the use of the Premises.

Section 16.13 Waiver.

Failure on the part of Landlord or Tenant to complain of any action or non-action on the part of the other, no matter how long the same may continue, shall never be a waiver by Landlord or Tenant of its rights hereunder. Further, no waiver at any time of any of the provisions hereof by Landlord or Tenant shall be construed as a waiver of any of the other provisions hereof, and a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. The consent or approval of Landlord or Tenant to or of any action by the other requiring such consent or approval shall not be construed to waive or render unnecessary Landlord's or Tenant's consent or approval to or of any subsequent similar act by the other.

Section 16.14 Invalidity of Particular Provisions.

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

Section 16.15 Provisions Binding, Etc.

Except as herein otherwise expressly provided, the terms hereof shall be binding upon and shall inure to the benefit of the successors and assigns, respectively, of Landlord and Tenant and, if Tenant shall be an individual, upon and to his heirs, executors, administrators, legal representatives, successors and assigns. Each term and each provision of this Sublease to be performed by Tenant shall be construed to be both a covenant and a condition. The reference contained to the successors and assigns of Tenant is not intended to constitute a consent to assignment by Tenant, but has reference only to those instances in which Landlord may later give consent to a particular assignment as required by the provisions of this Sublease. If Tenant is several persons, natural or corporate, the liability of such persons for compliance with the obligations of Tenant under this Sublease shall be joint and several.

If Tenant (or a general partner of Tenant) is a corporation, the persons executing this Sublease on behalf of Tenant (or such general partner) hereby covenant and represent and warrant that: Tenant (or such general partner) is a duly constituted corporation in good standing qualified to do business in the state in which the Retail Area is located, and all Tenant's (or such general partner's) franchises and corporate taxes have been paid to date; and such persons are duly authorized by the governing body of such corporation to execute and deliver this Sublease on behalf of the corporation.

In the event Tenant is a partnership, the persons executing this Sublease on behalf of Tenant hereby represent and warrant that: Tenant is duly organized and validly existing and is qualified to do business in the state in which the Retail Area is located; all future forms, reports, fees and other documents necessary for Tenant to comply with applicable laws will be filed by Tenant when due; and such persons are duly authorized to execute and deliver this Sublease on behalf of the partnership.

Section 16.16 When Sublease Becomes Binding.

Subject to Section 2.1, this document shall become effective and binding only upon the execution and delivery hereof by both Landlord and Tenant. All negotiations, consideration, representations and understandings between Landlord and Tenant. are incorporated herein and may be modified or altered only by written agreement signed by both Landlord and Tenant, and no act or omission of any employee or agent of Landlord or course of prior dealings between the parties, shall alter, change or modify any of the provisions hereof. This Sublease may be executed in more than one counterpart, and each such counterpart shall be deemed to be an original document. Without limiting the generality of the foregoing provisions of this Section 16.16, Tenant acknowledges that it has made such inspections of the Premises, the Retail Area and the Terminal as Tenant has deemed necessary, is leasing the Premises in "as is" condition, in the condition they are now (reasonable wear and tear and damage by fire or other casualty or taking excepted), without any representation or warranty whatsoever with respect to the condition of the Premises or the Retail Area; Tenant further acknowledges that, in entering into this Sublease, Tenant has not

relied upon, nor has Landlord made, any prior oral or written understandings or representations concerning the Premises, the Retail Area, the Terminal, the condition of the Premises, the Retail Area or the Terminal, projected volumes of business for the Premises, the Retail Area or the Terminal, economic or business projections, or the like.

Section 16.17 Interpretation.

(a) The captions, table of contents and index of defined terms appearing in this Sublease are inserted only as a matter of convenience and in no way amplify, define, limit, construe or describe the scope or intent of the Sections of this Sublease nor in any way affect this Sublease. Except where otherwise expressly provided, each reference in this Sublease to a Section or Article shall mean the referenced Section or Article in this Sublease.

(b) The neuter, feminine or masculine pronoun when used herein shall each include each of the other genders and the use of the singular shall include the plural.

(c) The parties hereto agree that all the provisions of this Sublease are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate provision hereof.

(d) Although the printed provisions of this Sublease were drawn by Landlord, this Sublease shall not be construed for or against Landlord or Tenant, but this Sublease shall be interpreted in accordance with the general tenor of the language in an effort to reach the intended result.

(e) The parties hereto agree that all references in this Sublease to statutes shall be deemed to refer to such statutes or regulations as they may be amended from time to time and to any successor statute or regulation thereto.

If, references to a Section, include all Subsections thereof; references to a Subsection (e.g., Section 6.1) include all subdivisions (e.g., 6.1(a)) thereof. In this Sublease (i) the use of the terms "include," "includes," or "including" means "include without limitation," "includes without limitation," or "including without limitation," respectively, as the case may be; (ii) the word "or" is used in its inclusive sense, i.e., when the word "or" is used in this Sublease to describe a result occasioned by the occurrence of any multiple specified events or conditions, the result shall also be occasioned by the occurrence of more than one of the events or conditions, unless the context otherwise indicates; (iii) "may" is used in the permissive sense, creates discretionary authority, and does not impose a duty; (iv) "shall" and "will" are used in the imperative sense and each imposes a duty; (v) a statement or definition followed by a listing of examples shall not invoke ejustem generis, i.e., the examples are descriptive only and shall not limit the generality of the statement or definition; and (vi) where a general category is described by specific examples introduced by "including," the listing of the specific examples shall not be interpreted to be exhaustive.

Section 16.18 Amendment.

This Sublease contains the entire agreement of the parties and may not be modified except by an instrument in writing. Further any amendment, modification, supplement or extension of the Sublease which does not have the express written approval of the Port Authority shall be void and of no force and effect.

Section 16.19 Applicable Law; Choice of Law and Forum.

The laws of the State of New York shall govern the validity, performance and enforcement of this Sublease. If either party institutes legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be the county in which the Retail Area is located, or the United States District Court having jurisdiction over such county. Tenant and Landlord hereby waive trial by jury in any action, proceeding or counterclaim brought by either party against the other or any matter whatsoever arising out of or in any way connected with this Sublease, the relationship of Landlord and Tenant created hereby, Tenant's use or occupancy of the Premises, and/or any claim for injury or damage. In the event Landlord commences any action or proceeding for non-payment of Rental, Tenant shall not interpose any counterclaim of any nature or description, other than a compulsory counterclaim, in any action or proceeding. The foregoing shall not be construed as a waiver of Tenant's right to assert such claim in a separate action or proceeding instituted by Tenant.

Section 16.20 Tenant's Certification.

Tenant hereby warrants, represents and certifies that Tenant is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person", or other banned or blocked person, group, entity, nation, or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control and that it is not engaged in this transaction, directly or indirectly, on behalf of, or instigating or facilitating this transaction, directly or indirectly, on behalf of any such person, group, entity, or nation. Tenant agrees that any breach of the foregoing shall at Landlord's election be a default under this Sublease for which there shall be no cure, and Tenant hereby agrees to defend, indemnify, and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities, and expenses (including attorneys' fees and costs) arising from or related to any breach of the foregoing warranty, representation, and certification. The provisions of this Section 16.20 shall survive the expiration or earlier termination of the Term.

IN WITNESS WHEREOF, the parties have caused this Sublease to be executed under seal as of the date set forth in Section 1.1.

Landlord: **MarketPlace LaGuardia Limited Partnership**

By: MarketPlace LaGuardia, Inc.
Its general partner

By: _____
Its President
Hereunto duly authorized

Tenant: **American Express Travel Related Services Company, Inc.**

By: _____
Its SVP, Global Real Estate & Workplace Enrichment
Hereunto duly authorized

Attachments:

Schedule A	-	**Plan Showing the Retail Area and Location of Premises**
Schedule B	-	**Construction**
Schedule C	-	**Certificate of Vote**
Schedule D	-	**Nondiscrimination Requirements**
Schedule E	-	**Contractor Bid Conditions**
Schedule F	-	**Rules and Regulations for the Retail Area**
Schedule G	-	**Port Authority Consent to Sublease**
Schedule H	-	**Intentionally Omitted**
Schedule I	-	**Intentionally Omitted**
Schedule J	-	**Form of Letter of Credit**

Delivered separately: Tenant Design Manual

EXEMPTION (4)

DRAWINGS OF NON-PUBLIC AREAS

EXEMPTION (4)

DRAWINGS OF NON-PUBLIC AREAS

Schedule B

Construction

Description of Landlord's Work and Tenant's Work

LaGuardia Airport

Central Terminal Building

Flushing, NY 11371

Reference is made to that certain print package entitled Tenant Design Manual (hereinafter "Tenant Design Manual"), a copy of which has been furnished to the Tenant and all of the terms and provisions of which are hereby incorporated herein in full by reference. Notice is hereby given to the Tenant that the terms and provisions of this Schedule B are general and approximate due to the varying physical characteristics of the several premises comprising the Retail Area. The Tenant is advised to review the Tenant Construction Review Manual carefully in order to determine the particular construction details applicable to the demised premises. It is understood and agreed that in the event of a conflict between the provisions of this Schedule B and the Tenant Construction Review Manual, the provisions of this Schedule B shall govern. In the event of any discrepancy between Schedule B, the Tenant Construction Review Manual and the plans and specifications as finally approved by the Landlord and the Port Authority in any dispute between the Landlord and Tenant, the plans, as finally approved, shall govern. At the time Tenant submits the plans and specifications for approval, Tenant agrees to use good faith efforts to notify Landlord of any discrepancy of which Tenant has knowledge, between Schedule B, the Tenant Construction Review Manual and the plans and specifications which Tenant is submitting for approval.

I. DESCRIPTION OF EXISTING CONDITIONS AT THE PREMISES.

A. UTILITIES

1. Sanitary Sewer – A sanitary sewer lateral connection exists below the premises. It is the Tenant's responsibility to determine if the size of this connection is adequate for use by the Tenant. The tenant shall also be responsible for the installation of a vent connection to any new sanitary piping the Tenant may install.

2. Water – A 1" domestic water connection and valve exists outside the premises in above the ceiling in the main corridor. It is the Tenant's responsibility to connect all piping from the premises to this water connection.

3. Electrical Service: A 1-1/4" empty conduit exists between the Tenant's premises and the electrical substation. It is the Tenant's responsibility to install any additional conduit necessary to connect to the designated distribution panel in the electrical substation. The operating voltage of the aforementioned panel is:

277/480 volt 4 wire

4. Telephone Service – An empty conduit exists between the telephone closet and the demised premises. Tenant is responsible for the installation of its telephone service and shall make arrangements with and pay to the telephone company any charges imposed by the telephone company for any work which affects the demised premises.

5. HVAC – The premises are served by two supply air registers from the Airline HVAC System. It is the Tenant's responsibility to determine if this arrangement is suitable for the Tenant's use. It is the Tenant's responsibility to install any supplemental cooling and/or heating equipment that may be necessary in the premises.

6. Fire Alarm – An empty conduit and junction box exists from a fire alarm connection point to the demised premises.

7. Demising Studs – Demising studs exist in the premises. It is the Tenant's responsibility to install all necessary sheet rock on the interior side of the studs to provide the appropriate fire rating as required.

B. COMMON FACILITIES

1. Corridors – To be located as the Landlord shall determine and in accordance with applicable building codes.

2. Truck Receiving Facilities – All deliveries to and from the demised premises will be made, either directly or indirectly, by the Tenant from designated areas determined by the Landlord.

3. Retail Common Areas – Air conditioned and lighted with architectural treatment as determined by the Landlord.

C. BUILDING SHELL

1. Structural Frame, Roof, Exterior of the Building – As Is condition – Responsibility of Port Authority.

2. Floor Slab – The floor slab is the responsibility of the Tenant. Any work performed by the Tenant relating to the floor slabs for the demised premises, including without limitation, slab preparation, slab installation, placement of concrete, and any demolition will be preformed by the Tenant's contractor at the Tenant's expense, in accordance with plans and specifications which shall have been approved by the Landlord's Representative prior to commencing any such work. All such work shall be inspected by the Landlord's Representative.

II. DESCRIPTION OF THE TENANT'S WORK

All other work required to complete and fully equip the demised premises shall be done by the Tenant at the Tenant's sole cost and expense, and the same shall be done as follows:

A. GENERAL CONDITIONS

All work done by the Tenant in the demised premises shall be governed in all respects by, and be subject to, the following:

1. The Port Authority of New York and New Jersey; and New York City Building Requirements.

a. The detailed store plans for the completion of the demised premises must be prepared under the supervision of a New York registered architect or registered engineer. All plans including architectural, mechanical, electrical and sign drawings shall have affixed thereto a State of New York registration stamp.

b. Prior to submission of plans to the applicable Building Department(s), the Tenant's drawings must be submitted to the Landlord's Representative for review in accordance with the procedure outlined in the Tenant Design Manual. Plans will not be accepted by the applicable

departments of the Port Authority and New York City Department of Buildings without the prior approval of the Landlord's Representative, which approval shall verify only that the drawings are complete and in compliance with the Tenant' agreement with the Landlord, and shall not relieve the Tenant of the obligation to conform to the requirements of the applicable Building Department(s), State and all other applicable codes.

c. Plans for the Tenant's work shall be delivered to the Landlord's Representative and reviewed as set forth in the Tenant Construction Review Manual all as if set forth herein.

2. The Tenant shall not commence the Tenant's work until the Tenant has secured the Landlord's written approval of all contractors to be used in performing the Tenant's work and of the plans and specifications required to be submitted by the Tenant to the Landlord. The Tenant's work shall be coordinated with the work being done by the Landlord and/or other tenants of the Landlord in order that such work will not interfere with nor delay the completion of work by the Landlord and/or other tenants of the Landlord. The performance of the Tenant's work shall cause no interference whatsoever with the completion of the Landlord's work in the demised premises, nor in the remainder of the terminal.

3. The Tenant's work shall be performed in a first-class workmanlike manner and shall be in good and usable condition at the date of completion thereof.

4. The Landlord shall have the right (but shall not be obligated) to perform by its own contractor or subcontractor, on behalf of and for the account of the Tenant, any of the Tenant's work which the Landlord determines, in the interest of expedition of work on the Terminal or Retail Area, should be performed. The Landlord contemplates that the work which the Landlord shall in any event require to be done by the Landlord's contractor or subcontractor will include, without limitation, work which affects any structural components of, or the general utility systems for, the building in which the demised premises are located. The Landlord shall notify the Tenant of work which will be required to be done by the Landlord's contractor or subcontractor before the Tenant commences performance of any substantial part of its work. The Tenant shall promptly, on demand, reimburse the Landlord for all costs of planning and performing such work when and as incurred by the Landlord and for any costs incurred by the Landlord in obtaining all permits in connection wherewith.

5. Compliance with Laws: All of the Tenant's work shall conform to applicable statutes, ordinances, regulations, codes and to requirements of the Landlord's insurance underwriters. The Landlord's approval of plans and specifications shall not constitute an acknowledgement that work done in accordance therewith will so conform, and the Tenant shall be solely responsible for corrections in the Tenant's work required by any governmental agency or insurance underwriters. The Tenant shall obtain and convey to the Landlord approvals from all agencies having jurisdiction over matters relative to electrical, gas (if available), water, heating and cooling, and telephone work, and shall secure its own building and occupancy permits. The Landlord reserves the right to require changes in the Tenant's work when necessary by reason of code requirements or directives of governmental authorities having jurisdiction over the demised premises.

6. Approvals: No approval by the Landlord shall be valid unless the same be in writing and signed on behalf of the Landlord.

7. Insurance: Prior to commencement of the Tenant's work and until the last to occur of (a) the completion of the Tenant's work, or (b) the Commencement Date, the Tenant shall maintain, or cause to be maintained, casualty insurance in builder's risk form, covering the Landlord, the Landlord's agents and beneficiaries, the Landlord's Architect, the Landlord's contractor or subcontractors, the Tenant and the Tenant's contractors as their interests may appear, against loss or damage by fire, vandalism and malicious mischief, and such other risks as are customarily covered by the so-called "extended coverage endorsement" upon all the Tenant's work in place, and all materials, equipment, supplies, and temporary structures of all kinds incident to the Tenant's work and builders' machinery, tools and equipment, all while forming a part of, or contained in, such improvements or temporary structures while on the demised premises or when adjacent thereto while on malls, drives, sidewalks, streets or alleys, all in the full insurable value thereof at all times by reputable insurance companies licensed to do business in the State of New York. In addition, the Tenant agrees to require all contractors and subcontractors engaged in the performance of the Tenant's work to effect and maintain and deliver to the Tenant and the Landlord certificates evidencing the existence of, prior to the commencement of the Tenant's work and until the completion thereof, the following insurance coverages:

   a. Worker's Compensation Insurance – In accordance with the laws of the State of New York, including Employer's Liability Insurance, to the limit of $1,000,000 each accident.

   b. Commercial General Liability Insurance in the same form as the Tenant is required to carry under the terms of the Sublease to which this schedule is attached, with minimum limits of liability of $1,000,000 each Occurrence; $2,000,000 General Aggregate Limit; $2,000,000 Products – Completed Operations Aggregate Limit; $1,000,000 Personal and Advertising Liability; $50,000 Fire Legal Liability; and $5,000 Medical Expenses Limit (each person); or in such greater reasonable amounts as the Landlord may hereafter from time to time advise the Tenant in writing. Tenant, the Port Authority and the Landlord shall be named as additional insureds, and the policy will contain an endorsement whereby the insurer agrees not to raise any defense involving in any way the jurisdiction of the tribunal over the person 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. In addition, such contractors and subcontractors shall carry an Excess Liability policy in umbrella form with a minimum limit of liability of $5,000,000.

c. Business Automobile Liability, including "non-owned and hired" automobiles, with a combined single limit of $2,000,000.

Prior to the commencement of the Tenant's work, the Tenant shall deliver to the Landlord's Representative certificates of all required insurance, and evidence of the payment of premiums thereon (and certificates of renewal, and evidence of premium payments with reference thereto, where appropriate). Tenant shall provide Landlord and the Port Authority with thirty (30) days written notice of cancellation of any of the policies required herein unless the policy to be cancelled is reinstated or replaced with another policy in compliance with the requirements herein prior to the cancellation date.

8. In any contract or undertaking which the Tenant may make with a contractor for work in the demised premises, provision shall be made for dismissal from the job of workmen whose work is, in the Landlord's (and, for this purpose, "the Landlord" shall include a reference to the Landlord's Representative) reasonable judgment, unskilled or otherwise objectionable, and any such workmen shall be discharged, and the Tenant shall exonerate, indemnify and hold the Landlord (and the Landlord's Representative) harmless from any such loss, cost, damage or liability incurred by reason of compliance with any such demand.

The Tenant shall use, and the Tenant shall require its contractor and subcontractors to use, every legal effort to prevent work stoppages on the demised premises or elsewhere in the Terminal, to the extent attributable to work being performed on the demised premises, irrespective of the reason for any such stoppage, in recognition of the fact that it is of the utmost importance to the Landlord and all those occupying or to occupy space in the Terminal that there be no interruption in the progress of the work and to that end, in the event that the conduct or presence of any employee(s) of the Tenant or the Tenant's contractor(s) or subcontractor(s) causes a labor dispute or work stoppage, the Tenant expressly agrees to have such employee(s) immediately removed from the Terminal upon the Landlord's request, and the Tenant's failure to do so shall constitute a default under the lease. The tenant shall exonerate, indemnify and hold the Landlord (and the Landlord's Representative) harmless from any loss, cost, damage or liability incurred by reason of compliance with any such demand.

The Landlord's Contractor has included in his contract with all subcontractors the following Harmony Clause. The Tenant will be required to include this clause in all contracts with general and subcontractors so that there will be no interruption in the process of work.

Harmony Clause

"There shall be no manifestations on the project of any dispute between any labor organization and any Tenant contractor or

subcontractor, including but not limited to, any area standards picketing against said contractor or subcontractor.

Should there be any manifestation of a labor dispute between any Tenant contractor or subcontractor and any union, which results in a stoppage of work on the part of said contractor or subcontractor's employees or the employees of any other employer or supplier on the project or at the Terminal, which in the sole judgment of the Landlord will cause, or is likely to cause, unreasonable delay in the progress of construction or operation of any business at the Terminal, then upon written notice from the Landlord, the Tenant shall have the obligation and the right to declare the contractor or subcontractor in default of his contract, and upon such notice, the Tenant shall have the right to take such steps as are necessary to finish the uncompleted portion of the work to be performed by the contractor or subcontractor.

B. GENERAL CONSTRUCTION

The Tenant shall perform all work necessary to prepare the demised premises for opening for business and shall comply with the plan approval procedure outlined in the Tenant Construction Review Manual which, by reference, is made part of this Schedule **B**. The finish work which the Tenant is to perform shall include, but not be limited to, the following:

1. STOREFRONTS

a. The Tenant shall construct the storefront and closure, including all required structural supports.

b. The design of the storefront shall be in harmony with the other stores of the Retail Area and shall conform to the standards of design and construction contained in the Tenant Design Manual. In any event, the storefront shall be subject to the prior approval of the Landlord's Representative.

c. The Tenant shall furnish and install all signs in accordance with the Tenant Design Manual. All are subject to approval of the Landlord and the Landlord's Representative.

