Duffy, Daniel FOI # 13568

From: tsherman@starledger.com
Sent: Thursday, May 10, 2012 2:32 PM
To: Duffy, Daniel
Cc: Torres Rojas, Genara; Van Duyne, Sheree
Subject: Freedom of Information Online Request Form

Information:

First Name: Ted
Last Name: Sherman
Company: The Star-Ledger
Mailing Address 1: 1 Star-Ledger Plaza
Mailing Address 2:
City: Newark
State: NJ
Zip Code: 07102
Email Address: tsherman@starledger.com
Phone: 973 392-4278
Required copies of the records: Yes

List of specific record(s):
1. The unredacted Oct. 2011 PA settlement with American Stevedoring Inc. 2. The board presentation for the ASI settlement. 3. The lease with ASI 4. The authorization for the operating agreement with Red Hook Container Ltd.

THE PORT AUTHORITY OF NY & NJ

Daniel D. Duffy
FOI Administrator

November 26, 2012

Mr. Ted Sherman
The Star-Ledger
1 Star-Ledger Plaza
Newark, NJ 07102

Re: Freedom of Information Reference No. 13568

Dear Mr. Sherman:

This is a response to your May 10, 2012 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code", copy attached) for the unredacted October, 2011 Port Authority settlement with American Stevedoring, Inc., the board presentaiton for the settlement, the lease with American Stevedoring and the authorization for the operating agreement with Red Hook Container Ltd.

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/13568-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), (3) and (4) of the Code.

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

Very truly yours,

Daniel D. Duffy
FOI Administrator

Attachment

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

PCL Lease No. BP-286

AGREEMENT

between

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

and

AMERICAN STEVEDORING, INC.

Dated as of December 10, 1993

PORT DEPARTMENT
CONFORMED COPY

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Lease No. BP-286

THIS AGREEMENT OF LEASE, made as of the 10th day of December, 1993, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority"), a body corporate and politic created by Compact between the States of New Jersey and New York, with the consent of the Congress of the United States of America, and having an office and place of business at One World Trade Center, New York, New York 10048; and AMERICAN STEVEDORING, INC. (hereinafter called "the Lessee"), a corporation organized and existing under the laws of the State of New York, and having an office and place of business at 2170 N. Fleet Street, Elizabeth, New Jersey 07201, whose representative is: Sabato F. Catucci.

WITNESSETH, THAT:

WHEREAS, the Port Authority as of December 18, 1979 entered into an agreement with the State of New York ("the State") and the City of New York ("the City") known as the Red Hook Marine Project (III) Terminal Operating Agreement and Lease (said agreement being hereinafter sometimes referred to in this Agreement as "the Project Agreement"); and

WHEREAS, the Port Authority pursuant to the Project Agreement has constructed a marine terminal primarily for the handling of waterborne container cargo out of funds provided by the State and the City on real property a portion of which is owned by the Port Authority (said portion being sometimes hereinafter called "the Port Authority Realty") and the remaining portion of which is owned by the City (said other portion being sometimes hereinafter called "the City Property"); and

WHEREAS, the purpose of the Project Agreement is to provide for the operation of a container terminal and the Port Authority desires to lease the Port Authority Realty and sublet the City Property for the purpose of operating such a terminal;

NOW, THEREFORE, the Port Authority and the Lessee hereby mutually undertake, promise and agree as follows:

Section 1. Letting

The Port Authority hereby lets and sublets, as the case may be, to the Lessee and the Lessee hereby hires and takes from the Port Authority, at the Red Hook Container Terminal (sometimes hereinafter called "the Facility" or "the marine terminal"), in the City of New York, in the County of Kings and

the State of New York, the following: the open area shown in stipple, the enclosed spaces shown in diagonal crosshatching, and the water areas shown respectively in the colors red, green and blue all as so shown on a sketch hereto attached, hereby made a part hereof and marked "Exhibit A", together with the buildings, structures, fixtures, improvements and other property (including without limitation the Paceco Container Crane bearing Serial No. 1033 and the Paceco Container Crane bearing Serial No. 1251, both of which container cranes are the property of the Port Authority and which are hereinafter sometimes collectively called "the Cranes"), if any, of the Port Authority located or to be located or constructed therein or thereon, the said open area, enclosed spaces, and water areas, buildings, structures, fixtures, improvements and other property of the Port Authority (including, without limitation, the Cranes) being hereinafter collectively called "the premises", and the said water areas being hereinafter sometimes called "the berthing area". The parties agree that the premises constitute non-residential property.