2. FLOOR SLABS

a. Any work performed by the Tenant relating to the floor slabs for
The demised premises, including, without limitation, slab preparation, placement of concrete, any demolition, will be performed by the Tenant's contractor at the Tenant's expense, in accordance with the plans and specifications which shall have been approved by the Landlord's Representative prior to commencing any such work.

3. CEILINGS

a. The Tenant shall use the underwriter's approved non-combustible ceiling treatment as set forth in the Tenant Design Manual. Minimum ceiling heights shall be in accordance with the Tenant Design Manual.

b. No combustible materials will be permitted above the ceiling. The Tenant shall not hang any material or fixtures from the roof deck or bottom chord of structural members.

c. The Tenant shall not hang anything from the ceiling grid system or existing mechanical systems in the Terminal.

4. INTERIOR WALLS & PARTITIONS

a. The Tenant shall install on the Tenant's side of demising stud wall a one-hour rated material from finished floor to the underside of the floor slab above the premises, as required by local or state authorities

b. The Tenant will not be permitted to hang fixtures from nor attach fixtures to the aforementioned partition. The Tenant will be required to install a fixture partition adjacent to the demising partitions for the attachment of fixtures in this location. In lieu of installing a fixture partition, the Tenant may submit a sketch of proposed additional framing or bracing to the Landlord for approval. The Tenant must indicate on such sketch the weights and methods of carrying same on the partitions.

c. All interior finish materials shall meet the flamespread requirements of all applicable codes, ordinances and regulations.

6. FLOOR COVERING

a. The Tenant shall install all floor covering within the demised premises

7. TRASH AND RUBBISH

a. The Tenant shall provide for an area for dry rubbish collection containers within the demised premises.

b. If the Tenant generates garbage, wet garbage containers shall be provided by the Tenant.

c. The Tenant and the Tenant's contractors shall be totally responsible during construction and fixturing for their own trash removal.

8. PLUMBING

a. The Tenant shall install all plumbing work for the demised premises, including but not limited to, toilets, urinals, lavatories, drinking fountains, electric hot water systems and other fixtures. Work shall include all waste piping, vent piping, water and waste connections to laterals and stubs installed by the Landlord. If gas is required, Landlord will determine the route of gas line installation and the party responsible for installation.

9. FIRE EXTINGUISHERS

a. The Tenant shall furnish and install fire extinguishers as required by applicable authorities, including the Port Authority of New York and New Jersey and New York City Fire Departments and the Landlord's insurance carriers.

10. HEATING, VENTILATING AND AIR CONDITIONING

a. The Tenant shall, if desired, provide and install a fully self-contained heating and air conditioning system necessary to service the in the demised premises in accordance with the Tenant Design Manual and applicable code requirements. The equipment to be installed by the Tenant may include air distribution equipment, heating and cooling coils, diffusers,

grilles, fire dampers, duct work, duct insulation, temperature controls and wiring.

b. Air conditioning equipment is permitted on the roof only in locations designated by the Landlord. Steel supports and curbs for roof equipment, whether furnished and installed by the Landlord or the Tenant, will be at the Tenant's expense. The foregoing will vary according to the particular physical characteristics of the demised premises and the Tenant should review the Tenant Design Manual for specific details.

c. All roof openings, blocking, flashing, steel supports and related work will be done by the Landlord's Contractor at the Tenant's expense. All work is subject to the approval of the Landlord's Representative and the Landlord's Architect.

d. The complete HVAC system must be in operation, inspected and balanced prior to the opening of the demised premises for business. The Tenant is responsible for balancing the HVAC distribution system by a balancing contractor approved by the Landlord.

12. ELECTRICAL

a. The Tenant shall furnish and install a complete electrical system for fire alarm, power and lighting as required by the Tenant Design Manual and applicable codes.

b. The Tenant shall make arrangements for the installation of Tenant's submeter and pay all costs and charges in connection therewith.

c. The Tenant shall furnish, install, support, and connect all lighting fixtures, including lamps.

a. The Tenant shall furnish and install all lighting timers, contactors, controls, etc.

13. OTHER INTERIOR WORK

a. The Tenant shall furnish and install all store fixtures; same to be new and at least equal in quality and design to fixtures used in other better-grade, recently-opened stores of the Tenant or the Tenant's parent company. All fixtures to be subject to the

approval of the Landlord's Representative, said approval not to be unreasonably withheld or delayed provided same conform to the foregoing.

14. MATERIALS

No materials used in connection with the Tenant's work in or about the Terminal shall contain any asbestos or other hazardous or toxic materials (collectively, "hazardous materials"). If the transportation, storage, use or disposal of any hazardous materials anywhere on the Terminal associated in any way with the Tenant's work results in any 1) contamination of the soil or surface or groundwater or 2) loss or damage to person(s) or property, then Tenant agrees to respond in accordance with the following paragraph:

Tenant agrees (i) to notify the Landlord immediately of any contamination, loss or damage, (ii) after consultation and approval by the Landlord, to clean up the contamination in full compliance with all applicable statutes, regulations and standards, and (iii) to indemnify, defend and hold Landlord harmless from and against any claims, suits, causes of action, costs and fees, including attorneys' fees, arising from or connected with any such contamination, claim of contamination, loss or damage. This provision shall survive the termination of the lease to which this Schedule "B" is annexed. No consent or approval by the Landlord shall in any way be construed as imposing upon Landlord any liability for the means, methods, or manner of removal, containment or other compliance with applicable law for and with respect to the foregoing.

Tenant shall immediately notify Landlord upon Tenant's receipt of any inquiry, notice, or threat to give notice by any governmental authority or any other third party with respect to any hazardous material.

15. OTHER MATTERS

a. No mezzanines constructed by the Tenant will be permitted within the demised premises.

b. Surrounding tenants and the Landlord have the right to run duct work, piping, electrical conduit, etc., through the demised premises. Same shall be above the ceiling line, and where possible, tight to underside of roof structure or below floor slab; and in all events, such work shall be done in locations and in a manner approved in advance by the Landlord's Representative. For coordination with surrounding tenants, the Tenant shall provide to the Landlord's Representative reproducible drawings of his complete mechanical and electrical systems for approval. The Tenant shall furnish

reproducible shop drawings of the as built mechanical, electrical, and plumbing systems if they are significantly changed for the original approved design.

Schedule C

Certificate of Vote

I, __[name of secretary]__, Secretary of __[name of corporation]__, hereby certify that the following is a true copy of a resolution of the board of directors of this corporation adopted at a meeting duly called and held on ____[date]_____, a quorum being present and acting throughout, and that such resolution has not been revoked, amended or modified and is in full force and effect:

> VOTED: That the President [or other officer] be and is hereby authorized, singly, to execute and deliver on behalf of this corporation a lease between MarketPlace LaGuardia Limited Partnership, as landlord, and this corporation, as tenant, and all related amendments, agreements, certificates, consents, instruments and documents, for approximately _____ rentable square feet of retail space located in the Central Terminal Building at LaGuardia Airport, New York City, New York, upon such terms and conditions as the signing officer shall determine to be necessary or appropriate. The signature of the President [or refer to other officer as applicable] thereon shall conclusively evidence its approval by this vote.

This is to certify further that as of the date hereof _____ is the President [or refer to other officer as applicable] of this corporation.

_____
Secretary

Dated: _____, 20___

[SEAL]

Schedule D

Nondiscrimination Requirements

1. Tenant shall not exclude any person from participation in, nor deny any person the benefits of, nor otherwise subject any person to discrimination in, the use by Tenant of the Premises or in the construction of any Improvements or the furnishing of any services at the Premises on the grounds of race, creed, color, national origin, sex, age, disability or marital status and Tenant shall use such space in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, as said regulations may be amended, and any other present or future laws, rules, regulations, orders or directions of the United States of America with respect thereto which from time to time may be applicable to Tenant's operations at the Premises, whether by reason of agreement between the Port Authority and the United States Government or otherwise.

Tenant's non-compliance with the provisions of this Schedule D shall constitute a material breach of this Sublease. In the event of any such breach of any of the above non-discrimination provisions, Landlord and the Port Authority each may take appropriate action to enforce compliance; or in the event such noncompliance shall continue for a period of seven (7) days after receipt of written notice from Landlord or the Port Authority, Landlord and the Port Authority each shall have the right to terminate this Sublease and the letting thereunder with the same force and effect as a termination under Section 16.2 of this Sublease, or may pursue such other remedies as may be provided by law; and as to any or all of the foregoing, each of Landlord and the Port Authority may take such action as the United States may direct. Tenant shall indemnify and hold harmless Landlord and the Port Authority from any claims and demands of third persons, including the United States of America, resulting from Tenant's noncompliance with any of the provisions of this Schedule D and Tenant shall reimburse Landlord and the Port Authority for any loss or expense incurred by reason of such noncompliance. Nothing contained in this Schedule D shall grant or shall be deemed to grant to Tenant the right to perform any construction at the Premises;

2. In addition to and without limiting any other term or provision of this Sublease, Tenant shall undertake an affirmative action program as required by 14 CFR part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, sex, age, disability or marital status be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Tenant shall assure that no person is excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this paragraph. Tenant also shall require that its covered suborganizations provide written assurances to Tenant and the Port Authority that they similarly will undertake affirmative action programs and that they will require written assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect;

3. In addition to and without limiting any other term or provision of the Sublease:

(a) Tenant 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 or Schedule E or section 2 of this Schedule D, Tenant shall, in connection with (i) its continuing operation, maintenance and repair of the Premises, or any portion thereof, including all purchasing procurement and subcontractors opportunities associated with the operations under this Sublease, including without limitation, the purchase of supplies, equipment, labor and other services, and (ii) every agreement for concession or consumer services in the Premises throughout the Term, 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 Tenant, to ensure, to the maximum extent feasible and consistent with cost competitiveness and other considerations properly present in the exercise of good business judgment (A) maximum opportunities for employment and contracting by minorities and women, (B) meaningful participation and (C) meaningful interest (in the business to be operated in any portion of the Premises) by Minority Business Enterprises

("MBEs") and Women-owned Business Enterprises ("WBEs") (such program is referred to herein as the "Tenant's Affirmative Action Program"). In meeting the said commitment Tenant shall submit to Landlord and Port Authority for its review and approval Tenant's Affirmative Action Program, within thirty (30) days after the execution of this Sublease. Tenant shall incorporate in Tenant's Affirmative Action Program such revisions and changes which Landlord and Port Authority initially or from time to time may reasonably require. Tenant throughout the term of the letting under this Sublease shall document its efforts in implementing Tenant's Affirmative Action Program, shall keep Landlord and Port Authority fully advised of Tenant's progress in implementing Tenant's Affirmative Action Program and shall supply to Landlord and Port Authority such information, data and documentation with respect thereto as Landlord and Port Authority may from time to time and at any time request, including but not limited to annual reports.

4. The following terms used in this **Schedule D** shall have the following meanings:

(a) "Minority" as used herein shall have the meaning as defined in Paragraph II(c) of Part I of Schedule E.

(b) "Minority Business Enterprise" (MBE) as used herein shall have the meaning as defined in the first paragraph of Part II of **Schedule E**.

(c) "Women-owned Business Enterprise" (WBE) as used herein shall have the meaning as defined in the first paragraph of Part II of **Schedule E**.

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

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

(ii) Actively and affirmatively soliciting bids for subcontractors from MBEs and WBEs, including circulation of solicitations to minority and female contractor associations. Tenant shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation as called for in Paragraph 3 including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

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

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

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

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

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

(e) "Meaningful participation" shall mean that at least twelve percent (12%) of the total dollar value of such purchases and subcontracts is from Minority Business Enterprises and that at least five percent (5%) of the total dollar value of such purchases and subcontracts is from Women-owned Business Enterprises.

(f) "Meaningful interest" shall mean that at least twenty percent (20%) in the aggregate of all gross dollar sales and other receipts generated in each annual period of this Sublease from retail activities and other subordinate agreements hereunder by businesses which are approved by the Port Authority as the parties to such agreements and which are owned, controlled and actually managed and operated by Disadvantaged Business Enterprises.

(g) To qualify for certification as a DBE, a firm must be:

(i) a small business concern; and

(ii) owned and controlled by one or more socially and economically disadvantaged individuals; and

(iii) actually managed and operated by one or more of the socially and economically disadvantaged individuals who control it.

With respect to a corporation, "control" as used in this paragraph shall mean legal and beneficial ownership by one person, firm or corporation, or a group acting in concert, of a majority of the issued and outstanding shares of the capital stock and voting rights of another corporation. With respect to a person or firm other than a corporation, "control" as used in this paragraph shall mean the power to direct the management and policies of such person or firm, whether by legal or beneficial ownership or otherwise.

Determination of Business Size:

(1) The size standards established by the SBA in 13 CFR Part 121, as revised on May 25, 1988, are used for making size determinations.

(2) No retail firm is considered small if, including its affiliates, it averaged annual gross sales in excess of $30 million over the previous three years.

(3) All affiliates of a firm, as well as the firm itself, are considered when determining gross sales earned or number of persons employed. Affiliation exists if one firm controls or has the power to control the other, or a third party or parties controls or has the power to control both firms:

Socially and Economically Disadvantaged Individuals:

(1) Any person having a current 8(a) certification form from the Small Business Administration is considered to be socially and economically disadvantaged.

(2) The Port Authority makes a "rebuttable presumption" that individuals in the following groups who are citizens of the United States (or lawful permanent residents) are socially and economically disadvantaged:

(i) Portuguese: (a person of Portuguese, Brazilian, or other Portuguese culture or origin, regardless or race);

(ii) Black: (a person having origins in any of the Black racial groups of Africa);

(iii) Hispanic: (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);

(iv) American Indian and Alaska Native: (a person having origins in any of the original peoples of North America); or

(v) Asian American: (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands).

The Port Authority will generally assume that business owners who fall into one of these groups are socially and economically disadvantaged. Their disadvantaged status will not generally be investigated unless a third party challenge is made.

(3) Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis. For example, a disabled Vietnam veteran, an Appalachian white male, or another person may claim to be disadvantaged. If such individual requests that his or her firm be certified as DBE, the Port Authority, as part of the certification process, will determine whether the individual is socially and economically disadvantaged under the criteria established by the Federal Government. These owners must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

The Port Authority has compiled a list, which may be supplemented and revised from time to time by the Port Authority, to indicate the firms the Port Authority determines satisfy the criteria for DBE certification. Such list shall be made available upon request. The Port Authority makes no representation as to the financial responsibility of such firms, their technical competence to perform, nor any other performance-related qualifications. Only listed DBEs and such firms not so listed but certified by the Port Authority as DBEs hereunder will count toward the DBE goals.

Certification of DBEs hereunder shall be made by the Office of Business and Job Opportunity of the Port Authority. To utilize a firm not so listed, there must be submitted to the Port Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be required by the Port Authority from time to time. All such requests shall be in writing addressed to the Office of Business and Job Opportunity, The Port Authority of New York and New Jersey, One World Trade Center, 63 East, New York, NY 10048. Eligibility for certification shall only be made in writing over the name of the Director in charge of the Office of Business and Job Opportunity. The determination of the Port Authority shall be final and binding on the applicant. For inquiries or assistance please contact Mr. John Alexander at (212) 435-6513.

5. With respect to Paragraph 3(b)(i) hereof,

(a) It is agreed that Tenant shall develop on-the-job training opportunities and/or participate in training programs including upgrading programs and apprenticeship and trainee programs relevant to its respective employment needs.

(b) Tenant shall employ and train all operations, maintenance and other personnel required for the performance of the applicable matter. In addition to the training of the initial personnel staff, Tenant shall train replacement personnel as needed to meet staffing requirements.

(c) Tenant shall also place in effect a testing program whereby personnel within a specific job classification are tested initially and periodically retested for proficiency within that job classification. With concurrence by Landlord, certain job classifications may be exempted from such testing or retesting.

(d) Tenant shall provide all instructors, literature, training aids, and equipment necessary to train personnel. Tenant shall provide sufficient classroom and on-the-job training for personnel to ensure their competence. The training shall provide at least three (3) months of on-the-job training for all personnel. Personnel will be required to pass the testing program appropriate to their positions prior to assuming those positions on a full time basis. Tenant shall administer such test and retrain personnel as needed.

(e) Tenant shall document its efforts in implementing the said program, shall keep Landlord and Port Authority fully advised of Tenant progress in implementing the said program and shall supply to Landlord

and Port Authority such information, data and documentation with respect thereto as Landlord and Port Authority may from time to time and at any time request. Such material shall include but is not limited to providing Landlord and Port Authority within a month following the commencement of the term of this Sublease, and whenever thereafter requested by the Port Authority, a list of skilled and unskilled positions and supervisory and management positions required to complete and sustain performance.

Tenant's non-compliance with the provisions of this Paragraph 5 shall constitute a material breach of this Sublease. In the event of the breach by Tenant of any of the above provisions of this Paragraph 5 each of Landlord and Port Authority may take any appropriate action to enforce compliance; or in the event such non-compliance shall continue for a period of seven (7) days after receipt of written notice from Landlord or the Port Authority, Landlord and the Port Authority each shall have the right to terminate this Sublease and the letting thereunder with the same force and effect as a termination under Section 16.2 of this Sublease, or may pursue such other remedies as may be provided by law.

In the implementation of Paragraphs 3 and 5, Landlord or Port Authority may consider compliance by Tenant 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 Paragraphs 3 and 5 as effectuating the provisions of these Paragraphs 3 and 5. If Landlord or 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 Landlord or Port Authority may waive the applicability of the provisions of this Paragraph 3 to the extent that such duplication or conflict exists.

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; and

6. Tenant shall furnish good, prompt and efficient service hereunder, adequate to meet all demands therefor at Terminal; furnish said service on a fair, equal and non-discriminatory basis to all users thereof; and, without being construed in derogation of Section 8.5 of this Sublease, charge fair, reasonable and non-discriminatory prices for each unit of sale or service, provided that Tenant may make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers; and

7. Tenant acknowledges that:

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

(b) Without limiting the generality of this Paragraph 5, this Sublease is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23, subpart F. Tenant agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR part 23, subpart F.

(c) *Tenant agrees to include the above statements in any subsequent concession agreements* that it enters and cause those businesses to similarly include the statements in further agreements, the foregoing not to be construed as approval by Landlord or the Port Authority of any such agreements as required.

8. Tenant shall require all contractors (and subcontractors thereof, at any tier of construction) to include in all contracts for construction relating to the Premises the following statements:

(a) 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;

(b) At the request of either the Port Authority or Landlord, 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 Landlord 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;

(c) 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;

(d) The contractor will include the provisions of subparagraphs (a) through (c) 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;

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

Schedule E

Contractor Bid Conditions

Part I. Affirmative Action Guidelines – Equal Employment Opportunity

I. As a matter of policy the Port Authority and Landlord hereby require Tenant and Tenant shall require the Contractor, as hereinafter defined, to comply with the provisions set forth hereinafter in this **Schedule E** and in Section 31 of the Prime Lease. The provisions set forth in this Part I are similar to the conditions for bidding on federal government contracts adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

Tenant as well as each bidder, contractor and subcontractor of Tenant and each subcontractor of a contractor at any tier of construction (herein collectively referred to as "the Contractor") must fully comply with the clause entitled "Equal Employment Opportunity" and conditions set forth herein (said conditions being herein called "Bid Conditions"). Tenant 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. Tenant 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. Tenant 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 Contractors' workforce at the construction site are as follows:

30%	Minority, All Skilled Trades
40%	Minority, Laborers
6.9%	Female, All Skilled Trades
6.9%	Female Laborers

In the event that during the performance of such contract the Office of Federal Contract Compliance establishes different goals for the New York City area Tenant/Contractor shall be deemed bound to such different goals and this Section shall be deemed amended to substitute such goals for the goals set forth above. These goals are applicable to all Tenant's/Contractor's construction work performed in and for the Premises. The term "Contractor" hereinafter shall include Tenant should Tenant or an affiliate thereof be the contractor.

The 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 goals shall be a violation of the contract and, where the contractor is the Tenant, the Sublease. Compliance with the goals will be measured against the total work hours performed.

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

(c) As used in these specifications:

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

(2) "Minority" includes:

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

(ii) Hispanic (all persons of Mexican, Puerto Rican, 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 Tenant 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 EEO 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 decisions including specific review of these items with on-Premises supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at the Premises. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

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

(9) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students 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 other 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 at least of all minority* and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

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

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

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

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

(i) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (subparagrapbs (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 employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific minority group of women is 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 Tenant. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative action steps, at least as extensive as those standards prescribed in Paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, Tenant 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 was performed. Records shall be

maintained in an easily understandable 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/Women-Owned Business Enterprises*

As a matter of policy the Port Authority requires Tenant and Tenant shall itself and shall require the general contractor or other construction supervisor and each of Tenant's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction 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 per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum 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 per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum 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 twelve percent (12%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and that at least two percent (2%) of the total dollar value of the construction contracts (including subcontracts) are for the participation of Women-owned Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following.

(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 Tenant 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.

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

Schedule F

Rules and Regulations for the Retail Area

TRASH REMOVAL/RECYCLING

The Tenant shall contract the services of the on-site carting company for all trash removal and pay all costs or fees for this service directly to the carting company.

The Tenant is always responsible for the removal of its own trash to the compactor. Whenever possible, trash should be removed from the premises before or after business hours to minimize any inconveniences to airport patrons.

Compactor Location

A trash chute is located in the service corridor behind the West Food Court service operators. Always place trash in the chute. If the compactor is full or fails to operate for any reason, notify the management office. Store the trash in your premises until the compactor is returned to service.. Leaving trash on the floor of the service corridor is forbidden. Trash that is allowed to pile up in the service corridor generates foul odors and increases the chances of attracting rodents.

Recycling

A recycling program based on a New York City ordinance is in effect at the Airport. Tenants must separate cans, bottles, plastic, and cardboard from their typical garbage in the West End Food Court, recycling carts are located near the trash chute for the containment of these items. In the East End, recycling carts are located near the compactor located outside the Terminal.

General Rules

Trash may not be left outside your store or in back hallways, stairwells, or passageways for any reason.

Never use the trash receptacles in the common area for your garbage. Remember, you, not the custodians, are responsible for disposing of your own garbage.

Trash should be removed from the premises on a regular basis. It should not accumulate within your store. Allowing wet garbage to accumulate may create a pest problem, and the accumulation of dry garbage is a potential source of fire.

SIGNAGE

The Tenant's storefront signage must be continuously illuminated during business hours.

As a general rule, all signage must remain within the lease line and be professionally fabricated. No handwritten signs, banners or flags are permitted, and under no circumstances shall any sign be attached to the storefront or adjacent windows.

All permanent signage must be approved in writing by the Landlord.

HOUSEKEEPING ISSUES

Merchant Operations Inspection

Landlord will periodically conduct inspections of your store. Specific areas which are targeted include maintenance issues such as:

Trash removal/control

Overall cleanliness/condition of storefront and storefront windows

Overall cleanliness/condition of store interior

Presentation and condition of visual merchandising displays

Proper operation of lighting and/or menu boards

Identification of code violation

Extermination

Currently the Port Authority provides extermination services within the premises on a regular basis. If normal exterminating services are not sufficient in controlling pests or vermin, the Tenant should consult with the exterminating representative regarding other methods of treatment. In all cases, however, the Tenant has ultimate responsibilities for the proper maintenance of the premises and may be required to supplement the exterminating services.

Window Cleaning

Tenants are responsible for keeping the interior and exterior of storefront windows clean. Windows must be cleaned on a regular basis, and should be scheduled before or after business hours.

Inspection Requirements/Maintenance of Systems

Tenants are responsible for the routine inspection, maintenance and repair of any and all smoke detection devices, fire suppression and extinguishing systems by licensed companies. Copies of all reports should be forwarded to the MarketPlace Development Management Office.

All food service operators shall contract for the periodic removal of solids from their grease interceptors, and the necessary servicing of grease producing equipment including, but not limited to, fans, ducts, hoods, drip pans, etc.

Conveyance of Services

The Tenant, their employees or contractors may not perform any work in the common area during hours the Food Court is open without the prior consent of the Landlord.

The Tenant shall not permit its contractor to perform work of any nature unless the contractor has submitted a properly completed Certificate of Insurance to the Landlord. In the event that a Certificate of Insurance is not on file with the Landlord, the Landlord will request that the Tenant's Contractor stop all work immediately until proper evidence of such a Certificate is submitted.

Store Operations

The Tenant shall not permit their employees or agents to engage in promotions on behalf of the Tenant in the common area without the prior written consent of the Landlord.

Tenants shall not play loud music or generate other noise that, in the opinion of the Landlord, prohibits the right of others from the quiet and peaceful enjoyment of the common area.

Tenants shall allow the Landlord or its representative immediate access to the premises upon reasonable request.

Deliveries

All deliveries to the premises shall be made according to the attached delivery plan. Delivery vehicles may not be left unattended. Deliveries should be scheduled so they do not conflict with peak hours at the airport.

The Departures Level ramp and roadway is restricted in height to vehicles less than 11'6" and in weight to vehicles less than 30,000 GVW. All vehicles exceeding these requirements must make deliveries to the Arrivals Level of the Central Terminal Building and follow the route shown on the delivery plan.

Delivery staff should at all times respect the flow of passengers within the Terminal. Proper right of way should be given to passengers when entering an elevator or steering a cart through the common areas of the Terminal.

All delivery carts, utility carts and trash collection dumpsters must adhere to the following specifications:

4" revolving white rubber, non-marking corner bumpers on platforms or base of carts.

Full encircling rubber bumpers around lower platform base.

Handles, bag holders or other components of carts that can cause damage, are to be protected with 3" revolving, white rubber, non-marking bumpers.

The base of all carts shall be of tubular construction.

All carts shall be equipped with 8" x 1.75" Semi-Pneumatic ball bearing wheels.

Schedule G

Port Authority Consent to Sublease

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

CONSENT TO SUBLEASE

Consent Agreement No. AGA-
Port Authority Lease No. AGA-317
Facility - LaGuardia Airport

THIS CONSENT TO SUBLEASE AGREEMENT (hereinafter called the "Consent"), made _____ by and among THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority"), and MARKETPLACE LAGUARDIA LIMITED PARTNERSHIP (hereinafter called the "Lessee") and _____, a _____ corporation (hereinafter called the "Sublessee") with an office and place of business at _____, whose representative is _____.

WITNESSETH, That:

WHEREAS, by an agreement of lease dated September 19, 1994, bearing Port Authority Lease No. AGA-317 (said agreement of lease, as heretofore and hereafter supplemented and amended being hereinafter called the "Lease"), the Port Authority leased to MarketPlace LaGuardia Limited Partnership certain areas in the Central Terminal Building (hereinafter called the "Terminal") including those in its passenger concourses, its Center Section and its East and West Wings (hereinafter collectively referred to as the "premises") at LaGuardia Airport (hereinafter called the "Airport") to be used by such parties as may be approved by the Port Authority as provided therein; and

WHEREAS, the Lessee and the Sublessee have requested the consent of the Port Authority to a proposed sublease agreement between the Lessee and the Sublessee, dated _____, pursuant to which the Lessee has made available to the Sublessee ____ spaces in the premises (sometimes hereinafter collectively called the "Space") upon which the Sublessee shall operate a store, and maintain storage space, to provide for the sale at retail of the goods/services set forth therein, a copy of which agreement is attached hereto, hereby made a part hereof and hereinafter called the "Sublease Agreement";

WHEREAS, the applicable provisions of the Lease require, and the Sublease Agreement provides, that the Sublease Agreement shall be subject and subordinate to the Lease as the same may be amended, supplemented or extended and, further, that it shall not take effect without the prior written consent of the Port Authority thereto embodied in an instrument signed by the Port Authority;

WHEREAS, the Sublessee and the Lessee have requested the consent of the Port Authority to the Sublease Agreement;

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

1. On the terms and conditions hereinafter set forth the Port Authority consents to the Sublease Agreement.

2. Notwithstanding any provision of the Sublease Agreement to the contrary, including but not limited to Sections 1.1 and 3.2 thereof, this Consent and the Sublease Agreement shall terminate, without notice to the Lessee or the Sublessee, on the day preceding the date of expiration or earlier termination of the Lease, or on *such earlier date as the Lessee and the Sublessee may agree upon (in those circumstances where the Lease does not* require the consent of the Port Authority to such earlier termination); provided, however, that the Sublease Agreement shall not terminate in the event of the termination of the Lease prior to the expiration of the term of the Sublease Agreement if the Port Authority shall notify the Sublessee and the Lessee at or prior to such effective date of termination of the Lease that the Port Authority shall and does assume the rights and obligations of the Lessee thereunder from the date of such notice and upon such notice the Sublessee shall be deemed to have fully attorned to the Port Authority, all as more specifically set forth in the Lease. In the event of such termination, the Sublessee shall cease its activities and operations at the Terminal, quit the Space and remove its property and property for which it is responsible therefrom on or before the effective date of termination of the Sublease Agreement.

3. If the Lessee shall at any time be in default of any of its monetary obligations under the Lease, and for so long as the Port Authority deems such default to be continuing or uncured, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Lessee. No such payment shall relieve the Lessee from any obligation under the Lease or under this Consent, but all such payments shall be credited against the obligations of the Lessee or of the Sublessee as the Port Authority may determine for each payment or part thereof.

4. (a) The Sublessee, in its operations under or in connection with the Sublease Agreement, agrees to assume, observe, be bound by and comply with all the terms, provisions, covenants and conditions of the Lease applicable thereto as if it were the Lessee under the Lease.

(b) All acts and omissions of the Sublessee (including but not limited to those on or with respect to non-exclusive areas, if any) shall be deemed to be acts and omissions of the Lessee under the Lease and, as between the Lessee and the Port Authority, the Lessee shall also be severally responsible for said acts and omissions, including, but not limited to, the obligations of indemnification and repair. Accordingly, pursuant to the foregoing sentence, those acts or omissions of the Sublessee which, if undertaken by the Lessee, would constitute a default or breach under the Lease are subject to the application of Lease provisions which are relevant to default and breach by the Lessee including, but not limited to, those provisions which may provide Lessee with a grace period to cure a default and which may provide the Lessee an opportunity to perform where fulfillment of its obligation requires activity over a period of time.

5. (a) Without in any way affecting the obligations of the Lessee under the Lease and under this Consent, and the obligations of the Sublessee with regard to the indemnification provisions of the Lease, the Sublessee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses *including attorneys' fees and other legal expenses, including the costs of its "in-house" legal staff as such costs are* determined by the Port Authority, incurred in connection with the defense of) all claims and demands of third persons, including but not limited to, claims and demands for death and personal injuries or for property damages arising out of the interest of the Sublessee under the Sublease Agreement, any default of the Sublessee in the performance or observance of any term or provision hereof or out of the use, operation, control, or occupancy of the Space by the Sublessee or by others with its consent or out of any of the acts or omissions of the Sublessee, its officers, employees, contractors, agents, representatives, guests, invitees and business visitors on said Space or out of any of the acts or omissions of the Sublessee, its officers, agents, representatives, employees, members (if Sublessee is a limited liability entity, in their capacity as members thereof), managers (if Sublessee is a limited liability entity, in their capacity as managers thereof), and partners (if the Sublessee is a partnership) elsewhere at the Airport, including claims and demands of the City of New York from which the Port Authority derives its rights

in the Airport, for indemnification arising by operation of law or through agreement of the Port Authority with the said City.

(b) If so directed, the Sublessee shall at its own expense defend any suits 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, and it shall cause its insurers to agree not to, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the *governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port* Authority.

(c) Notwithstanding anything to the contrary stated herein, including but not limited to the provisions of paragraph 6 herein, in any instance where the Sublessee's obligation to indemnify and hold harmless the Port Authority under this Consent is inconsistent, in conflict with or otherwise different from any obligation to indemnify the Port Authority under any provision of the Lease (to which the Sublease Agreement is subordinate and subject) which requires the Lessee to cause its subtenants to indemnify the Port Authority, then the controlling provisions shall be those which provide the broadest and most comprehensive indemnification of the Port Authority.

6. (a) Neither this Consent nor anything contained herein shall constitute or be deemed to constitute a consent to nor shall there be created an implication that there has been consent to any enlargement or change in the rights, powers and privileges granted to the Lessee under the Lease, nor consent to the granting or conferring of any rights, powers or privileges to the Sublessee as may be provided under the Sublease Agreement if not granted to the Lessee under the Lease, unless specifically set forth in this Consent, nor shall this Consent or anything contained *herein impair or affect any of the duties, liabilities, or obligations imposed on the Lessee under the Lease.*

(b) The Sublease Agreement is an agreement between the Lessee and the Sublessee with respect to the various matters set forth therein. Neither this Consent nor anything contained herein shall constitute an agreement between the Port Authority, the Lessee, or the Sublessee that, except as expressly provided for in paragraph 2 herein under the circumstances therein described and then only to the extent therein provided, the provisions of the Sublease Agreement shall apply and pertain as between them, it being understood that the terms, provisions, covenants, conditions and agreements of the Lease shall, in all respects, be controlling, effective and determinative.

(c) In the event of differences and inconsistencies between the terms of the Sublease Agreement and the terms of the Lease, the terms of the Lease shall control, it being the intention of the Lessee and the Port Authority merely to permit the conduct of retail operations by the Sublessee to the extent permitted by the Lease, the Sublease Agreement and this Consent and not to enlarge or otherwise change the rights granted by the Lease. All of the terms, provisions, covenants and conditions of the Lease shall be and remain in full force and effect. In addition, in any case of difference or inconsistency between the provisions of this Consent and those of the Sublease Agreement, this Consent shall be controlling. The specific mention of or reference to the Lessee or the Port Authority in any part of the Sublease Agreement including, without limitation thereto, any mention of any consent or approval of either the Port Authority or the Lessee now or hereafter to be obtained, shall not be or be deemed to create an inference that either the Port Authority or the Lessee has granted its consent or approval thereto or shall hereafter grant its consent or approval thereto, or that the discretion of either the Port Authority or the Lessee as to any such consent or approval shall in any way be affected or impaired. The lack of any specific reference in any provision of the Sublease Agreement to the Port Authority's or the Lessee's approval or consent shall not be deemed to imply that no such approval or consent is required and the Lease shall, in all respects, be controlling, effective and determinative.

(d) No provision of the Sublease Agreement including, but not limited to, those imposing obligations on the Sublessee with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease Agreement covering actions which shall or may be undertaken by the Sublessee including, but not limited to, construction on the Space, title to property, the right to

assign the Sublessee's interest in the Sublease Agreement, or to further sublease the subject Space or any part thereof, and the right to perform services, be deemed to imply or infer that either the Port Authority's or the Lessee's consent or approval thereto will be given or that the discretion of either the Port Authority or the Lessee with respect thereto will in any way be affected or impaired. Reference in this paragraph to specific matters and provisions contained in the Sublease Agreement shall not be construed as indicating any limitation upon the rights of either the Port Authority or the Lessee with respect to their respective discretion as to the granting or withholding of approvals or consents as to other matters and provisions in the Sublease Agreement which are not specifically referred to herein.

(e) It is hereby acknowledged and agreed by the Lessee and the Sublessee that, except as expressly provided in Section 1(e) of the Lease, the Port Authority has no obligation under the Lease, this Consent or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's unamortized capital investment in the Space or at the premises. Any specific mention of or reference in the Sublease Agreement to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease Agreement or the Lease or upon revocation of this Consent with or without cause, of any amount of the Sublessee's unamortized capital investment in the Space or at the premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Lessee to pay, subsidize or finance said unamortized capital investment, except in the event of a termination under Section 1(e) of the Lease, in which event the Port Authority's responsibility with respect to the Sublessee shall be strictly limited to the obligation expressly set forth in such Section 1(e).

(f) Notwithstanding anything to the contrary stated in the Sublease Agreement, certain modifications to the Sublease shall be deemed to have been made thereto, as follows, all of which shall supercede any provisions in the Sublease Agreement which are inconsistent or conflict with such modifications:

(i) in the last paragraph of Section 5.6 of the Sublease Agreement, the Port Authority shall not be bound by any confidentiality obligation undertaken by the Lessee under the Sublease Agreement, it being understood that the Port Authority has the right to apply whatever freedom of information policy is relevant under the circumstances.

(ii) in the event the Sublease is assigned to and assumed by the Port Authority for any reason whatsoever, wherever the Sublease requires or implies that the Lessee shall provide the Sublessee with written notice of a monetary default and breach and/or a grace period for payment obligations, the same shall not bind, apply to or be enforceable against the Port Authority. Accordingly, the Port Authority shall not be obligated to provide written notice to the Sublessee of a monetary default or breach, nor shall the Subtenant be entitled to grace periods with respect to its payment obligations. The foregoing shall be deemed to apply notwithstanding any provisions in the Sublease Agreement to the contrary, e.g., Section 5.7 (entitled "Payment of Rental") and Article 14 (entitled "Default").

(iii) in the event the Sublease Agreement is assigned to and assumed by the Port Authority for whatever reason whatsoever, whenever the Sublease requires the Lessee to be reasonable, to not unreasonably withhold, delay or condition its consent or approval, to use its reasonable efforts, to use best efforts, to provide reasonable notice of inspections, or the like, the same shall not bind, apply to or be enforceable against the Port Authority which, it is understood, shall be obligated in such instances only not to act arbitrarily and capriciously.

(iv) without limiting the generality of Section 10.2, entitled "Electricity", the Lessee's responsibilities to provide connections and tie-ins for electrical service, at Lessee's own cost and expense, shall be governed by the provisions of the Lease.

(v) notwithstanding the provisions of Section 16.3, as between the Sublessee and the Port Authority, notices (of any kind) from the Port Authority shall only be required to be given to the Sublessee, and any notice sent by the Port Authority to any person or entity other than the Sublessee shall be for informational purposes only. Any failure on the part of the Port Authority to send the informational

copy shall not be and shall not be deemed to be a breach of this Consent or the Sublease Agreement nor shall any such failure impair or affect the validity of the notice actually given.

7. No changes or amendments to the Sublease Agreement nor any renewals or extensions thereof shall be binding or effective upon either the Port Authority or the Lessee unless the same have been approved in advance by the Port Authority and the Lessee in writing. The Port Authority may at any time and from time to time by notice to the Sublessee modify, withdraw or amend any approval, direction, or designation given hereunder or pursuant hereto.

8. Anything contained in the Sublease Agreement or this Consent to the contrary notwithstanding, nothing in the Sublease Agreement or this Consent shall be deemed to imply that the Sublessee has the right to make any alteration, demolition, installation, addition or improvement to the premises or the Space, structural or non-structural, exterior or interior, including without limitation the installation of any signs at the Airport, except pursuant to the express written approval of the Port Authority and an approved Alteration Application which the Lessee shall prepare and submit to the Port Authority as more specifically provided in the Lease.

9. (a) The Port Authority shall have the right to separately revoke this Consent at any time by the Port Authority without cause, on thirty (30) days' notice to the Lessee and Sublessee, as to any one or more of the spaces at the Terminal at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Lease or the continuance thereof, but the Sublease Agreement as it applies to the space or spaces which are the subject of revocation shall be terminated thereby.

(b) [***Add if Sublessee has more than one concession space under the Sublease***] In addition to all other rights of the Port Authority the Port Authority shall have the right to separately revoke the permission granted hereunder without cause, on thirty (30) days' notice, as to any one or more of the concession spaces and storage spaces at the Terminal at which the Sublessee has permission to operate, in which event the Sublessee's obligations with respect to the remaining concession and storage space(s) shall remain in effect.

(c) In the event the Port Authority exercises it right to revoke this Consent if the Sublessee shall fail to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Consent, the Sublessee shall be obligated to reimburse the Port Authority for any and all personnel and legal costs (including but not limited to the cost to the Port Authority of in-house legal services) and disbursements incurred by it arising out of, relating to, or in connection with the enforcement or revocation of this Consent including, without limitation, legal proceedings initiated by the Port Authority to exercise its revocation rights and to collect all amounts due and owing to the Port Authority under this Consent.

10. (a) Neither any assignment by the Lessee to the Port Authority of its interest under the Sublease Agreement, nor the application or payment of security deposits to or for the benefit of the Port Authority, nor any direction to the Sublessee to pay rent or other amounts to the Port Authority, nor the payment thereof to and acceptance thereof by the Port Authority shall constitute or denote an assumption by the Port Authority of any of the obligations of the Lessee under the Sublease Agreement.

(b) Without limiting the generality and notwithstanding the provisions of paragraph 6(b) herein, the Sublessee and the Lessee further acknowledge and expressly agree that the Port Authority shall have the right to enforce the Sublease Agreement directly against the Sublessee, including but not limited to all insurance provisions thereof.

11. The Lessee and the Sublessee acknowledge and agree that, except as may be specifically and expressly set forth in the Lease and subject to the terms and conditions of the Lease, the Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with the Sublease Agreement or the use and occupancy of the Space thereunder, including without limitation any obligation to provide or install or cause to be provided or installed any meters or submeters. Without limiting the generality of the foregoing, whenever the Port Authority undertakes pursuant to the Lease to sell, furnish and supply directly to the Sublessee a particular service or utility (e.g., Section 41 of the Lease), the Sublessee shall take the same from the Port Authority

and make payment directly to the Port Authority, as required by the Lease, including but not limited to the payment as directed by the Port Authority of any charge, fee or rent or increase thereof (or the portion thereof allocated by the Port Authority to the Space or the operations therein) which any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, makes or increases.

12. (a) In addition to the insurance required to be maintained by the Lessee under the Lease, the Sublessee during the period the Sublease Agreement shall remain in effect shall in its own name as insured and including the Port Authority and the Lessee as additional insureds obtain, maintain and pay the premiums on a policy or policies of commercial general liability insurance, covering bodily injury, including death, products liability and property damage liability, the foregoing to provide for coverage in the limits set forth below. All the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protection afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority or Lessee, or both, but such endorsement shall not limit, vary, change or affect the protection afforded the Port Authority and Lessee as additional insureds. Further, the said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Sublessee under subparagraphs (a) and (b) hereof.

	Minimum Limit
Commercial General Liability: Combined single limit per occurrence for death, bodily injury and property damage liability	$2,000,000

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

The Port Authority at any such time may make additions, deletions, amendments to or modifications of the above-scheduled insurance requirements, including an increase in such minimum limits, and may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem advisable and the Sublessee shall promptly comply therewith.