Section 2. Terminology

(a) Notwithstanding that the letting of the City Property by the Port Authority to the Lessee is in the nature of a subletting, all references in this Agreement to the premises shall mean and include the City Property unless and except if specifically indicated otherwise and all references in the Lease to the Lessee and the letting shall be deemed to include the Lessee as sublessee, it being the intention of the parties that there be no distinction between the obligations of the Lessee with respect to the City Property and to the Port Authority Realty unless and except where specifically indicated to the contrary.

(b) All references in this Agreement to the Facility shall be deemed to refer to the premises, it being understood that for purposes of this Agreement the Facility and the premises constitute the same property, except as provided in paragraph (i) of Section 39 hereof.

Section 3. Term

The term of the letting under this Agreement shall commence at 12:01 o'clock A.M. on January 1, 1994 (which date is sometimes hereinafter called "the Commencement Date") and, unless sooner terminated, shall expire on the earlier of (i) 11:59 o'clock P.M. on August 31, 2001, or (ii) the effective date of termination or cancellation of the Project Agreement.

Section 4A. Usage Rental

(a) Definitions:

(1) "Annual Period" shall mean as the context requires, January 1, 1994 to August 31, 1994; September 1, 1994 to August 31, 1995; and each and every consecutive twelve month period thereafter commencing on September 1 of each year during the term of the letting.

(2) "Annual exemption amount" shall mean Fifty Thousand (50,000) qualified containers.

(3) "Qualified cargo" shall mean cargo, materials, and other items handled in breakbulk or stuffed or stripped at the premises under this Agreement, other than "exempt cargo" as hereinafter defined.

(4) "Exempt cargo" shall mean the following items when handled in breakbulk at the Facility: copper, zinc, uncontainerized bananas, and cargos which are included within the definition of "excepted cargo" in that certain agreement made by and between New York Shipping Association, Inc. and International Longshoremen's Association, AFL-CIO dated the 25th day of November, 1987 and denominated the "NYSA-ILA Assessment Agreement"

(5) "Qualified containers" shall mean the number of containers loaded onto or discharged from vessels berthing at the premises under this Agreement which are neither stuffed nor stripped at the premises under this Agreement other than containers arriving on shipboard and departing on the same ship and the same voyage if such containers are merely unloaded from the ship at the premises and reloaded in the course of a restowing operation.

(6) "Revenue ton" shall mean a ton (weight or measurement) as shown on vessels' manifests for freight-charge purposes, of cargo, materials and any items whatsoever either loaded upon or unloaded from vessels at the premises, not including passengers' baggage, ships' stores, supplies or gear, except that a "revenue ton" with

respect to the following items of cargo loaded or discharged from vessels shall have the following meanings: (i) for any piece of single lift cargo in excess of 15,000 pounds, a "revenue ton" shall mean a weight of 2,240 pounds; (ii) for any unboxed vehicle moving through the premises a "revenue ton" shall mean a weight of 2,000 pounds; and (iii) for any mail bags moving through the premises a "revenue ton" shall mean 12 bags of mail, regardless of the actual weight thereof. The definitions set forth above shall apply notwithstanding that tonnage of such items shown on vessels' manifests for freight charge purposes differs from the tonnage resulting from application of the above definitions.

(b) The Lessee shall pay to the Port Authority a usage rental (hereinafter called "the usage rental") equivalent to the sum of (1) the product obtained by multiplying Two Dollars and Twenty-five Cents ($2.25) by the total number of revenue tons, as defined in this Section, of qualified cargo handled at the premises during each Annual Period during the term of the letting, ~~(2)~~ the product obtained by multiplying the total number or revenue tons, as defined in this Section, of exempt cargo handled at the premises during each Annual Period during the term of the letting by the wharfage charge for "all cargo, unless otherwise specifically provided for" set forth in the Port Authority tariff for Port Authority Marine Terminals published in FMC Schedule PA-9 as such charge may be amended from time to time during the term of the letting, and (3) the total of (i) the product obtained by multiplying Twenty-five Dollars and No Cents ($25.00) by the number of qualified containers which are not in excess of the annual exemption amount loaded onto or discharged from vessels berthing at the premises during each Annual Period during the term of the letting, and (ii) the product obtained by multiplying Twenty Dollars and No Cents ($20.00) by the number of qualified containers which are in excess of the annual exemption amount loaded onto or discharged from vessels berthing at the premises during each Annual Period during the ~~term~~ of the letting.