(b) As to the insurance required by the provisions of this paragraph, a certified copy of the policies or a certificate or certificates or binders satisfactory to the Port Authority evidencing the existence thereof, shall be delivered by Lessee to the Port Authority within fifteen (15) days after delivery of this Consent to the Port Authority. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. In the event a binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain an additional endorsement providing that the insurance carrier shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority. Renewal certificates of insurance shall be delivered to the Port Authority upon expiration of each expiring policy, except for any policy expiring after the date of expiration of the Sublease Agreement. The aforesaid 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 Sublessee shall promptly obtain a new and satisfactory policy in replacement thereof. Sublessee agrees to provide Lessee and the Port Authority with thirty (30) days written notice of cancellation of any of the polices required herein unless the policy to be cancelled is reinstated or replaced with another policy in compliance with the requirements herein prior to the cancellation date.

13. The granting of this Consent by the Port Authority shall not be or be deemed to operate as a waiver of the rights of the Port Authority or as a consent as to any subsequent use, occupancy or sublease (by the Lessee or by the Sublessee) of the Space or any other portion or area of the premises under the Lease, or to any assignment of the Lease or the Sublease Agreement or of any rights under either of them, whether in whole or in part.

14. Reference herein to the "Sublessee" shall mean and include the Sublessee, its officers, agents, employees and also others on the Airport with the consent of the Sublessee.

15. Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof shall be held personally liable to the Lessee or to the Sublessee under any term provision of this Consent or because of its execution or because of any breach or alleged or attempted breach thereof or otherwise.

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

17. Certain Definitions.

(a) "Airport" shall mean LaGuardia Airport, consisting of certain premises identified as "LaGuardia Airport" on Sheet LGA-1 of Exhibit A, and more particularly described in Exhibit B, annexed to the City Lease, and such other property and premises as may be acquired in connection with and added to such premises pursuant to the terms of the City Lease.

(b) "City" shall mean The City of New York, a municipal corporation of the State of New York.

(c) "City Insureds" shall mean the following entities: The City of New York, the officials and employees of The City of New York (to the extent that the officials and employees of the Port Authority of New York and New Jersey are likewise insured) and the New York City Economic Development Corporation, a local development corporation formed pursuant to Section 1411 of the Not-For-Profit Corporation Land of the State of New York, or such successor entity as may be designated by the City.

(d) "City Lease" shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and The Port Authority of New York and New Jersey, as Tenant, dated as of November 24, 2004 and recorded in the office of the City Register of the City on December 3, 2004 under City Register File No. 2004000748687, as the same may have been or may be amended or supplemented.

18. The City Lease.

(a) The Lessee and the Sublessee acknowledge that they have received a copy of, and are familiar with the contents of, the City Lease (excepting exhibits, schedules and appendices referenced therein, copies of which are available to, but were not requested by, the Lessee and Sublessee). The Permittee acknowledges that no greater rights or privileges are hereby granted to the Lessee and the Sublessee than the Port Authority has the power to grant under the City Lease.

(b) In accordance with the provisions of the City Lease, the Port Authority, the Lessee and the Sublessee hereby agree as follows:

(i) This Consent is subject and subordinate to the City Lease and to any interest superior to that of the Port Authority;

(ii) The Lessee and the Sublessee shall not pay the fees or other sums under this Consent for more than one (1) month in advance (excluding security and other deposits required under this

Consent). Sublessee agrees that amounts due to Landlord under Section 14.3 of the Sublease are Landlord's damages and do not and are not intended to constitute rent payable in advance in the ordinary course of business in contravention of this Section 18(b)(ii);

(iii) With respect to this Consent, the Lessee and the Sublessee on the termination of the City Lease will, at the option of the City, enter into a direct consent on identical terms with, the City;

(iv) The Lessee and the Sublessee shall indemnify the City with respect to all matters described in Section 31 of the City Lease to the extent such matters are referenced in, with respect to the Lessee, Lessee's indemnification obligations in the Lease, and with respect to the Sublessee, Sublessee's indemnification obligations in the Sublease and in this Consent;

(v) The Lessee and the Sublessee shall not use any portion of the Airport for any use other than as permitted under the City Lease;

(vi) The Lessee and the Sublessee shall exercise the privileges granted under the Lease and the Sublease, respectively, in a manner consistent with the Port Authority's obligations under Section 28 of the City Lease to the extent applicable to, for the Lessee, Lessee's obligations under the Lease, and for the Sublessee, Sublessee's obligations under the Sublease and this Consent;

(vii) The failure of the Lessee and the Sublessee to comply with the foregoing provisions (after, with respect to the Lessee, the notice and the cure period provided in Section 18(a)(10) of the Lease) shall be an event of default under this Consent, which shall provide the Port Authority with the right to terminate this Consent and exercise any other rights that the Port Authority may have as the grantor of the privilege hereunder; and

(viii) The City Insureds (as such term is defined in the City Lease) shall be named as additional insureds or loss payees, as applicable, under each policy of insurance procured by the Lessee and the Sublessee pursuant to the terms of the Lease, the Sublease and this Consent, as applicable.

19. (a) If the Sublessee shall fail to pay any amount required under this Consent when due to the Port Authority, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this paragraph, with respect to such unpaid amount. Nothing in this paragraph is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Consent, including without limitation under paragraph 7 hereof or (ii) any obligations of the Sublessee under this Consent. In the event that any late charge imposed pursuant to this paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent shall be payable instead at such legal maximum.

(b) Notwithstanding the provisions of subparagraph (a), above, regarding late charges, if a late charge with respect to such unpaid amount is due and payable pursuant to the terms of the Sublease Agreement (a "Sublease Late Charge"), the Port Authority shall decrease the amount of the large charge imposed by this paragraph 17 by the amount of the Sublease Late Charge that has been paid by Sublessee to either the Lessee or the Port Authority, provided that if directed by the Port Authority to pay such amounts directly to the Port Authority, Sublessee would be required to make such payments directly to the Port Authority.

20. The Sublessee waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Sublessee in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under the Consent Agreement. The Sublessee 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.

21. This Consent is subject to the requirements of the United States Department of Transportation's regulations, 49 CFR Part 23. The Sublessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement or any management contract, or subcontract, purchase or lease agreement or other agreement covered by 49 CFR Part 23. The Sublessee agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters and cause those businesses to similarly include the statements in further agreement. Further, the Sublessee agrees to comply with the terms and provisions of Schedule G, attached hereto and hereto made a part hereof.

22. Labor Harmony at the Airport

(a) General. In connection with its operations at the Airport under this Consent, the Sublessee shall serve the public interest by promoting labor harmony, it being acknowledged that strikes, picketing, or boycotts may disrupt the efficient operation of the Terminal. The Sublessee recognizes the essential benefit to have continued and full operation of the Airport as a whole and the Terminal as a transportation center. The Sublessee shall immediately give oral notice to the Port Authority (to be followed reasonably promptly by written notices and reports) of any and all impending or existing labor-related disruptions and the progress thereof.

If any type of strike, picketing, boycott or other labor-related disruption is directed against the Sublessee at the Terminal, or against its operations thereat pursuant to this Consent, which in the opinion of the Port Authority (i) physically interferes with the operation of the Airport, the Terminal or the Space, or (ii) physically interferes with public access between the Space and any portion of the Terminal or the Airport, or (iii) physically interferes with the operations of other operators at the Airport or the Terminal, or (iv) presents a danger to the health and safety of users of the Airport or the Terminal, including persons employed thereat or members of the public, the Port Authority shall have the right at any time during the continuance thereof to take such actions as the Port Authority may deem appropriate including, without limitation, revocation of this Consent.

(b) Labor peace agreement. The Sublessee represents that, prior to or upon entering into this Consent, it has delivered to the Port Authority either: (1) evidence that the Sublessee has entered into a signed "labor peace agreement", in the form attached hereto as Exhibit X, or (2) written notification from an officer of the Sublessee on the Sublessee's letterhead that no labor organization (as defined by 29 U.S.C. Section 152(5)) has sought to represent the employees of the Sublessee at the Airport as of the date of such notification.

(c) Employee Retention. If the Sublessee's concession at the Space is of the same type (i.e., food, retail, news/gifts or duty-free concession) as that of the immediately preceding concession operator at the Space (the "Predecessor Concession"), the Sublessee agrees to offer continued employment for a minimum period of ninety (90) days, unless there is just cause to terminate employment sooner, to employees of the Predecessor Concession who have been or will be displaced by cessation of the operations of the Predecessor Concession and who wish to work for the Sublessee at the Space. The foregoing requirement shall be subject to the Sublessee's commercially reasonable determination that fewer employees are required at the Space than were required by the

Predecessor Concession; except, however, that the Sublessee shall retain such staff as is deemed commercially reasonable on the basis of seniority with the Predecessor Concession at the premises. The Port Authority shall have the right to demand from the Sublessee documentation of the name, date of hire, and employment occupation classification of all employees covered by this provision. In the event the Sublessee fails to comply with this provision, the Port Authority have the right at any time during the continuance thereof to take such actions as the Port Authority may deem appropriate including, without limitation, revocation of this Consent.

(d) Applicability of Provision. The provisions of this section shall apply to concession operators which employ ten (10) or more persons at the Space.

23. **[ADD IF SUBLESSEE IS A PARTNERSHIP OR JOINT VENTURE]** Notwithstanding any provision to the contrary in this Consent, the two corporations comprising the joint venture [partnership] known as _____, and said joint venture [partnership], shall be and be deemed to be jointly and severally liable for each and every obligation under this Consent.

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

[PLEASE NOTE: In the event that Sublessee is a partnership or joint venture, this consent should be prepared in such a way that the general partner will sign this consent. If the Sublessee is a limited liability entity, this consent must be signed by the member(s) or manager(s) authorized to enter into contracts pursuant to the entity's operating agreement, a copy of which should be provided to the Port Authority.]

ATTEST:

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

_____
Secretary

By _____

(Title)_____

EAST\48459345.6

ATTEST:

_____
Secretary

MARKETPLACE LAGUARDIA LIMITED PARTNERSHIP

By: Marketplace LaGuardia, Inc., General Partner

By _____

(Title) President
(Corporate Seal)

ATTEST:

_____
Secretary

_____

By _____

(Title) _____
(Corporate Seal)

EAST\48459345.6

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

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

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

(notarial seal and stamp)

STATE OF)
) ss.
COUNTY OF)

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

(notarial seal and stamp)

STATE OF)
) ss.
COUNTY OF)

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

(notarial seal and stamp)

EXHIBIT X

EVIDENCE OF SIGNED LABOR PEACE AGREEMENT

_____ (the "Company") has complied with Board Resolution "All airports – Labor Harmony Policy" passed October 18, 2007, which stipulates that the Company must sign a Labor Peace Agreement with a labor organization that seeks to represent the Company's employees and that contains provisions under which the labor organization and its members agree to refrain from engaging in any picketing, work stoppages, boycotts or any other economic interference with the Company's operations.

FOR THE COMPANY:	FOR THE UNION:
[Insert name of Sublessee]	[Insert Name of Labor Organization]
BY:_____	BY:_____
DATE:_____	DATE:_____

SCHEDULE G TO PORT AUTHORITY CONSENT TO SUBLEASE

AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PARTICIPATION

In accordance with regulations of the US Department of Transportation 49 CFR Part 23, the Port Authority has implemented an Airport Concession Disadvantaged Business Enterprise (ACDBE) program under which qualified firms may have the opportunity to operate an airport business. The Port Authority has established an ACDBE participation goal, as measured by the total estimated annual gross receipts for the overall concession program. The goal is modified from time to time and posted on the Port Authority's website: www.panynj.gov.

The overall ACDBE goal is a key element of the Port Authority's concession program and Concessionaire shall take all necessary and reasonable steps to comply with the requirements of the Port Authority's ACDBE program. The Concessionaire commits to making good faith efforts to achieve the ACDBE goal. Pursuant to 49 CFR 23.25 (f), ACDBE participation must be, to the greatest extent practicable, in the form of direct ownership, management and operation of the concession or the ownership, management and operation of specific concession locations through subleases. The Port Authority will also consider participation through joint ventures in which ACDBEs control a distinct portion of the joint venture business and/or purchase of goods and services from ACDBEs. In connection with the aforesaid good faith efforts, as to those matters contracted out by the Concessionaire in its performance of this agreement, the Concessionaire shall use, to the maximum extent feasible and consistent with the Concessionaire's exercise of good business judgment including without limit the consideration of cost competitiveness, a good faith effort to meet the Port Authority's goals. Information regarding specific good faith steps can be found in the Port Authority's ACDBE Program located on its above-referenced website. In addition, the Concessionaire shall keep such records as shall enable the Port Authority to comply with its obligations under 49 CFR Part 23 regarding efforts to offer opportunities to ACDBEs.

Qualification as an ACDBE

To qualify as an ACDBE, the firm must meet the definition set forth below and be certified by the New York State or New Jersey Uniform Certification Program (UCP). The New York State UCP directory is available on-line at www.nysucp.net and the New Jersey UCP at www.njucp.net.

An ACDBE must be a small business concern whose average annual receipts for the preceding three (3) fiscal years does not exceed $47.78 million and it must be (a) at least fifty-one percent (51%) owned and controlled by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially or economically disadvantaged individuals who own it. The personal net worth standard used in determining eligibility for purposes of part 23 is $750,000.

The ACDBE may, if other qualifications are met, be a franchisee of a franchisor. An airport concession is a for-profit business enterprise, located on an airport, which is subject to the Code of Federal Regulations 49 Part 23, subpart F, that is engaged in the sale of consumer goods or services to the public under an agreement with the sponsor, another concessionaire, or the owner or operator of a terminal, if other than the sponsor. The Port Authority makes a rebuttable presumption that individuals in the following groups who are citizens of the United States or lawful permanent residents are "socially and economically disadvantaged":

a. Women;

b. Black Americans which includes persons having origins in any of the Black racial groups of Africa;

c. Hispanic Americans which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

d. Native Americans which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

e. Asian-Pacific Americans which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia or Hong Kong;

f. Asian-Indian Americans which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal and Sri Lanka; and

g. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. Section 637(a)).

Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis. For example, a disabled Vietnam veteran, an Appalachian white male, or another person may claim to be disadvantaged. If such individual requests that his or her firm be certified as ACDBE, the Port Authority, as a certifying partner in the New York State and New Jersey UCPs will determine whether the individual is socially or economically disadvantaged under the criteria established by the Federal Government. These owners must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

Certification of ACDBEs hereunder shall be made by the New York State or New Jersey UCP. If Concessionaire wishes to utilize a firm not listed in the UCP directories but which the Concessionaire believes should be certified as an ACDBE, that firm shall submit to the Port Authority a written request for a determination that the firm is eligible for certification. This shall be done by completing and forwarding such forms as may be required under 49 CFR Part 23. All such requests shall be in writing, addressed to Lash Green, Director, Office of Business and Job Opportunity, 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 designate from time to time. Contact OBJOcert@panyni.gov for inquiries or assistance.

General

In the event the signatory to this agreement is a Port Authority permittee, the term Concessionaire shall mean the Permittee herein. In the event the signatory to this agreement is a Port Authority lessee or sublessee, the term Concessionaire shall mean the Lessee or Sublessee herein, as applicable.

Schedule H

Intentionally Omitted

Schedule I

Intentionally Omitted

Schedule J

Form of Letter of Credit

Irrevocable Standby Letter of Credit No. _____

Issued in _____, Massachusetts on [Date]

Applicant:	Beneficiary:
[Tenant] [Address]	MarketPlace LaGuardia Limited Partnership One Wells Avenue, Suite 205 Newton, MA 02459
Amount: $_____	Date and Place of Expiration: [Date] at [Issuing Bank's Counters]

Credit Available With: [Issuing Bank]

Available By Drafts at Sight.

We hereby establish our irrevocable Letter of Credit in your favor for the account of [Tenant], up to an aggregate amount not to exceed _____ Thousand Dollars ($_____), available by your draft(s) drawn on us at sight accompanied by:

- A statement purportedly signed by an authorized officer of the Beneficiary which provides that the Applicant is in default of its obligations to the Beneficiary under a lease (the "Lease") dated [date], between the Beneficiary, as landlord, and the Applicant, as tenant, and that on account of such default, the Beneficiary is entitled to draw under this Letter of Credit, or a statement purportedly signed by an authorized officer of the Beneficiary which provides that the Applicant has failed to provide a replacement letter of credit in accordance with the terms of the Lease, and that on account thereof, the Beneficiary is entitled to draw under this Letter of Credit; and

- This original Letter of Credit.

This Letter of Credit shall expire at our office on [date] (the "Stated Expiration Date") or any other automatically extended expiration date. It is a condition that this Letter of Credit shall be deemed automatically extended without amendment for successive one (1) years periods from the Stated Expiration Date, unless at least sixty (60) days prior to the then-current expiration date, we send you and the Applicant notice in writing by registered/certified mail, return receipt requested, or by overnight courier, that we elect not to renew this Letter of Credit for any such additional one (1) year period.

This Letter of Credit is for the benefit of the Beneficiary and its successors and assigns.

Draft(s) and/or documents must be presented at [address of issuing bank].

We undertake that draft(s) drawn and presented in conformity with this Letter of Credit will be duly honored.

Partial drawings are permitted.

_____
[Authorized Signature]

TABLE OF CONTENTS

Page

ARTICLE 1 DEFINITIONS AND ATTACHMENTS 1

Section 1.1 Basic Data 1

Section 1.2 Additional Defined Terms 4

Section 1.3 Attachments 6

ARTICLE 2 PREMISES 6

Section 2.1 Demise 6

ARTICLE 3 TERM 7

Section 3.1 Commencement Date. 7

Section 3.2 Termination. 8

Section 3.3 Holding Over 8

ARTICLE 4 USE 9

Section 4.1 Prompt Occupancy and Use; Operating Hours 9

Section 4.2 Tenant's Trade Name 9

ARTICLE 5 RENTAL 9

Section 5.1 Rentals Payable 9

Section 5.2 Fixed Minimum Rent 10

Section 5.3 Percentage Rental 10

Section 5.4 "Gross Sales" Defined 10

Section 5.5 Statements of Gross Sales 11

Section 5.6 Tenant's Records 12

Section 5.7 Payment of Rental 12

Section 5.8 Security Deposit 13

ARTICLE 6 OPERATING COSTS; PROMOTIONAL COSTS 14

Section 6.1 Tenant to Pay Proportionate Share of Operating Costs 14

Section 6.2 "Landlord's Operating Costs" Defined 15

Section 6.3 Commercial Rent Tax 16

Section 6.4 Tenant Participation in Promotional Activities 16

Section 6.5 Calculation of Tenant's Proportionate Share 16

ARTICLE 7 IMPROVEMENTS 17

Section 7.1 Intentionally Omitted 17

Section 7.2 Condition of the Premises 17

Section 7.3 Tenant's Work 17

Section 7.4 Effect of Opening for Business 18

Section 7.5 Mechanic's Liens 18

Section 7.6 Tenant's Trade Fixtures 18

TABLE OF CONTENTS **Page**

(continued)

ARTICLE 8 OPERATIONS 19

Section 8.1 Operations by Tenant 19

Section 8.2 Signage and Advertising 22

Section 8.3 Painting, Displays and Merchandising by Tenant 22

Section 8.4 Hazardous Materials 23

Section 8.5 Street Pricing 24

Section 8.6 Intentionally Omitted 24

Section 8.7 Employee Training 24

Section 8.8 Intentionally Omitted 25

ARTICLE 9 REPAIRS AND ALTERATIONS 25

Section 9.1 Repairs To Be Made By Landlord 25

Section 9.2 Repairs To Be Made By Tenant 25

Section 9.3 Damage to Premises 25

Section 9.4 Alterations by Tenant 26

Section 9.5 Changes and Additions to Retail Area 26

Section 9.6 Management and Operation of Common Areas 27

ARTICLE 10 UTILITIES 27

Section 10.1 Utilities 27

Section 10.2 Electricity 27

Section 10.3 Water and Sewer 28

Section 10.4 Heat and Air Cooling 28

Section 10.5 Government Regulation 29

Section 10.6 Trash and Garbage Removal 29

Section 10.7 Cleaning Services 29

Section 10.8 Discontinuance and Interruptions of Services 29

Section 10.9 Deliveries 30

ARTICLE 11 INDEMNITY AND INSURANCE 30

Section 11.1 Indemnity by Tenant 30

Section 11.2 Landlord Not Responsible for Acts of Others 31

Section 11.3 Tenant's Insurance 31

Section 11.4 Tenant's Contractor's Insurance 32

Section 11.5 Landlord's Insurance 32

Section 11.6 Policy Requirements. 32

TABLE OF CONTENTS **Page**

(continued)

Section 11.7 Increase in Insurance Premiums 32
Section 11.8 Waiver of Right of Recovery 33
ARTICLE 12 DAMAGE AND DESTRUCTION 33
Section 12.1 Casualty 33
Section 12.2 Condemnation 33
ARTICLE 13 ASSIGNMENT AND SUBLETTING 34
Section 13.1 Assignment and Subletting Prohibited 34
Section 13.2 Transfer of Corporate Shares 35
Section 13.3 Acceptance of Rent From Transferee 35
Section 13.4 Other Assignment and Subletting Requirements 35
ARTICLE 14 DEFAULT 36
Section 14.1 "Event of Default" Defined 36
Section 14.2 Remedies 37
Section 14.3 Damages 39
Section 14.4 Landlord's Default 40
Section 14.5 Miscellaneous 40
ARTICLE 15 LANDLORD'S ACCESS TO THE PREMISES 40
Section 15.1 Landlord's Right of Access 40
Section 15.2 Access During the Last Month of Term 40
ARTICLE 16 MISCELLANEOUS 41
Section 16.1 Covenant of Quiet Enjoyment 41
Section 16.2 Brokerage 41
Section 16.3 Notices 41
Section 16.4 No Personal Liability of Landlord 42
Section 16.5 Non-Discrimination 42
Section 16.6 Subordination 42
Section 16.7 Status Report 42
Section 16.8 Recording 43
Section 16.9 Intentionally Omitted 43
Section 16.10 Self-Help 43
Section 16.11 Unavoidable Delays 43
Section 16.12 No Joint Venture 43
Section 16.13 Waiver 44

TABLE OF CONTENTS

Page

(continued)

Section 16.14	Invalidity of Particular Provisions	44
Section 16.15	Provisions Binding, Etc	44
Section 16.16	When Sublease Becomes Binding	44
Section 16.17	Interpretation	45
Section 16.18	Amendment	45
Section 16.19	Applicable Law; Choice of Law and Forum	45
Section 16.20	Tenant's Certification	46

FIRST AMENDMENT TO SUBLEASE
[American Express: Locations 3F1, CSBS7]

This instrument is the First Amendment (the "First Amendment") to a Sublease dated September 6, 2012 (as amended, the "Sublease") for certain premises located in the Central Terminal Building at LaGuardia Airport between **MarketPlace LaGuardia Limited Partnership**, a Delaware limited partnership ("Landlord") and **American Express Travel Related Services Company, Inc.** (d/b/a American Express), a New York corporation ("Tenant").

Landlord and Tenant have agreed to amend the Sublease pursuant to the terms and conditions set forth herein. Terms not otherwise defined herein shall have the meanings ascribed to them in the Sublease.

NOW, THEREFORE, in consideration of the mutual undertakings of the parties under this First Amendment and the Sublease, the parties hereby agree as set forth below. Where the terms of this First Amendment are in conflict with the terms of the Sublease, the terms of this First Amendment shall control.

1. Basic Data; Term. Section 1.1 of the Sublease is hereby amended by deleting the definition of "Term" and replacing it with the following:

Term:	That period of time beginning on the Commencement Date established pursuant to Section 3.1 and ending on the Termination Date, as such term is defined below.

2. Basic Data; Termination Date. Section 1.1 of the Sublease is hereby amended by adding a new definition of "Termination Date," as follows:

Termination Date:	August 30, 2018.

3. Basic Data; Operating Hours. Section 1.1 of the Sublease is hereby amended by deleting the definition of "Operating Hours" and replacing it with the following:

Operating Hours:	The minimum hours during which Tenant shall operate are 8 a.m. to 7 p.m., subject to change as provided in Section 4.1 of the Sublease. Tenant may operate its business in the Premises outside of the Operating Hours, subject to the Port Authority's operating rules and applicable federal, state and local laws.

4. Operating Agreement Requirement. Tenant shall be permitted to enter into one or more operating agreements (each an "Operating Agreement") with a third-party operator (an "Operator") for the operation of some or all of Tenant's business activities within the Premises for the Permitted Use, so long as Tenant first shall obtain the approval of each such Operating Agreement by the Port Authority pursuant to the terms of a Privilege Permit executed and agreed by the Port Authority and the Operator and consented and agreed in writing by Landlord and Tenant. Tenant shall have the right to terminate an Operating Agreement and appoint an alternate Operator pursuant to a new Operating Agreement, so long as Tenant first shall obtain the approval of such Operating Agreement by the Port Authority pursuant to the terms of a Privilege Permit executed and agreed by the Port Authority and the Operator and consented and agreed in writing by Landlord and Tenant. Tenant hereby agrees that Tenant shall enter into an Operating Agreement (the "Compass Operating Agreement") with Compass Group USA, Inc. ("Compass") pursuant to which Compass shall be responsible for operating some or all of Tenant's business activities within the Premises for the Permitted Use, as more particularly set forth in the Compass Operating Agreement and otherwise under all of the terms and conditions of the Sublease, provided that the Compass Operating Agreement shall be approved in writing by the Port Authority, which approval shall be provided in a Port Authority Privilege Permit executed by Compass and the Port Authority and both Landlord and Tenant shall consent and agree in writing to such Port Authority Privilege Permit.

5. Ratification of Lease. As modified hereby, the Sublease is ratified and confirmed and shall remain in full force and effect. This First Amendment shall inure to the benefit of and be binding upon Landlord and Tenant and their respective successors and assigns. The Sublease, as amended by this First Amendment, shall not take effect without the prior written consent of the Port Authority, except Tenant agrees that during any period prior to receipt of such consent it will perform all of its obligations hereunder as fully as if such First Amendment was in effect during such period.

[The remainder of this page is intentionally blank]

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed under seal as of this 6th day of September, 2012.

LANDLORD:

MarketPlace LaGuardia Limited Partnership

By: MarketPlace LaGuardia, Inc., its general partner

By: _____

Name: Paul O. McGinn
Its: President
Hereunto duly authorized

TENANT:

American Express Travel Related Services Company, Inc., a New York corporation

By: _____

Name: Carol V. Schwartz
Its: Secretary
Hereunto duly authorized

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

For The Port Authority of NY & NJ

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

On the 18th day of November in the year 2013 before me, the undersigned, a Notary Public in and for said state, personally appeared DAVID KAGAN, ASST. DIRECTOR, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(~~s~~) whose name(~~s~~) is (~~are~~) subscribed to the within instrument and acknowledged to me that he/~~she/the~~y executed the same in his/~~her/the~~ir capacity(~~ies~~), and that by his/~~her/the~~ir signature(~~s~~) on the instrument, the individual(~~s~~), or the person upon behalf of which the individual(~~s~~) acted, executed the instrument.

(notarial seal and stamp)

Marie M. Edwards
Notary Public, State of New York
No. 01ED4959693 QUEENS
Qualified in ~~Kings~~ County
Commission Expires 2/09/14

For MarketPlace LaGuardia Limited Partnership

STATE OF MASSACHUSETTS)
) ss.
COUNTY OF MIDDLESEX)

On the 23rd day of October in the year 2013, before me, the undersigned, a Notary Public in and for said state, personally appeared Paul D. McGinn, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

MARGARITA DELVALLE-AVILA
Notary Public
Commonwealth of Massachusetts
My Commission Expires
October 6, 2017

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

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

On the 11th day of November in the year 2013, before me, the undersigned, a Notary Public in and for said state, personally appeared Susan Chapman-Hughes, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ROSE ANN DIMARTINO
Notary Public, State of New York
No. 01DI6227764
Qualified in Queens County
Commission Expires September 7, 2014

Rose Ann DiMartino
(notarial seal and stamp)

STATE OF)
) ss.
COUNTY OF)

On the day of in the year 2013, before me, the undersigned, a Notary Public in and for said state, personally appeared , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

STATE OF)
) ss.
COUNTY OF)

On the day of in the year 2013, before me, the undersigned, a Notary Public in and for said state, personally appeared , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

EAST\40690211.9

: For Port Authority Use Only :
:
:Permit Number: AGB-002 :

LAGUARDIA AIRPORT
PRIVILEGE PERMIT

The Port Authority of New York and New Jersey (the "Port Authority") hereby grants to the Permittee named below the described non-exclusive privilege at LaGuardia Airport, in the Borough of Queens, County of Queens, City and State of New York, in accordance with the Terms and Conditions hereof; and the Permittee agrees to pay the fee hereinafter specified and to perform all other obligations imposed upon it in the said Terms and Conditions:

1. **PERMITTEE:** COMPASS GROUP USA, INC., a Delaware corporation

2. **PERMITTEE'S ADDRESS:** 3 International Drive
Rye Brook, NY 10573

3. **PERMITTEE'S REPRESENTATIVE:** Scott Davis

4. **PRIVILEGE:** As set forth in Special Endorsement No. 2 hereof

5. **FEES:** As set forth in Section 4 of the Terms and Conditions hereof

6. **EFFECTIVE DATE:** As of September 6, 2012

7. **EXPIRATION DATE:** August 30, 2018, unless sooner revoked or terminated as herein provided

8. **REQUIRED SECURITY DEPOSIT:** N/A

9. **INSURANCE REQUIREMENTS:** $2,000,000.00 minimum limit Commercial General Liability (including Liquor Liability and Products Liability)

10. **ENDORSEMENTS:** Special Endorsements, Exhibit X and Schedule G

Dated: As of September 6, 2012

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

Approved and agreed to as of the September 6, 2012:
MARKETPLACE LAGUARDIA LIMITED PARTNERSHIP

By: Marketplace LaGuardia, Inc., General Partner

By _____

Name Paul O. McGinn
(Please Print Clearly)

(Title) President

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

Name David Kagan
Assistant Director
Business, Properties & Airport Development
(Please Print Clearly)

(Title) _____

COMPASS GROUP USA, INC., Permittee

By _____ 12/3/13

Name Scott Davis
(Please Print Clearly)

(Title) President

TERMS AND CONDITIONS

1. Definitions:

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

(a) "*Air Cargo*" shall mean cargo transported to or from the Airport by aircraft owned or operated by an Approved Aircraft Operator.

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

(c) "*Airport*" shall mean LaGuardia Airport, consisting of certain premises identified as "LaGuardia Airport" on Sheet LGA-1 of Exhibit A, and more particularly described in Exhibit B, annexed to the City Lease, and such other property as may be acquired in connection with and added to such premises pursuant to the terms of the City Lease.

(d) "*Approved Aircraft Operator*" shall mean an Aircraft Operator which the General Manager of the Airport has authorized to conduct its aircraft operations at the Airport and if such Aircraft Operator is subleasing or subusing space, or has a ground handling agreement or other agreement at the Airport with an Aircraft Operator, a lessee or other Person at the Airport which requires the consent of the Port Authority, each such subleasing, subuse, ground handling agreement or other agreement has been consented to in writing by the Port Authority.

(e) "*Basic Percentage Fee*" shall have the meaning given such term in Section 4(a)(i) hereof.

(f) "*Cargo Aircraft*" shall mean aircraft engaged solely and exclusively in the carriage of Air Cargo.

(g) "*Cargo Handling and Ramp Service*" shall mean all or any of the following services for or in connection with Air Cargo:

(i) representation and accommodation;

(ii) load control and communications;

(iii) unit load device control, handling and administration in connection with Cargo Aircraft;

(iv) flight operations and crew administration in connection with Cargo Aircraft, including but not limited to obtaining and providing meteorological reports, briefing and debriefing flight crews, preparing and filing flight plans, dispatching and receiving messages in connection with flight and ground operations, maintaining station logs and filing necessary

reports with governmental agencies, preparing weight and balance plans, maintaining flight watch and arranging hotel accommodations for flight crews;

(v) pickup and delivery of Air Cargo, air express and mail to and from appropriate locations (allowed or designated from time to time by the Port Authority for such pickup and delivery) on the Airport;

(vi) preparation of documentation associated with Air Cargo, including but not limited to cargo manifests, airway bills and customs clearance documentation;

(vii) distribution of Air Cargo;

(viii) reception of Air Cargo to be shipped from the Airport;

(ix) temporary warehousing, sorting and storage of Air Cargo;

(x) supervision and administration;

(xi) courier services;

(xii) guiding Cargo Aircraft in and out of gate or loading or unloading positions and parking Cargo Aircraft;

(xiii) providing, positioning/removing, and operating appropriate units for engine starting for Cargo Aircraft;

(xiv) furnishing and placing in position and thereafter removing the necessary and appropriate steps, stands and power equipment for the safe and efficient loading and unloading of crew members and other persons, ballast, potable water, mail, air express, Air Cargo and supplies onto and from aircraft and trucks, and performing such loading and unloading and reporting irregularities;

(xv) providing a fire guard equipped with the necessary and appropriate fire fighting equipment for Cargo Aircraft;

(xvi) towing of Cargo Aircraft;

(xvii) ramp control tower services for Cargo Aircraft;

(xviii) Cargo Aircraft servicing, including interior and exterior cleaning, the removal and disposal of aircraft waste material and providing water service, cooling and heating, and toilet service;

(xix) conversion operations and services consisting of the removal of seats from convertible-type aircraft, so as to convert the same to Cargo Aircraft, and from Cargo Aircraft to Passenger Aircraft by the installation of seats;

(xx) ramp area cleaning;

(xxi) Gateside Aircraft Maintenance of Cargo Aircraft, it being specifically understood, however, that Routine and Non-routine Aircraft Maintenance, as distinguished from Gateside Aircraft Maintenance, is hereby prohibited unless expressly provided for hereunder;

(xxii) mobile fueling, on the Permittee's own account, for automotive and other ramp equipment using mobile tender vehicles or other equipment as may be approved from time to time by the General Manager of the Airport;

(xxiii) the rental, on the Permittee's own account, of ground service equipment, vehicles and parts and of ramp equipment, vehicles and parts to Approved Aircraft Operators at the Airport and the provision, on the Permittee's own account, of a maintenance and/or management service for ground service equipment, vehicles and parts and ramp equipment, vehicles and parts owned or operated by Approved Aircraft Operators at the Airport;

(xxiv) deicing to the exterior of aircraft of Approved Aircraft Operators at such locations on the Airport as may from time to time be designated by the General Manager of the Airport;

(xxv) triturator operations and maintenance;

(xxvi) snow removal; and

(xxvii) security services for and in connection with Air Cargo and Cargo Aircraft.

(h) "*City*" shall mean the City of New York.

(i) "*City Lease*" shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and The Port Authority of New York and New Jersey, as Tenant, dated as of November 24, 2004 and recorded in the office of the City Register of the City on December 3, 2004 under City Register File No. 2004000748687, as the same may have been or may be amended or supplemented.

(j) "*Cleaning Service*" shall mean all or any of the following services:

(i) the cleaning, repairing and installing of upholstery, carpeting and curtains in aircraft and linens used on aircraft;

(ii) the complete interior and exterior cleaning of aircraft, the removal and disposal of waste material and providing water service, cooling and heating, and toilet service;

(iii) conversion operations and services consisting of the removal of seats from convertible-type aircraft so as to convert the same to Cargo Aircraft and from Cargo Aircraft to Passenger Aircraft by installation of seats;

(iv) ramp area cleaning services; and

(v) the rental, on the Permittee's own account, of ground service equipment, vehicles and parts and of ramp equipment, vehicles and parts to Approved Aircraft Operators at the Airport and the provision, on the Permittee's own account, of a maintenance and/or management service for ground service equipment, vehicles and parts and ramp equipment, vehicles and parts owned or operated by Approved Aircraft Operators at the Airport.

(k) "*Effective Date*" shall mean that date appearing in Item 6 on the first page of this Permit as the same may be modified pursuant to the provisions of Section 2(a) hereof.

(l) "*Environmental Requirement*" shall mean all common law and all past, present and future laws, statutes, enactments, resolutions, regulations, rules, directives, 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, 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 all 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; and

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

(m) "*Executive Director*" shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

(n) "*Gateside Aircraft Maintenance*" shall mean such emergency transit and turnaround maintenance performed on the aircraft of an Aircraft Operator as may be performed in the time such aircraft is permitted to be and remain at the aircraft gate position or hardstand at which such maintenance is to be performed and which is performed by or required by law, rule or regulation to be performed by or under the supervision of a licensed aircraft mechanic or other person specifically licensed, certified or approved by governmental authority having jurisdiction, including the rental or equipment and tools in the connection therewith. It is specifically understood that the performance of any other aircraft maintenance, including but not limited to Routine and Non-routine Aircraft Maintenance, is hereby prohibited unless expressly provided for hereunder.

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

(p) "*Gross Receipts*" shall mean all amounts, monies, revenues, receipts and income of every type paid or payable to the Permittee for sales made and for services rendered at or from the Airport, regardless of when or where the order therefor is received, and outside the Airport, if the order therefor is received at the Airport, and any other amounts, monies, revenues, receipts and income of any type arising out of or in connection with the Authorized Service, provided, however, there shall be excluded from Gross Receipts any taxes imposed by law which are separately stated to and paid by the customer and directly payable to the taxing authority by the Permittee. The Permittee's Recovery Fee, as hereinafter defined, if any, shall be included within Gross Receipts and shall be subject to the fees set forth under Section 4 of this Permit.

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

(r) "*In-Terminal Handling Service*" shall mean all or any of the following services for or in connection with passengers of Passenger Aircraft:

(i) furnishing interpreters for the assistance of non-English-speaking passengers;

(ii) inbound and outbound passenger baggage handling services, including but not limited to checking, weighing, handling and storage of aircraft baggage;

(iii) selling of tickets for air transportation;

(iv) checking in and boarding aircraft passengers;

(v) porter service for passenger baggage;

(vi) passenger assistance, passenger information service, flight information and public address paging and announcements;

(vii) supervisory and administrative functions on behalf of Approved Aircraft Operators in conjunction with the Permittee's performance of the other activities constituting a part of the In-Terminal Handling Service;

(viii) the arrangement of ground transportation of crew, passengers and baggage;

(ix) handicapped services;

(x) security and pre-board screening;

(xi) building janitorial and maintenance; and

(xii) lounge hosting services.

(s) "*Passenger Aircraft*" shall mean aircraft owned or operated by an Approved Aircraft Operator engaged primarily in the transportation of passengers by aircraft to and from the Airport.

(t) "*Passenger Ramp Service*" shall mean all or any of the following services for or in connection with Passenger Aircraft:

(i) representation and accommodation;

(ii) load control and communications on ramp;

(iii) unit load device control, handling and administration;

(iv) baggage handling and sorting, including delivering baggage to and from Passenger Aircraft and to and from baggage facilities, provided, however, no permission is hereby given for the Permittee to deliver baggage from one terminal to another unless they are part of the same premises; sorting baggage in baggage makeup facilities; and delivering baggage to and from interline system permittees;

(v) guiding Passenger Aircraft in and out of gates or loading and unloading positions and parking Passenger Aircraft;

(vi) furnishing and placing in position and thereafter removing the necessary and appropriate steps, stands and power equipment for the safe and efficient loading and unloading of crew, passengers, baggage, ballast, potable water, mail, air express, Air Cargo and supplies from and onto Passenger Aircraft and trucks, and perform such loading and unloading and reporting irregularities;

(vii) deicing to the exterior of aircraft of Approved Aircraft Operators at such locations on the Airport as may from time to time be designated by the General Manager of the Airport;

(viii) providing, positioning/removing, and operating appropriate units for engine starting;

(ix) providing a fire guard equipped with the necessary and appropriate fire fighting equipment;

(x) towing of Passenger Aircraft;

(xi) ramp control tower services for Passenger Aircraft;

(xii) Passenger Aircraft servicing, including exterior and interior cleaning, the removal and disposal of aircraft waste material and providing water service, cooling and heating, toilet service, and rearranging cabin equipment;

(xiii) ramp area cleaning;

(xiv) mobile fueling on the Permittee's own account for automotive and other ramp equipment using mobile tender vehicles or other equipment as may be approved from time to time by the General Manager of the Airport;

(xv) Gateside Aircraft Maintenance of Passenger Aircraft, it being specifically understood, however, that Routine and Non-routine Aircraft Maintenance, as distinguished from Gateside Aircraft Maintenance, is hereby prohibited unless expressly provided for hereunder;

(xvi) flight operations and crew administration including but not limited to obtaining and providing meteorological reports, briefing and debriefing flight crews, preparing and filing flight plans, dispatching and receiving messages in connection with flight and ground operations, maintaining station logs and filing necessary reports with governmental agencies, preparing weight and balance plans, maintaining flight watch and arranging hotel accommodations for flight crews;

(xvii) ramp transportation for crew, passengers and baggage;

(xviii) supervisory and administrative functions on behalf of Approved Aircraft Operators of Passenger Aircraft;

(xix) the rental, on the Permittee's own account, of ground service equipment, vehicles and parts and of ramp equipment, vehicles and parts to Approved Aircraft Operators at the Airport, and the provision, on the Permittee's own account, of a maintenance and/or management service for ground service equipment, vehicles and parts and ramp equipment, vehicles and parts owned or operated by Approved Aircraft Operators at the Airport;

(xx) catering liaison and administration;

(xxi) triturator operations and maintenance;

(xxii) snow removal; and

(xxiii) security services for passengers and baggage, cargo and mail, catering, and on aircraft, ramp and other designated areas.

(u) "*Permitted Areas*" shall mean with respect to the Authorized Service the following areas of the Airport and only such areas:

(i) those areas where the Permittee is authorized pursuant to a separate lease, permit or other written agreement (other than this Permit) with the Port Authority to provide such Authorized Service;

(ii) any area which pursuant to a written agreement the Port Authority has either leased to a third Person or has otherwise permitted a third Person to use and occupy and where (x) the Permittee performs such Authorized Service on such area for such Person or has obtained permission from such Person to perform such Authorized Service for an Approved Aircraft Operator on such area and (y) the performance of such Authorized Service for such Approved Aircraft Operator on such area is permitted by a written agreement with the Port Authority covering such area; or

(iii) such areas as may hereafter be designated in writing by the Port Authority for the performance of such privileges by the Permittee, it being understood and agreed that the Port Authority shall have the right at any time and from time to time to revoke, cancel, change or alter any such designation.

(v) "*Permittee's Recovery Fee*" shall mean any surcharge or other amount that the Permittee may separately state and charge its customers to recover the fee, or portion thereof, payable under this Permit.