See also Supp. 2 91. (.70¢)

In the event that the total number of containers loaded onto or discharged from vessels berthing at the premises during the Annual Period from January 1, 1994 to August 31, 1994, both dates inclusive, (whether or not stuffed or stripped at the premises) is less than ten thousand six hundred sixty-seven (10,667) then the usage rental for such Annual Period shall be increased by an amount (hereinafter called "the first minimum container rental") equal to the product obtained by multiplying Twenty-five Dollars and No Cents ($25.00) by the

difference between ten thousand six hundred sixty-seven (10,667) and the actual number of containers loaded onto or discharged from vessels berthing at the premises during such Annual Period (whether or not stuffed or stripped at the premises), and in the event that the total number of containers loaded onto or discharged from vessels berthing at the premises during any other Annual Period (whether or not stuffed or stripped at the premises) is less than sixteen thousand (16,000) (hereinafter called "the minimum annual guarantee") then the usage rental for such Annual Period shall be increased by an amount (hereinafter called "the subsequent minimum container rental") equal to the product obtained by multiplying Twenty-five Dollars and No Cents ($25.00) by the difference between sixteen thousand (16,000) and the actual number of containers loaded onto or discharged from vessels berthing at the premises during such Annual Period (whether or not stuffed or stripped at the premises) (the first minimum container rental and the subsequent minimum container rental is hereinafter called "the minimum container rental" as applicable).

If the Annual Period from January 1, 1994 to August 31, 1994 contains less than 243 days and any other Annual Period (other than the Annual Period from January 1, 1994 to August 31, 1994) contains less than 365 days then the annual exemption amount and the minimum annual guarantee for such Annual Period shall be prorated on a daily basis.

The computation of usage rental for any Annual Period shall be individual to such period, and without relation to any other Annual Period under this Agreement, or any portion of any Annual Period under this Agreement. The time for making payment of the usage rental and the minimum container rental, and the method of calculation thereof shall be as set forth in paragraph (c) of this Section.

(c) The Lessee shall pay the usage rental and the minimum container rental as follows: on January 1, 1994 and on the first day of each calendar month thereafter occurring during the term of the letting the Lessee shall pay to the Port Authority the sum of Thirty-three Thousand Three Hundred Thirty-three Dollars and Thirty-three Cents ($33,333.33) (which sum is hereinafter called "the minimum monthly usage payment"). On February 28, 1994 and on the last day of each and every month thereafter occurring during the term of the letting, including the month following the end of the term of the letting, the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee showing the total number