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

(x) "*Routine and Non-routine Aircraft Maintenance*" shall mean all work including but not limited to the inspection, maintenance, servicing, testing, overhaul, cleaning, conversion, repair and installation of parts and supplies on aircraft and on aircraft parts of Approved Aircraft Operators performed by or required by law, rule or regulation to be performed by or under the supervision of a licensed aircraft mechanic or other person specially licensed, certified or approved by governmental authority, including the rental of tools and equipment in connection therewith.

2. Effective Date, Termination and Revocation:

(a) The permission hereby granted shall take effect upon the Effective Date. Notwithstanding Item 6 appearing on the first page of this Permit, the Effective Date of this Permit shall be that date the Permittee commenced any of the activities permitted by this Permit. The Permittee in executing this Permit represents that the Effective Date appearing in Item 6 on the first page of this Permit is the date the Permittee commenced any of the activities permitted by this Permit. If the Port Authority determines by audit or otherwise that the Permittee commenced any of the activities permitted by this Permit prior to said effective date, the Effective Date of this Permit shall be the date the Permittee commenced any of the activities permitted by this Permit and all obligations of the Permittee under this Permit shall commence on such date including without limitation the Permittee's indemnity obligations and obligations to pay fees.

(b) Notwithstanding any other term or condition hereof, the permission hereby granted may be revoked without cause upon thirty (30) days' written notice by the Port Authority, or terminated without cause upon thirty (30) days' written notice by the Permittee, provided, however, that it may be revoked on twenty-four (24) hours' notice by the Port Authority if the Permittee shall fail to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Permit, including but not limited to the obligation to pay fees. Unless sooner revoked or terminated, such permission shall expire in any event upon the expiration date hereinbefore set forth.

(c) In the event the Port Authority exercises it right to revoke this Permit for any reason other than "without cause", the Permittee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation, including without limitation any and all personnel and legal costs (including but not limited to the cost to the Port Authority of in-house legal services) and disbursements incurred by it arising out of, relating to, or in connection with the enforcement or

revocation of this Permit including, without limitation, legal proceedings initiated by the Port Authority to exercise its revocation rights and to collect all amounts due and owing to the Port Authority under this Permit.

(d) For the purposes of this Permit, a default by the Permittee in keeping, performing or observing any promise, obligation, term or agreement set forth herein on the part of the Permittee to be kept, performed or observed shall include the following whether or not the time has yet arrived for the keeping, performance or observance of any such promise, obligation, term or agreement:

(i) a statement by the Permittee to any representative of the Port Authority indicating that it cannot or will not keep, perform or observe any one or more of its promises, obligations, terms or agreements under this Permit;

(ii) any act or omission of the Permittee or any other occurrence which makes it improbable at the time that it will be able to keep, perform or observe any one or more of its promises, obligations, terms or agreements under this Permit; or

(iii) any suspension of or failure to proceed with any part of the privileges to be performed by the Permittee which makes it improbable at the time that it will be able to keep, perform or observe any one or more of its promises, obligations, terms or agreements under this Permit.

(e) (i) If any type of strike, boycott, picketing, work stoppage, slowdown or other labor activity is directed against the Permittee at the Airport or against any operations of the Permittee under this Permit, whether or not the same is due to the fault of the Permittee and whether or not caused by the employees of the Permittee, and if any of the foregoing, in the opinion of the Port Authority, results or is likely to result in curtailment or diminution of the privileges to be performed hereunder by the Permittee or to interfere with or affect the operation of the Airport by the Port Authority or to interfere with or affect the operations of lessees, licensees, permittees or other users of the Airport, the Port Authority shall have the right at any time during the continuance thereof to suspend the operations of the Permittee under this Permit and/or to revoke this Permit.

(ii) In the event the Port Authority exercises its right to revoke this Permit, as aforesaid, it shall do so by twenty-four (24) hours' written notice to the Permittee, effective as of the time specified in the notice. The exercise by the Port Authority of its right of suspension shall not waive or affect or be deemed to waive or affect the right of revocation.

(iii) Prior to the exercise of the right of suspension by the Port Authority, it shall give the Permittee notice thereof, which notice may be oral. The Permittee shall not perform its operations authorized by this Permit during the period of the suspension. The period of suspension shall end not more than twenty-four (24) hours after the cause thereof has ceased or been cured and the Permittee shall notify the Port Authority of such cessation or cure.

(iv) The rights of suspension and revocation as hereinbefore set forth may be exercised by the Port Authority prior to the Effective Date set forth in Item 6 on the first page of this Permit. No exercise by the Port Authority of its rights granted to it in paragraph (e) of this Section shall be deemed to be a waiver of any other rights of revocation contained in this Permit or a waiver of any other rights or remedies which may be available to the Port Authority under this Permit or otherwise.

(f) No revocation or termination of the permission hereunder shall relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

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

3. Exercise of Rights:

(a) The rights granted hereby shall be exercised

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

(ii) if the Permittee is an unincorporated association, or a "Massachusetts" or business trust, by the Permittee acting only through the medium of its members, trustees, officers, and employees,

(iii) if the Permittee is a partnership, by the Permittee acting only through the medium of its partners and employees,

(iv) if the Permittee is an individual, by the Permittee acting only personally or through the medium of its employees, and

(v) if the Permittee is a limited liability company, by the Permittee acting only through the medium of its members, managers, and employees;

and the Permittee shall not, without the written approval of the Port Authority, exercise such rights through the medium of any other Person. The Permittee shall not assign or transfer this Permit or any of the rights granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor. In the event of the issuance of this Permit to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Permittee shall be the joint and several obligation of each such individual or other legal entity.

(b) No greater rights or privileges are hereby granted to the Permittee than the Port Authority has power to grant under the City Lease.

(c) Neither this Permit nor anything contained herein, shall be deemed to grant any rights in the Permittee to use and occupy any land, building space or other area at the Airport or shall be deemed to have created any obligation on the part of the Port Authority to provide any such land, space or area to the Permittee.

(d) Neither the execution and delivery of this Permit nor any act done pursuant thereto shall create between any terminal operator, lessee or other occupant of land at the Airport including but not limited to the Permittee, on one hand, and the Port Authority on the other hand the relationship of bailor and bailee, or any other relationship or any legal status which would

impose upon the Port Authority with respect to any personal property, such as but not limited to, aircraft cargo or baggage, owned and/or handled by the Permittee any duty or obligation whatsoever. The Permittee expressly agrees that the Port Authority shall have no liability with respect to any aircraft cargo or baggage or any other property of the Permittee or of any other Person left anywhere on the Airport.

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

(f) Nothing contained in this Permit shall constitute permission to the Permittee to park or store equipment or personal property at any location or area at the Airport.

(g) The Permittee shall have no right hereunder to carry on any business or operation at the Airport other than that specifically provided herein. Without limiting the generality of the foregoing and notwithstanding anything else in this Permit to the contrary, the Permittee is expressly prohibited hereunder from performing ground transportation, fueling of aircraft and the selling and delivery of in-flight meals.

(h) It is understood that any and all privileges granted hereunder to the Permittee are non-exclusive and shall not be construed to prevent or limit the granting of similar privileges at the Airport to another or others, whether by this form of permit or otherwise, and neither the granting to others of rights and privileges granted hereunder nor the existence of agreements by which similar rights and privileges have been previously granted to others shall constitute a violation or breach of the permission herein granted.

(i) The Permittee, its employees, invitees and others doing business with it shall have no right hereunder to park vehicles within the Airport.

(j) The words "permission" and "privilege" are used interchangeably in this Permit, and except where expressly provided to the contrary, shall mean the privileges granted by this Permit.

4. Fees:

(a) (i) The Permittee agrees to pay to the Port Authority, at the times set forth in and in accordance with paragraph (a)(ii) below, a percentage fee (the "*Basic Percentage Fee*") equal to Ex. 2.a. (as the same may be increased pursuant to paragraph (k) below) of Gross Receipts.

(ii) Gross Receipts shall be reported and the Basic Percentage Fee shall be paid to the Port Authority by the Permittee as follows: On or before the twentieth (20th) day of the first month following the month in which the Effective Date falls and on the twentieth (20th) day of each and every calendar month thereafter during the period that this Permit is in effect and including the calendar month in which this Permit ceases to be in effect, the Permittee shall render to the Port Authority a monthly statement sworn to by a responsible executive or fiscal officer of the Permittee showing all of the Gross Receipts for the preceding month (the "Monthly Sworn Statement of Gross Receipts"). Each of the said statements shall also show the cumulative Gross Receipts from the Effective Date (or the most recent anniversary thereof) through the last day of the preceding month. At the same time each of the said statements is rendered to the Port Authority, the Permittee shall pay to the Port Authority an amount equal to applied to the Gross Receipts for the preceding calendar month. In addition to

the foregoing, on the twentieth (20th) day of the first month following each anniversary of the Effective Date the Permittee shall submit to the Port Authority a statement setting forth the cumulative totals of the Gross Receipts for the entire preceding twelve (12) month period certified, at the Permittee's expense, by a certified public accountant or a responsible executive or fiscal officer of the Permittee ("Annual Statement of Gross Receipts"). In addition to the foregoing, within twenty (20) days after the expiration, termination, revocation or cancellation of this Permit, the Permittee shall render to the Port Authority a sworn statement certified, at the Permittee's expense, by a certified public accountant of all Gross Receipts during the period from the last preceding anniversary of the Effective Date up to and including the last day this Permit shall be in effect and the Permittee shall, at the time of rendering such statement to the Port Authority, pay the Basic Percentage Fee due and unpaid as of the last day this Permit shall be in effect. The Permittee shall give the name and position of the responsible executive or fiscal officer designated under this paragraph to submit Monthly Sworn Statement and Annual Statement of Gross Receipts, ten (10) business days prior to the submission of the first such statement by the designee of the Permittee, so that the Port Authority may determine whether it will accept such designation. The designation shall be submitted to the Manager of Properties for the Airport. If such timely notice is not given to the Port Authority, the Permittee shall submit such statement to the Port Authority in a form executed by a certified public accountant.

(b) All statements to be submitted to the Port Authority pursuant to this Section and all payments made under this Permit shall be sent to the following address:

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY
P.O. BOX 95000-1556
PHILADELPHIA, PENNSYLVANIA 19195-0001

or made via the following wire transfer instructions:

Bank: TD Bank
Bank ABA number: 031201360
Account number: Ex. 1/4

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

(c) There shall be excluded from Gross Receipts any sum paid or payable to the Permittee for the following, provided said sum is separately stated to and paid by the customer:

(i) handicapped services;

(ii) security services;

(iii) lost and found baggage services;

(iv) snow removal services;

(v) ground transportation of employees; and

(vi) building janitorial and maintenance services,

provided further, however, the Permittee acknowledges and agrees that the Port Authority does and shall continue to have the right at any time and from time to time to withdraw the foregoing exclusions from Gross Receipts, in whole or in part, or to establish a separate fee for each such service, which may be a percentage fee other than five percent (5%), upon sixty (60) days' prior written notice to the Permittee. Notwithstanding the foregoing, any fee established must be agreed to by the Permittee and the Port Authority and must be reflected in a supplement to this Permit to be prepared by the Port Authority and executed by the parties hereto.

(d) In the event the Permittee shall be permitted hereunder to provide Gateside Aircraft Maintenance or Routine and Non-routine Aircraft Maintenance services, there shall be excluded from Gross Receipts any sum paid or payable to the Permittee:

(i) which arise solely from the resale to a customer of aircraft parts and supplies purchased by the Permittee from a third party, provided, however, that there shall be included in Gross Receipts monies paid or payable to the Permittee which arise from the sale of such aircraft parts and supplies to which the Permittee has provided labor for fabrication, refinishing or assembly to the extent of the reasonable value of the labor provided by the Permittee;

(ii) which arise solely from the use of equipment rented by the Permittee from a third party which monies are separately stated to and paid by the customer, limited, however, to the amounts actually paid by the Permittee to the third party for such rental of equipment; and

(iii) which arise solely from the loan or rental by the Permittee of aircraft parts, whether or not owned by the Permittee, which monies are separately stated to and paid by a customer and where said loan or rental of any such aircraft part is for a period of less than twelve (12) consecutive calendar days, it being understood that such monies paid or payable to the Permittee for the loan or rental may include monies for labor provided by the Permittee for installation, refurbishment of returned parts or administrative handling which is directly related to said loan or rental provided, however, all monies paid or payable to the Permittee which arise solely from the loan or rental by the Permittee of aircraft parts, whether or not owned by the Permittee, for twelve (12) or more consecutive calendar days (including but not limited to monies for labor provided by the Permittee for installation, refurbishment of returned parts or administrative handling which is directly related to said lease or rental) shall be included in Gross Receipts from the first day of the loan or rental period, as the case may be.

(e) If and to the extent the full fair market value of any sale, service or other item provided by the Permittee is not charged to or payable by the customer, then the fair market value thereof as determined by the Port Authority shall be included in Gross Receipts.

(f) Without limiting any other provisions of this Permit regarding Gross Receipts, in those instances where the Permittee provides any services or goods along with other services and goods to the same Person (including without limitation those instances where a service is part of or is included within a group of other services and rendered for a single price, and where a service is performed by the Permittee pursuant to agreement for the exchange of services or goods) the Permittee agrees that the value ascribed to the performance of such service by the Permittee shall be the fair and reasonable value thereof as determined by the Port Authority.

(g) Without limiting the requirement for Port Authority approval, if the Permittee conducts any privilege or any portion thereof through the use of a contractor or other third party which is not a Port Authority permittee and where the payments for any of the foregoing are

made to such contractor rather than to the Permittee, said payments shall be deemed amounts, monies, revenues, receipts and income paid or payable to the Permittee for purposes of determining the Permittee's Gross Receipts, provided, however, that the foregoing shall not grant or be deemed to grant any right or permission to the Permittee to use an independent contractor or other third party to perform any privilege or portion thereof or the doing of anything hereunder by an independent contractor or other third party.

(h) Notwithstanding that the fee hereunder is measured by a percentage of Gross Receipts, no joint venture or partnership relationship between the parties hereto is created by this Permit.

(i) To the extent that the Permittee has not already done so at the time of execution of this Permit and without limiting the generality of any other term or provision hereof, the Permittee agrees to submit monthly statements of Gross Receipts as provided in this Section and to pay, at the time of execution and delivery of this Permit to the Port Authority, all fees and other amounts due under this Permit for the period from the Effective Date to the time of execution and delivery of this Permit by the Permittee.

(j) Without limiting any other provision of this Permit, it is hereby specifically understood that the failure to set forth all the classes of Persons, all of the locations served or all of the types of services or activities performed by the Permittee in its exercise of the privileges granted hereunder as of the Effective Date, or the failure to, by appropriate supplement, revise this Permit to reflect any additional classes of Persons, locations served, or services or activities performed by the Permittee subsequent to said Effective Date, shall not affect the inclusion in Gross Receipts hereunder of the amounts, monies, revenues, receipts and income received or receivable by the Permittee in its operations, and the same shall be so included. The foregoing shall not constitute Port Authority consent or be deemed to imply that the necessary Port Authority consent (to be reflected in a supplement to the Permit) with respect to such additional classes of Persons, locations, services or activities will be given.

(k) The Basic Percentage Fee and any other fees payable under this Permit shall be subject to increase from time to time upon thirty (30) days' notice from the Port Authority to the Permittee, given by the General Manager of the Airport or such other representative as the Port Authority may substitute from time to time by notice to the Permittee, and upon the effective date of the increase set forth in such notice the fees payable by the Permittee under this Permit shall be as set forth in said notice. In the event within ten (10) days after the Permittee receives such notice from the Port Authority, the Permittee notifies the Port Authority that the Permittee does not wish to pay the increased fees, this Permit and the permission granted hereunder shall be, and shall be deemed to be, cancelled effective at the close of business on the day preceding the effective date of the increase, as set forth in the Port Authority's notice to the Permittee. If the Permittee does not so notify the Port Authority, the increased fees shall become effective on the date set forth in the Port Authority's notice as aforesaid. No cancellation of this Permit and the permission granted thereunder pursuant to this paragraph (k) shall be construed to relieve the Permittee of any obligations or liabilities hereunder which shall have accrued on or before the effective date of such cancellation.

(l) Without limiting any term or provision of this Permit, in the event the Permittee performs (x) any service, other than the Authorized Service at the Airport, or (y) any service (including the Authorized Service) at any other Port Authority facility, whether such performance is the subject of a written agreement by and between the Port Authority and the Permittee, the Permittee hereby agrees that it will pay to the Port Authority any and all fees

and/or charges applicable to such service. The Permittee also agrees that, at the request of the Port Authority, it will enter into the appropriate agreement with the Port Authority providing permission for the Permittee to perform such service.

5. Security Deposit:

(a) (i) Provided that an amount is set forth in Item 8 on the first page of this Permit (the "*Required Security Deposit*"), and, provided, further, the amount of said Required Security Deposit is less than $20,000.00, upon the execution of this Permit by the Permittee and delivery thereof to the Port Authority, the Permittee shall deposit with the Port Authority (and shall keep deposited throughout the effective period of the permission under this Permit) the Required Security Deposit, either in cash, or bonds of the United States of America, or of the State of New Jersey, or of the State of New York, or of the Port Authority of New York and New Jersey, having a market value of that amount, as security for the full, faithful and prompt performance of and compliance with, on the part of the Permittee, all of the terms, provisions, covenants and conditions of this Permit on its part to be fulfilled, kept, performed or observed. Bonds qualifying for deposit hereunder shall be in bearer form but if bonds of that issue were offered only in registered form, then the Permittee may deposit such bonds or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Permittee) in a manner satisfactory to the Port Authority. The Permittee may request the Port Authority to accept a registered bond in the Permittee's name and if acceptable to the Port Authority the Permittee shall deposit such bond together with an irrevocable bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the Required Security Deposit is returned to the Permittee, any expenses incurred by the Port Authority in re-registering a bond to the name of the Permittee shall be borne by the Permittee. In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the Required Security Deposit, or any part thereof, in whole or partial satisfaction of any of its claims or demands against the Permittee. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the Required Security Deposit itself shall cure any default or breach of this Permit on the part of the Permittee. With respect to any bonds deposited by the Permittee, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Permittee, to sell the same in whole or in part, at any time, and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Permittee. The Permittee hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Permittee. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Permittee. Any balance remaining shall be retained in cash toward bringing the Required Security Deposit to the sum specified in Item 8 on the first page of this Permit. In the event that the Port Authority shall at any time or times so use the Required Security Deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have declined below the amount set forth in Item 8 on the first page of this Permit, the Permittee shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the Required Security Deposit at all times to the full amount above stated in Item 8 on the first page of this Permit, and such additional deposits shall be subject to all the conditions of this Section. After the expiration or

earlier revocation or termination of the effective period of the permission under this Permit, and upon condition that the Permittee shall then be in no wise in default under any part of this Permit, and upon written request therefor by the Permittee, the Port Authority will return the Required Security Deposit to the Permittee less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Permittee of this Permit or any part thereof. The Permittee agrees that it will not assign or encumber the Required Security Deposit. The Permittee may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(ii) In lieu of the Required Security Deposit made in the form described above in paragraph (a)(i), the Permittee may at any time during the effective period of the permission granted under this Permit offer to deliver to the Port Authority, as security for all obligations of the Permittee under this Permit, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York District, in favor of the Port Authority in the amount of the Required Security Deposit. The form and terms of such letter of credit, as well as the institution issuing it, shall be subject to the prior and continuing approval of the Port Authority. Such letter of credit shall provide that it shall continue throughout the effective period of the permission granted under this Permit and for a period of not less than six (6) months thereafter; such continuance may be by provision for automatic renewal or by substitution of a subsequent satisfactory letter. Upon notice of cancellation of a letter of credit, the Permittee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in accordance with paragraph (a)(i) of this Section or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof and thereafter the Port Authority will hold the same as security under paragraph (a)(i) of this Section. Failure to provide such a letter of credit at any time during the effective period of the permission granted under this Permit, valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Permit on the part of the Permittee. Upon acceptance of such letter of credit by the Port Authority, and upon request by the Permittee made thereafter, the Port Authority will return the Required Security Deposit, if any, theretofore made under and in accordance with the provisions of paragraph (a)(i) of this Section. The Permittee shall have the same rights to receive such Required Security Deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the effective period of the permission granted under this Permit and fulfillment of the obligations of the Permittee hereunder. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Permittee on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to its full amount.

(b) Provided that a Required Security Deposit amount is set forth in Item 8 on the first page of this Permit, and, provided, further, the amount of said Required Security Deposit is equal to or greater than $20,000.00, upon the execution of this Permit by the Permittee and delivery thereof to the Port Authority, the Permittee shall deliver to the Port Authority, as security for the full, faithful and prompt performance of and compliance with, on the part of the Permittee, all of the terms, provisions, covenants and conditions of the Permit on its part to be

fulfilled, kept, performed or observed, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York District and acceptable to the Port Authority, in favor of the Port Authority, and payable in the Port of New York District in the amount of the Required Security Deposit. The form and terms of such letter of credit, as well as the institution issuing it, shall be subject to the prior and continuing approval of the Port Authority. Such letter of credit shall provide that it shall continue throughout the effective period of the permission granted under this Permit 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 Permittee 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 period of the permission granted under this Permit valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Permit on the part of the Permittee. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Permittee, upon demand by the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the amount of the Required Security Deposit. 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 Permittee under the terms of this Permit, and all remedies under this Permit 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) The Permittee 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 Permittee, to adjust the amount of the Required Security Deposit. Not later than the effective date set forth in said notice by the Port Authority, the Permittee 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 amount of the Required Security Deposit, 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) If the Permittee 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 Permittee of all fees, rentals, charges and other obligations which may become due and owing to the Port Authority arising from the Permittee's operations at the Airport (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 Permittee under this Permit 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 this agreement, as well as agreements hereinafter entered into.

6. Permittee's Operations:

(a) The Permittee shall provide to the Port Authority, upon request of the Port Authority from time to time, such information and data in connection with the permission granted hereunder as the Port Authority may request and shall, if so requested by the Port Authority, make periodic reports thereof to the Port Authority utilizing such forms as may be adopted by the Port Authority for such purpose.

(b) The Permittee shall daily remove from the Airport by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Permittee. The receptacles shall be kept covered except when filling or emptying the same. The Permittee shall exercise extreme care in removing such garbage, debris and other waste materials from the Airport. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Airport.

(c) The Permittee shall at all times that areas of the Airport are being used for the privileges permitted hereunder, maintain said areas in a clean and orderly condition and appearance. The Permittee shall promptly wipe up any oil, gasoline, grease, lubricants and other inflammable liquids and substances and any liquids and substances having a corrosive or detrimental effect on the paving or other surface of the ramps or other areas upon which it performs the privileges authorized by this Permit resulting from its operations hereunder. The Permittee shall repair, replace, repave or rebuild, or at the Port Authority's election, the Permittee shall pay to the Port Authority the cost to the Port Authority of repairing, replacing, repaving or rebuilding, all or any part of the ramps or other areas upon which it performs the privileges authorized by this Permit which may be damaged or destroyed by such oil, gasoline, grease, lubricants or other liquids or substances or by any other act or omission of the Permittee or its employees, agents or contractors except for reasonable wear and tear arising out of its operations thereon.

(d) A principal purpose of the Port Authority in granting the permission under this Permit is to have available at the Airport, the privileges which the Permittee is permitted to render hereunder. The Permittee agrees that it will conduct a first-class operation and will furnish all fixtures, equipment, personnel (including licensed personnel as necessary), supplies, materials and other facilities and replacements necessary or proper therefor, and keep the same in a first-class operating condition at all times.

(e) The Permittee shall immediately comply with all orders, directives and procedures as may be issued by the General Manager of the Airport covering the operations of the Permittee under this Permit at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designation, approval, substitution or redesignation given by it hereunder.

(f) In the event of any injury or death to any person (other than employees of the Permittee) at the Airport when caused by the Permittee's operations, or damage to any property (other than the Permittee's property) at the Airport when caused by the Permittee's operations, the Permittee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Permittee's insurance carrier.

(g) The operations of the Permittee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Airport. The Permittee shall provide and its employees shall wear or carry badges or other suitable means of identification and the employees shall wear appropriate uniforms. The badges, means of identification and uniforms shall be subject to the written approval of the General Manager of the Airport. The Port Authority shall have the right to object to the Permittee as to the demeanor, conduct and appearance of the Permittee's employees, invitees and those doing business with it, whereupon the Permittee will take all steps necessary to remove the cause of the objection.

(h) The Permittee shall promptly repair or replace any property of the Port Authority damaged by the Permittee's operations at the Airport.

7. Indemnity:

(a) The Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal costs and expenses incurred in connection with the defense of) all claims and demands of third Persons including but not limited to claims and demands for death or personal injuries, or for property damages, arising out of any default of the Permittee in performing or observing any term or provision of this Permit, or out of the operations of the Permittee hereunder, or out of any of the acts or omissions of the Permittee, its officers, employees or Persons who are doing business with the Permittee arising out of or in connection with the activities permitted hereunder, or arising out of the acts or omissions of the Permittee, its officers or employees at the Airport, including claims and demands of the City against the Port Authority for indemnification arising by operation of law or through agreement of the Port Authority with the said City.

(b) Without limiting any other term or provision hereof, the Permittee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Permittee under or in any wise connected with this Permit.

(c) Without limiting any other term or provision hereof, the Permittee shall indemnify the Port Authority and hold it harmless against all claims and demands of third Persons for damage to any aircraft cargo or baggage or any other property handled or delivered pursuant to the permission granted by this Permit.

(d) If so directed, the Permittee shall at its own expense defend any suit based upon any such claim or demand set forth in paragraphs (a), (b) and (c) above (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense

involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.

8. Liability Insurance:

(a) The Permittee, in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of the Permit on a policy or policies of Commercial General Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the minimum limit set forth in Item 9 on the first page of this Permit, and Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles and including automatic coverage for newly acquired vehicles and providing for coverage in the minimum limit set forth in Item 9 on the first page of this Permit. Without limiting the foregoing, the Permittee shall maintain Workers' Compensation and Employers Liability Insurance in accordance with the Permittee's statutory obligations under the applicable State Workers' Compensation Law for those employees of the Permittee employed in operations conducted pursuant to this Permit at or from the Airport. In the event the Permittee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers' Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of this Permit.

(b) Each policy of insurance, except for the Workers' Compensation and Employers Liability Insurance policies, shall also contain an ISO standard "separation of insureds" clause or a cross liability endorsement providing that the protections afforded the Permittee thereunder with respect to any claim or action against the Permittee by a third person shall pertain and apply with like effect with respect to any claim or action against the Permittee by the Port Authority and any claim or action against the Port Authority by the Permittee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Permittee under Section 7 of the Terms and Conditions of this Permit.

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

(d) Each policy must be specifically endorsed to provide that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer "shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers,

agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority." The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

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

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

9. Special Endorsements:

The Permittee hereby agrees to the terms and conditions of the endorsements attached hereto, hereby made a part hereof and marked "*Special Endorsements*". The terms and provisions of the Special Endorsements shall have the same force and effect and as if herein set forth in full.

10. No Waiver:

No failure by the Port Authority to insist upon the strict performance of any agreement, term or condition of this Permit or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this Permit during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term or condition. No agreement, term or condition of this Permit to be performed or complied with by the Permittee, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the Port Authority. No waiver by the Port Authority of any default or breach on the part of the Permittee in performance of any agreement, term or condition of this Permit shall affect or alter this Permit but each and every agreement, term and condition thereof shall continue in full force and effect with respect to any other then existing or subsequent breach or default thereof.

11. Removal of Property:

The personal property placed or installed by the Permittee at the Airport shall remain the property of the Permittee and must be removed on or before the expiration, revocation, cancellation or termination of the permission hereby granted, whichever shall be earlier. Without limiting the terms and provisions of paragraph (g) of Section 18 hereof, any such property remaining at the Airport after the effective date of such expiration, revocation, cancellation or termination shall be deemed abandoned by the Permittee and may be removed and disposed of by the Port Authority in any manner it so determines in its sole discretion and all the proceeds of any removal or disposition shall be retained by the Port Authority for its account and all costs and expenses of such removal and disposition shall be paid to the Port Authority by the Permittee when billed.

12. Permittee's Representative:

The Permittee's representative specified in Item 3 on the first page of this Permit (or such substitute as the Permittee may hereafter designate in writing) shall have full authority to act for the Permittee in connection with this Permit, and any act or thing done or to be done hereunder, and to execute on the Permittee's behalf any amendments or supplements to this Permit or any extension thereof, and to give and receive notices hereunder.

13. Notices:

Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices given by the Port Authority to the Permittee shall be validly given if sent by registered or certified mail addressed to the Permittee at the address specified on the first page hereof or at the latest address that the Permittee may substitute therefor by notice to the Port Authority, or left at such address, or delivered to the Permittee's representative. Any notice from the Permittee to the Port Authority shall be validly given if sent by registered or certified mail addressed to the Executive Director of the Port Authority at 225 Park Avenue South, New York, New York 10003 or at such other address as the Port Authority shall hereafter designate by notice to the Permittee. If mailed, the notices herein required to be given shall be deemed effective and given as of the date of the certified or registered mailing thereof.

14. Late Charges:

If the Permittee should fail to pay any amount required under this Permit when due to the Port Authority including without limitation any payment of any fixed or percentage fee or any payment of utility or other charges, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Permit. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be

deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this Section with respect to such unpaid amount. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Permit, including without limitation the Port Authority's rights set forth in Section 2 of these Terms and Conditions, or (ii) any obligations of the Permittee under this Permit. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Permit shall be payable instead at such legal maximum.

15. Non-discrimination:

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

(b) The Permittee shall include the provisions of paragraph (a) of this Section in every agreement or concession it may make pursuant to which any Person or Persons, other than the Permittee, operates any facility at the Airport providing services to the public and shall also include therein a provision granting the Port Authority a right to take such action as the United States may direct to enforce such provisions.

(c) The Permittee's noncompliance with the provisions of this Section shall constitute a material breach of this Permit. Without limiting any other term or provision hereof or any other rights or remedies of the Port Authority hereunder or at law or equity, in the event of the breach by the Permittee of any of the above non-discrimination provisions, the Port Authority may take any appropriate action to enforce compliance or by giving twenty-four (24) hours' notice, may revoke this Permit and the permission hereunder; or may pursue such other remedies as may be provided by law; and as to any or all of the foregoing, the Port Authority may take such action as the United States may direct.

(d) Without limiting any other term or provision hereof, the Permittee shall indemnify and hold harmless the Port Authority from any claims and demands of third Persons, including the United States of America, resulting from the Permittee's noncompliance with any of the provisions of this Section and the Permittee shall reimburse the Port Authority for any loss or expense incurred by reason of such noncompliance.

(e) Nothing contained in this Section shall grant or shall be deemed to grant to the Permittee the right to transfer or assign this Permit, to make any agreement or concession of the type mentioned in paragraph (b) hereof, or any right to perform any construction on any space at the Airport, or any right to use or occupy any space at the Airport.

16. Affirmative Action:

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

17. Rules and Regulations:

(a) The Permittee shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of this Permit, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Airport or for the safe and efficient operation of the Airport. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Permittee of every rule and regulation hereafter adopted by it at least five (5) days before the Permittee shall be required to comply therewith.

(b) The Permittee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the New York Board of Fire Underwriters and the New York Fire Insurance Exchange, and any other body or organization exercising similar functions which may pertain or apply to the Permittee's operations hereunder. If by reason of the Permittee's failure to comply with the provisions of this Section, any fire insurance, extended coverage or rental insurance rate on the Airport or any part thereof, or upon the contents of any building thereon, shall at any time be higher than it otherwise would be, then the Permittee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been charged because of such violation by the Permittee.

18. Prohibited Acts

(a) The Permittee shall not do or permit to be done any act which

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

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

(iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this Permit, or

(iv) may cause or produce upon the Airport any unusual noxious or objectionable smokes, gases, vapors or odors, or

(v) may interfere with the effectiveness or accessibility of any drainage and sewerage system, water system, communications system, fire protection system, sprinkler system, alarm system, fire hydrant and hose, if any, installed or located or to be installed or located in or on the Airport, or

(vi) shall constitute a nuisance or injury in or on the Airport or which may result in the creation, commission or maintenance of a nuisance or injury in or on the Airport.

For the purpose of this paragraph (a), "Airport" includes all structures located thereon.

(b) The Permittee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Airport except that the Permittee may release or discharge de-icing fluids utilized in the Permittee's ordinary course of business in the performance of any of the privileges granted hereunder so long as such release or discharge is not a violation of the terms and conditions of Sections 17 or 19 hereof. In addition to and without limiting Section 19 hereof, any Hazardous Substance disposed of, released or discharged by the Permittee (or permitted by the Permittee to be disposed of, released or discharged) on the Airport shall upon notice by the Port Authority to the Permittee and subject to the provisions of Sections 17 and 19 hereof and to all Environmental Requirements, be completely removed and/or remediated by the Permittee at its sole cost and expense, provided, however, the forgoing shall not apply to releases and discharges which are in compliance with the terms and conditions of Sections 17 and 19 hereof of de-icing fluids utilized in the Permittee's ordinary course of business in the performance of any of the privileges granted hereunder and the obligation of the Permittee to remove and remediate such de-icing fluids shall be as required by the terms and conditions of Sections 17 and 19 hereof. The obligations of the Permittee pursuant to this paragraph shall survive the expiration, revocation, cancellation or termination of this Permit.

(c) The Permittee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers.

(d) (i) The Permittee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Airport which interfere or are likely to interfere with the operation of the Airport or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Airport or with the operations of the Permittee under this Permit.

(ii) The Permittee shall immediately give notice to the Port Authority (to be followed by written notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Permittee shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

(iii) The Permittee acknowledges that it is familiar with the general and local conditions prevailing at the Airport and with the all pertinent matters and circumstances which may in any way affect performance of the privileges granted under this Permit.

(e) The Permittee shall not solicit business on the public areas of the Airport and the use, at any time, of hand or standard megaphones, loudspeakers or any electric, electronic or other amplifying device is hereby expressly prohibited.

(f) The Permittee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

(g) No signs, posters or similar devices shall be erected, displayed or maintained at the Airport without the written approval of the General Manager of the Airport; and any not approved by such General Manager or not removed by the Permittee upon the termination, revocation, expiration or cancellation of this Permit may be removed by the Port Authority at the expense of the Permittee.

(h) The Permittee shall not operate any engine or any item of automotive equipment in any enclosed space at the Airport unless such space is adequately ventilated.

(i) The Permittee shall not use any cleaning materials having a harmful or corrosive effect on any part of the Airport.

(j) The Permittee shall not fuel or defuel any equipment in any enclosed space at the Airport without the prior approval of the General Manager of the Airport except in accordance with Port Authority rules and regulations.

(k) The Permittee shall not start or operate any engine or any item of automotive equipment in any enclosed space at the Airport unless such space is adequately ventilated and unless such engine is equipped with a proper spark-arresting device.

19. Law Compliance:

(a) The Permittee shall procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Permittee's operations at the Airport which may be necessary for the Permittee's operations thereat.

(b) The Permittee shall pay all taxes, license, certification, permit and examination fees and excises which may be assessed, levied, exacted or imposed on its property or operations at the Airport or on the Gross Receipts or income therefrom, and shall make all applications, reports and returns required in connection therewith.

(c) The Permittee shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, rules, regulations, requirements, orders and directions which may pertain or apply to the Permittee's operations at the Airport.

(d) The Permittee's obligations to comply with governmental requirements are provided herein for the purpose of assuring proper safeguards for the protection of Persons and property at the Airport and are not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

(e) The Port Authority has agreed by a provision in the City Lease with the City covering the Airport to conform to the enactments, ordinances, resolutions and regulations of the City and of its various departments, boards and bureaus in regard to the construction and maintenance of buildings and structures and in regard to health and fire protection, to the extent that the Port Authority finds it practicable so to do. The Permittee shall, within forty-eight (48) hours after its receipt of any notice of violation, warning notice, summons, or other legal process for the enforcement of any such enactment, ordinance, resolution or regulation, deliver the same to the Port Authority for examination and determination of the applicability of the agreement of lease provision thereto. Unless otherwise directed in writing by the Port Authority, the Permittee shall conform to such enactments, ordinances, resolutions and regulations insofar as they relate to the operations of the Permittee at the Airport. In the event of compliance with any such enactment, ordinance, resolution or regulation on the part of the Permittee, acting in good faith, commenced after such delivery to the Port Authority but prior to the receipt by the Permittee of a written direction from the Port Authority, such compliance shall not constitute a breach of this Permit, although the Port Authority thereafter notifies the Permittee to refrain from such compliance. Nothing herein contained shall release or discharge the Permittee from compliance with any other provision hereof respecting governmental requirements.

20. Trademarks and Patent Infringement:

The Permittee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any wise connected with this Permit.

21. Inspection:

The Port Authority shall have the right at any time and as often as it may consider it necessary to inspect the Permittee's machines and other equipment, any services being rendered, any merchandise being sold or held for sale by the Permittee, and any activities or operations of the Permittee hereunder. Upon request of the Port Authority, the Permittee shall operate or demonstrate any machines or equipment owned by or in the possession of the Permittee on the Airport or to be placed or brought on the Airport, and shall demonstrate any process or other activity being carried on by the Permittee hereunder. Upon notification by the Port Authority of any deficiency in any machine or piece of equipment, the Permittee shall immediately make good the deficiency or withdraw the machine or piece of equipment from service, and provide a satisfactory substitute.

22. Federal Aid:

(a) The Permittee shall

(i) furnish good, prompt and efficient service hereunder, adequate to meet all demands therefor at the Airport;

(ii) furnish said service on a fair, equal and non-discriminatory basis to all users thereof; and

(iii) charge fair, reasonable and non-discriminatory prices for each unit of sale or service, provided that the Permittee may make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

As used in the above subsections "service" shall include furnishing of parts, materials and supplies (including sale thereof).

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

23. Capacity and Competition:

(a) The Permittee shall refrain from entering into continuing contracts or arrangements with any third Person for furnishing services covered hereunder when such contracts or arrangements will have the effect of utilizing to an unreasonable extent the Permittee's capacity for rendering such services. A reasonable amount of capacity shall be reserved by the Permittee for the purpose of rendering services hereunder to those who are not parties to continuing contracts with the Permittee.

(b) The Permittee shall not enter into any agreement or understanding, express or implied, binding or non-binding, with any other Person who may furnish services at the Airport similar to those furnished hereunder which will have the effect of (i) fixing rates and charges to be paid by users of the services; (ii) lessening or preventing competition between the Permittee and such other furnishers of services; or (iii) tending to create a monopoly on the Airport in connection with the furnishing of such services.

24. Business Development and Records:

(a) In connection with the exercise of the privileges granted hereunder, the Permittee shall:

(i) use its best efforts in every proper manner to develop and increase the business conducted by it hereunder;

(ii) not divert or cause or allow to be diverted, any business from the Airport;

(iii) maintain, in English and in accordance with accepted accounting practice, during the effective period of this Permit, for one (1) year after the expiration or earlier revocation, cancellation or termination thereof, and for a further period extending until the Permittee shall, upon request to the Port Authority, receive written permission from the Port Authority to do otherwise, full and complete records and books of account (including without

limitation all agreements and all source documents such as but not limited to original invoices, invoice listings, timekeeping records, and work schedules) recording all transactions of the Permittee at, through, or in anywise connected with the Airport, which records and books of account shall be kept at all times within the Port of New York District and shall separately state and identify the Authorized Service and all other services performed at the Airport, and;

(iv) cause any company which is owned or controlled by the Permittee, or any company which owns or controls the Permittee, if any such company performs services similar to those performed by the Permittee (any such company being hereinafter called an "*Affiliate*" and all such companies being hereinafter called the "*Affiliates*") to maintain, in English and in accordance with accepted accounting practice, during the effective period of this Permit, for one (1) year after the expiration or earlier revocation, cancellation or termination thereof, and for a further period extending until the Permittee shall, upon request to the Port Authority, receive written permission from the Port Authority to do otherwise, full and complete records and books of account (including without limitation all agreements and all source documents such as but not limited to original invoices, invoice listings, timekeeping records, and work schedules) recording all transactions of each Affiliate at, through, or in anywise connected with the Airport, which records and books of account shall be kept at all times within the Port of New York District and shall separately state and identify each activity (including without limitation the Authorized Service) performed at the Airport;

(v) permit and/or cause to be permitted in ordinary business hours during the effective period of this Permit, for one (1) year thereafter, and during such further period as is mentioned in the preceding paragraphs (a)(iii) and (a)(iv), the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Permittee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be relevant for the identification, determination or calculation of Gross Receipts all agreements, and all source documents) and all the records and books of account of all Affiliates (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be relevant for the identification, determination or calculation of Gross Receipts, all agreements, and all source documents) (all of the foregoing records and books described in this paragraph (a)(v) being hereinafter collectively referred to as the "*Books and Records*") within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any Books and Records;

(vi) permit the inspection by the officers, employees and representatives of the Port Authority of any equipment used by the Permittee, including but not limited to the equipment described in paragraph (a)(vii) below; and

(vii) install and use such cash registers, sales slips, invoicing machines and any other equipment or devices, including without limitation computerized record keeping systems, for recording orders taken, or services rendered, as may be appropriate to the Permittee's business and necessary or desirable to keep accurate records of Gross Receipts, and without limiting the generality of the foregoing, for any privilege involving cash sales, install and use cash registers or other electronic cash control equipment that provides for non-resettable totals.

(b) Without implying any limitation on the right of the Port Authority to revoke this Permit for cause for breach of any term, condition or provision thereof, including but not limited to, breach of any term, condition or provision of paragraph (a) above, the Permittee understands that the full reporting and disclosure to the Port Authority of all Gross Receipts and the

Permittee's compliance with all the provisions of paragraph (a) above are of the utmost importance to the Port Authority in having entered into the percentage fee arrangement under this Permit. In the event any Books and Records are maintained outside the Port of New York District or in the event of the failure of the Permittee to comply with all the provisions of paragraphs (a)(ii) through (a)(vii) above then, in addition to all, and without limiting any other, rights and remedies of the Port Authority under this Permit or otherwise and in addition to all of the Permittee's other obligations under this Permit:

(i) the Port Authority may estimate the Gross Receipts on any basis that the Port Authority, in its sole discretion, shall deem appropriate, such estimation to be final and binding on the Permittee and the fees based thereon shall be payable to the Port Authority when billed; and/or

(ii) if any Books and Records are maintained outside of the Port of New York District, then the Port Authority in its sole discretion may (x) require on ten (10) days' notice to the Permittee that any such Books and Records be made available to the Port Authority within the Port of New York District for examination and audit pursuant to paragraph (a)(v) hereof and/or (y) examine and audit any such Books and Records pursuant to paragraph (a)(v) at the location(s) they are maintained and if such Books and Records are maintained within the contiguous United States the Permittee shall pay to the Port Authority when billed all travel costs and related expenses, as determined by the Port Authority, for Port Authority auditors and other representatives, employees and officers in connection with such examination and audit and if such Books and Records are maintained outside the contiguous United States the Permittee shall pay to the Port Authority when billed all costs and expenses of the Port Authority, as determined by the Port Authority, of such examination and audit, including but not limited to, salaries, benefits, travel costs and related expenses, overhead costs, and fees and charges of third party auditors retained by the Port Authority for the purpose of conducting such audit and examination.

(c) In the event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority by the Permittee (the "*Audit Findings*"), the Permittee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge (s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Permittee under this Permit or otherwise. Such service charge shall not be payable if the Port Authority has received, for each month covered by the examination and audit period, the Monthly Sworn Statement of Gross Receipts, as provided in Section 4(a)(ii). No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Section with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Permit, including, without limitation, the Port Authority's rights to revoke this Permit or (ii) any obligations of the Permittee under this Permit.

(d) Without implying any limitation on the rights or remedies of the Port Authority under this Permit or otherwise including without limitation the right of the Port Authority to

revoke this Permit for cause for breach of any term or provision of paragraphs (a)(iii) or (a)(iv) above and in addition thereto, in the event any of the Books and Records are not maintained in English, then this Permittee shall pay to the Port Authority when billed, all costs and expenses of the Port Authority, as determined by the Port Authority, to translate such Books and Records into English.

(e) The foregoing auditing costs, expenses and amounts of the Port Authority set forth in paragraphs (b), (c) and (d) above shall be deemed fees under this Permit payable to the Port Authority with the same force and effect as the Basic Percentage Fee and all other fees payable to the Port Authority thereunder.

25. Rates and Charges:

The Permittee shall establish rates and discounts therefrom which are in compliance with Section 22 hereof (each such rate and discount is hereinafter called an "*Established Rate*"). Upon request by the Port Authority, the Permittee shall provide the Port Authority its rates and discounts therefrom for goods and services furnished hereunder. If the Permittee applies any rate in excess of the Established Rate therefor or extends a discount less than the Established Discount therefor, the amount by which the charge based on such actual rate or actual discount deviates from a charge based on the Established Rate shall constitute an overcharge which will, upon demand of the Port Authority or the Permittee's customer, be promptly refunded to the customer. If the Permittee applies any rate which is less than the Established Rate therefor or extends a discount which is in excess of the Established Rate therefor, the amount by which the charge based on such actual rate or actual discount deviates from a charge based on the Established Rate shall constitute an undercharge and an amount equivalent thereto shall be included in Gross Receipts hereunder and the Basic Percentage Fee shall be payable in respect thereto. Notwithstanding any repayment of overcharges to a customer by the Permittee or any inclusion of undercharges in Gross Receipts any such overcharge or undercharge shall constitute a breach of the Permittee's obligations hereunder and the Port Authority shall have all remedies consequent upon such breach which would otherwise be available to it at law, in equity or by reason of this Permit.

26. Other Agreements:

In the event the terms and provisions of any agreement entered into by the Permittee with any third Person in connection with the privileges granted hereunder are contrary to or conflict or are inconsistent with the terms and provisions of this Permit, the terms and provisions of this Permit shall be controlling, effective and determinative.

27. City Lease Provisions:

(a) The Permittee acknowledges that it has received a copy of, and is familiar with the contents of, the City Lease. The Permittee acknowledges that no greater rights or privileges are hereby granted to the Permittee than the Port Authority has the power to grant under the City Lease.

(b) In accordance with the provisions of the City Lease, the Port Authority and the Permittee hereby agree as follows:

(i) This Permit is subject and subordinate to the City Lease and to any interest superior to that of the Port Authority;

(ii) The Permittee shall not pay the fees or other sums under this Permit for more than one (1) month in advance (excluding security or other deposits required under this Permit);

(iii) With respect to this Permit, the Permittee on the termination of the City Lease will, at the option of the City, enter into a direct permit on identical terms with the City;

(iv) The Permittee shall indemnify the City, as third party beneficiary hereunder, with respect to all matters described in Section 31 of the City Lease that arise out of the Permittee's operations at the Airport, or arise out of the acts or omissions of the Permittee's officers, employees, agents, representatives, contractors, customers, business visitors and guests at the Airport with the Permittee's consent;

(v) The Permittee shall not use any portion of the Airport for any use other than as permitted under the City Lease;

(vi) The Permittee shall use the Airport in a manner consistent with the Port Authority's obligations under Section 28 of the City Lease;

(vii) The failure of the Permittee to comply with the foregoing provisions shall be an event of default under this Permit, which shall provide the Port Authority with the right to revoke this Permit and exercise any other rights that the Port Authority may have as the grantor of the permission hereunder; and

(viii) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Permittee pursuant to this Permit.

28. Counterclaims:

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

29. Continued Exercise of Privilege After Expiration, Revocation or Termination:

(a) The Permittee acknowledges that the failure of the Permittee to cease to perform the Authorized Service at the Airport from the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss, and the Permittee hereby assumes the risk of such injury, damage or loss and hereby agrees that it shall be responsible for the same and shall pay the Port Authority for the same whether such are foreseen or unforeseen, special, direct, consequential or otherwise and the Permittee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss. The Permittee acknowledges that the Port Authority reserves all its legal and equitable rights and remedies in the event of such failure by the Permittee to cease performance of the Authorized Service.

(b) The Permittee hereby acknowledges and agrees that, subject to the foregoing, all terms and provisions of this Permit shall be and continue in full force and effect during any period following such expiration, revocation or termination.

30. Governing Law:

This Permit and any claim, dispute or controversy arising out of, under or related to this permit shall be governed by, interpreted and construed in accordance with the laws of the State of New York, without regard to choice of law principles.

31. Miscellaneous:

(a) It is understood and agreed that the Port Authority shall not furnish, sell or supply to the Permittee any services or utilities in connection with this Permit.

(b) No Commissioner, director, officer, agent or employee of either party shall be charged personally by the other party with any liability, or held liable to the other party, under any term or provision of this Permit, or because of the party's execution or attempted execution, or because of any breach thereof.

(c) The Section and paragraph headings, if any, in this Permit 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.

(d) This Permit, including the attached Special Endorsements, constitutes the entire agreement of the Port Authority and the Permittee on the subject matter hereof. This Permit may not be changed, modified, discharged or extended, except by written instrument duly executed on behalf of the Port Authority and the Permittee or except by notice as specifically set forth in Sections 4 and 13 hereof. The Permittee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

Initialed:

For the Port Authority

For the Permittee

For MarketPlace LaGuardia Limited Partnership

SPECIAL ENDORSEMENTS

1. (a) By an agreement of lease, dated September 19, 1994, bearing Port Authority Lease No. AGA-317 (said agreement of lease, as heretofore and hereafter supplemented and amended being hereinafter called the "Overlease"), the Port Authority leased to MarketPlace LaGuardia Limited Partnership ("MarketPlace") certain areas in the Central Terminal Building (hereinafter called the "Terminal") including those in its passenger concourses, its Center Section and its East and West Wings (hereinafter collectively referred to as the "premises") at LaGuardia Airport (hereinafter called the "Airport") to be used by such parties as may be approved by the Port Authority as provided therein.

(b) MarketPlace and American Express Travel Related Services Company, Inc ("American Express") have entered into a sublease agreement, dated as of September 6, 2012 (as amended by a first amendment thereto, the "Sublease"), subject to Port Authority prior written consent ("Consent") pursuant to which MarketPlace has made available to American Express a space in the premises (sometimes hereinafter collectively called the "Space") upon which American Express shall operate an airport lounge, at which food and alcoholic and non-alcoholic beverages will be provided and card member services, travel services, concierge services and spa services will be sold.

(c) American Express has entered into a Statement of Work LaGuardia Airport Lounge to Master Services Agreement No. CQ 268945 with the Permittee, dated as of September 6, 2012, ("Statement of Work") pursuant to which American Express would retain the Permittee to operate the airport lounge at the premises, the effectiveness of which agreement is subject to the Port Authority granting permission to the Permittee to provide such services.

2. (a) The Port Authority hereby grants to the Permittee the non-exclusive privilege to operate a first-class airport lounge including food and alcoholic and non-alcoholic beverage service (which food and beverage service shall be without charge to the card-memebers of American Express that utilize the Space), card member services, travel services, concierge services and spa services and for no other purpose, in or on the Space on behalf of American Express, as aforesaid (such privilege herein referred to as the "Authorized Service"), and for no other purpose or purposes whatsoever.

(b) The Port Authority hereby consents to the Permittee providing the Authorized Service to American Express in the Space, subject to the foregoing Terms and Conditions and the Special Endorsements herein set forth. As between the Permittee and the Port Authority, in the event of a conflict or ambiguity between the terms and conditions of the Sublease and this Permit, this Permit shall govern and control.

(c) The Permittee hereby acknowledges and agrees that the Authorized Service shall not include the delivery, dispensing and/or selling of in-flight meals in, on or at the Airport and the delivery, dispensing and/or selling of in-flight meals in, on or at the Airport is hereby expressly prohibited. It is expressly acknowledged and agreed that the term "in flight meals," as used in this Permit and throughout the aviation industry, is a term of art and includes food, beverages, snacks, non-reusable supplies, materials and dry goods for consumption aboard aircraft by passengers and crew, and/or any services rendered in connection therewith including, without limitation, supply, preparation or assembly.

3. (a) Subject to and notwithstanding the provisions of the Section 8 of the foregoing Terms and Conditions, the Commercial General Liability insurance required hereunder shall also include coverage for liquor liability and for products liability.

(b) If the MarketPlace's insurance requirements applicable to American Express (and, accordingly, the Permittee) set forth in the Sublease exceed those of the Port Authority as set forth in this Permit then the insurance requirements set forth in the Sublease shall apply.

4. The Permittee hereby attests that its federal taxpayer identification number is

5. OFAC Compliance.

(a) *Permittee's Representation and Warranty.* The Permittee hereby represents and warrants to the Port Authority that the Permittee (i) 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 (ii) is not engaging in any dealings or transactions with Blocked Persons in violation of any Blocked Persons Laws. The Permittee acknowledges that the Port Authority is entering into this Permit 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 Permit.

(b) *Permittee's Covenant.* Permittee covenants that during the term of this Permit 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 this Permit by the Port Authority, in addition to any and all other remedies provided under this Permit 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) *Permittee's Indemnification Obligation.* The Permittee 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 Permittee's breach of any of its representations and warranties made under this Permit. Upon the request of the Port Authority, the Permittee 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 Special Endorsement shall survive the expiration or earlier termination of the period of permission hereunder.

6. The Terms and Conditions to this Permit are hereby amended as follows:

(a) The definition of Gross Receipts in Section 1(p) is hereby deleted and replaced with the following:

"(p) "*Gross Receipts*" shall mean the Management Fee payable by American Express to the Permittee in accordance with the Statement of Work. The Permittee's Recovery Fee, as hereinafter defined, if any, shall not be included within Gross Receipts and shall not be subject to the fees set forth under Section 4 of this Permit."

(b) The definition of Permittee's Recovery Fee in Section 1(v) is hereby deleted and replaced with the following:

"(v) "*Permittee's Recovery Fee*" shall mean any surcharge or other amount that the Permittee may separately state and charge American Express to recover the fee, or portion thereof, payable under this Permit."

(c) Section 4(e) and 4(f) are deleted.

(d) Section 4(l) is deleted and replaced with the following:

"(l) This Permit relates solely to the Authorized Service to be provided to American Express in accordance with the Statement of Work. In the event the Permittee performs (x) any service other than the Authorized Service at the Airport, or (y) any service (including the Authorized Service) at any other Port Authority facility, whether such performance is the subject of a written agreement, by and between the Port Authority and the Permittee, (items (x) and (y) being, collectively, "Non-SOW Services") the Permittee hereby agrees that it will enter into the appropriate agreement with the Port Authority providing permission for the Permittee to perform such service. The Permittee also agrees that it will pay to the Port Authority any and all fees and/or charges applicable to such Non-SOW Services."

(e) The second paragraph of Section 6(a) shall be re-stated as follows:

"The Permittee shall handle all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder in accordance with the Sublease."

(f) Section 11 shall be re-stated as follows:

"11. Removal of Property

The personal property placed or installed by the Permittee at the Airport shall remain the property of the Permittee and must be removed on or before the expiration, revocation, cancellation or termination of the permission hereby granted, whichever shall be earlier. Without limiting the terms and provisions of paragraph (g) of Section 18 hereof, any such property remaining at the Airport after the effective date of such expiration, revocation, cancellation or termination shall be deemed abandoned by the Permittee and may be removed and disposed of by the Port Authority in any manner it so determines in its sole discretion and all the proceeds of any removal or disposition shall be retained by the Port Authority for its account and all costs and expenses of such removal and disposition shall be paid to the Port Authority by the Permittee when billed. Notwithstanding the foregoing, if the Statement of Work terminates on the same date that the Sublease terminates, the personal property placed or installed by the Permittee at the Airport shall be governed in accordance with the applicable provisions of the Sublease. If the Statement of Work terminates prior to the date that the Sublease terminates, the personal property left in the Space or given to American Express shall become the property of American Express except that in all events, as between the Port Authority and American Express, the provisions of the Consent shall control, which in turn shall be subject and subordinate to the Overlease."

(g) In Section 24(b), the following modifications were made:

(i) Subparagraph (i) is deleted.

(ii) In subparagraph (ii), the word and number "ten (10)" in the first sentence of this provision is replaced with the word and number "thirty (30)".

(h) In Section 25, entitled "*Rates and Charge*", the first two sentences shall remain unchanged and the parties agree that balance of said Section shall not apply to this Permit.

(i) In Section 26, entitled "*Other Agreements*", the following shall be added at the end thereof:

"The Port Authority recognizes and acknowledges that in the event the terms and provisions of any agreement entered into between Marketplace and American Express in connection with the privileges granted hereunder are contrary to or conflict or are inconsistent with the terms and provisions of this Permit, as between Marketplace and American Express, the Sublease shall control. Further, the Port Authority recognizes and acknowledges that in the event the terms and provisions of any agreement entered into between American Express and the Permittee in connection with the privileges granted hereunder are contrary to or

conflict or are inconsistent with the terms and provisions of this Permit, as between American Express and the Permittee, the Statement of Work shall control."

7. The Permit is subject to the requirements of the United States Department of Transportation's regulations, 49 CFR Part 23. The Permittee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement or any management contract, or subcontract, purchase or lease agreement or other agreement covered by 49 CFR Part 23. The Permittee agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters and cause those businesses to similarly include the statements in further agreement. Further, the Permittee agrees to comply with the terms and provisions of Schedule G, attached hereto and hereto made a part hereof.

8. Labor Harmony at the Airport

(a) General. In connection with its operations at the Airport under this Permit, the Permittee shall serve the public interest by promoting labor harmony, it being acknowledged that strikes, picketing, or boycotts may disrupt the efficient operation of the Terminal. The Permittee recognizes the essential benefit to have continued and full operation of the Airport as a whole and the Terminal as a transportation center. The Permittee shall immediately give oral notice to the Port Authority (to be followed reasonably promptly by written notices and reports) of any and all impending or existing labor-related disruptions and the progress thereof.

If any type of strike, picketing, boycott or other labor-related disruption is directed against the Permittee at the Terminal, or against its operations thereat pursuant to this Permit, which in the opinion of the Port Authority (i) physically interferes with the operation of the Airport, the Terminal or the Space, or (ii) physically interferes with public access between the Space and any portion of the Terminal or the Airport, or (iii) physically interferes with the operations of other operators at the Airport or the Terminal, or (iv) presents a danger to the health and safety of users of the Airport or the Terminal, including persons employed thereat or members of the public, the Port Authority shall have the right at any time during the continuance thereof to take such actions as the Port Authority may deem appropriate including, without limitation, revocation of this Permit.

(b) Labor peace agreement. The Permittee represents that, prior to or upon entering into this Permit, it has delivered to the Port Authority evidence of a signed labor peace agreement, in the form attached hereto as Exhibit X or, in the event Exhibit X is inapplicable then a signed officer's certification to such effect on the required form provided by the Port Authority.

(c) Employee Retention. If the Permittee's concession at the Space is of the same type (i.e., food, retail, news/gifts or duty-free concession) as that of the immediately preceding concession operator at the Space (the "Predecessor Concession"), the Permittee agrees to offer continued employment for a minimum period of ninety (90) days, unless there is just cause to terminate employment sooner, to employees of the Predecessor Concession who have

been or will be displaced by cessation of the operations of the Predecessor Concession and who wish to work for the Permittee at the Space. The foregoing requirement shall be subject to the Permittee's commercially reasonable determination that fewer employees are required at the Space than were required by the Predecessor Concession; except, however, that the Permittee shall retain such staff as is deemed commercially reasonable on the basis of seniority with the Predecessor Concession at the Space. The Port Authority shall have the right to demand from the Permittee documentation of the name, date of hire, and employment occupation classification of all employees covered by this provision. In the event the Permittee fails to comply with this provision, the Port Authority have the right at any time during the continuance thereof to take such actions as the Port Authority may deem appropriate including, without limitation, revocation of this Permit.

(d) Applicability of Provision. The provisions of this section shall apply to concession operators which employ ten (10) or more persons at the Space.

Initialed:

For the Port Authority

For the Permittee

For MarketPlace LaGuardia Limited Partnership

The ACDBE may, if other qualifications are met, be a franchisee of a franchisor. An airport concession is a for-profit business enterprise, located on an airport, which is subject to the Code of Federal Regulations 49 Part 23, subpart F, that is engaged in the sale of consumer goods or services to the public under an agreement with the sponsor, another concessionaire, or the owner or operator of a terminal, if other than the sponsor. The Port Authority makes a rebuttable presumption that individuals in the following groups who are citizens of the United States or lawful permanent residents are "socially and economically disadvantaged":

a. Women;

b. Black Americans which includes persons having origins in any of the Black racial groups of Africa;

c. Hispanic Americans which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

d. Native Americans which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

e. Asian-Pacific Americans which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia or Hong Kong;

f. Asian-Indian Americans which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal and Sri Lanka; and

g. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. Section 637(a)).

Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis. For example, a disabled Vietnam veteran, an Appalachian white male, or another person may claim to be disadvantaged. If such individual requests that his or her firm be certified as ACDBE, the Port Authority, as a certifying partner in the New York State and New Jersey UCPs will determine whether the individual is socially or economically disadvantaged under the criteria established by the Federal Government. These owners must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

Certification of ACDBEs hereunder shall be made by the New York State or New Jersey UCP. If Concessionaire wishes to utilize a firm not listed in the UCP directories but

which the Concessionaire believes should be certified as an ACDBE, that firm shall submit to the Port Authority a written request for a determination that the firm is eligible for certification. This shall be done by completing and forwarding such forms as may be required under 49 CFR Part 23. All such requests shall be in writing, addressed to Lash Green, Director, Office of Business and Job Opportunity, 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 designate from time to time. Contact OBJOcert@panynj.gov for inquiries or assistance.

General

In the event the signatory to this agreement is a Port Authority permittee, the term Concessionaire shall mean the Permittee herein. In the event the signatory to this agreement is a Port Authority lessee, the term Concessionaire shall mean the Lessee herein.

For the Port Authority

Initialed:

For the Permittee

For MarketPlace LaGuardia Limited Partnership

which the Concessionaire believes should be certified as an ACDBE, that firm shall submit to the Port Authority a written request for a determination that the firm is eligible for certification. This shall be done by completing and forwarding such forms as may be required under 49 CFR Part 23. All such requests shall be in writing, addressed to Lash Green, Director, Office of Business and Job Opportunity, 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 designate from time to time. Contact OBJOcert@panynj.gov for inquiries or assistance.

General

In the event the signatory to this agreement is a Port Authority permittee, the term Concessionaire shall mean the Permittee herein. In the event the signatory to this agreement is a Port Authority lessee, the term Concessionaire shall mean the Lessee herein.

Initialed:

_____
For the Port Authority

_____
For the Permittee

_____
For MarketPlace LaGuardia Limited Partnership

EXHIBIT X

EVIDENCE OF SIGNED LABOR PEACE AGREEMENT

COMPASS GROUP USA, INC. (the "Company") has complied with Board Resolution "All airports – Labor Harmony Policy" passed October 18, 2007, which stipulates that the Company must sign a Labor Peace Agreement with a labor organization that seeks to represent the Company's employees and that contains provisions under which the labor organization and its members agree to refrain from engaging in any picketing, work stoppages, boycotts or any other economic interference with the Company's operations.

FOR THE COMPANY:
COMPASS GROUP USA, INC.

BY:_____

DATE: 10/3/13

FOR THE UNION:
[Insert Name of Labor Organization]

BY:_____

DATE:_____

Initialed:

_____
For the Port Authority

_____
For the Permittee

_____
For MarketPlace LaGuardia Limited Partnership