of revenue tons, as defined in this Section, of qualified cargo handled at the premises during the preceding month, the total number of revenue tons, as defined in this Section, of qualified cargo handled at the premises from January 1, 1994 through the last day of the preceding month, the total number of revenue tons, as defined in this Section, of exempt cargo handled at the premises during the preceding month, the total number of revenue tons, as defined in this Section, of exempt cargo handled at the premises from January 1, 1994 through the last day of the preceding month, the total number of qualified containers loaded onto or discharged from vessels berthing at the premises during the preceding month, the cumulative number of qualified containers loaded onto or discharged from vessels berthing at the premises from January 1, 1994 through the last day of the preceding month, the total number of containers (whether or not stuffed or stripped at the premises) loaded onto or discharged from vessels berthing at the premises during the preceding month, and the cumulative number of containers (whether or not stuffed or stripped at the premises) loaded onto or discharged from vessels berthing at the premises from January 1, 1994 through the last day of the preceding month; each monthly statement shall be accompanied by vessel activity reports to substantiate the statement, showing the total number of revenue tons, as defined in this Section, of qualified cargo handled at the premises during the month for which the report is made, the total number of revenue tons, as defined in this Section, of exempt cargo handled at the premises during the month for which the report is made, the total number of qualified containers loaded onto or discharged from vessels berthing at the premises during such month, and the total number of containers (whether or not stuffed or stripped at the premises) loaded onto or discharged from vessels berthing at the premises during such month; whenever any such statement shall show that the usage rental for the month for which the report is made, calculated in accordance with the provisions of paragraph (b) of this Section, exceeds the minimum monthly usage payment previously made for such month by the Lessee, the Lessee shall pay at the time of rendering the statement an amount (hereinafter referred to as "the additional monthly usage payment") equal to such excess *provided, however,* that the Lessee shall be allowed a credit against the additional monthly usage payment in an amount equal to the amount by which the aggregate of (i) the minimum monthly usage payments made by the Lessee during the Annual Period prior to the month for which the statement is made, and (ii) the aggregate of additional monthly usage payments made by the Lessee during the Annual Period prior to the month for which the statement is made exceeds the aggregate of the usage rental shown to be due by the monthly

statements rendered during the Annual Period for the months preceding the month for which the statement is made. The statement rendered following the expiration of the term of the letting shall report the total number of revenue tons, as defined in this Section, of qualified cargo handled at the premises during the term of the letting, the total number of revenue tons, as defined in this Section, of exempt cargo handled at the premises during the term of the letting, the total number of qualified containers loaded onto or discharged from vessels berthing at the premises during such period, and the total number of containers (whether or not stuffed or stripped at the premises) loaded onto or discharged from vessels berthing at the premises during the term of the letting and shall calculate the usage rental and the minimum container rental payable for such period. The Lessee shall pay at the time of rendering the statement the total usage rental and the minimum container rental due for the Annual Period, less payments thereof previously made during such period. If such statement indicates an overpayment of usage rental and the minimum container rental, the Lessee shall be entitled to a credit to the extent of such excess. Any credit the Lessee shall be entitled to following the expiration of this Agreement shall be applied first against the Lessee's outstanding obligations under this Agreement, with the balance to be paid to the Lessee within ninety (90) days following the expiration of the letting.

(d) The Port Authority shall have the right to increase any or all of the unit rates described below up to fifteen percent (15%) successively on May 1, 1996 and on May 1, 1999: (i) the unit rate of Two Dollars and Twenty-five Cents ($2.25) for qualified cargo, and (ii) the unit rates of Twenty-five Dollars and No Cents ($25.00) and Twenty Dollars and No Cents ($20.00) for qualified containers. The rentals and method of payment thereof set forth above in this Section shall be adjusted to reflect any such increase in any or all of said unit rates.

Section 4B. Equipment Rental

(a) Definitions:

(1) "Annual Period" shall mean January 1, 1994 to August 31, 1994; September 1, 1994 to August 31, 1995; and each and every consecutive twelve month period thereafter commencing on September 1 of each year during the term hereof.

(2) "Containers" shall mean cargo containers loaded onto or discharged from vessels berthing at the premises (whether or not stuffed or stripped at the premises) by means of a container crane (whether or not by means of one of the Cranes, as defined in Section 1 hereof, or another container crane) other than containers arriving on shipboard and departing on the same ship and the same voyage if such containers are merely unloaded from the ship at the premises and reloaded in the course of a restowing operation.

(b) The Lessee shall pay to the Port Authority an equipment rental (hereinafter called "the equipment rental") equivalent to the product obtained by multiplying Ten Dollars and No Cents ($10.00) by the number of containers loaded onto or discharged from vessels berthing at the premises during the term hereof; *provided, however,* that the equipment rental for any annual period shall not exceed Seven Hundred Fifty Thousand Dollars and No Cents ($750,000.00) per annum.

In the event that the total number of containers loaded onto or discharged from vessels berthing at the premises during the Annual Period from January 1, 1994 to August 31, 1994, both dates inclusive, is less than twelve thousand (12,000) then the equipment rental for such Annual Period shall be increased by an amount (hereinafter called "the first minimum crane container rental") equal to the product obtained by multiplying Ten Dollars and No Cents ($10.00) by the difference between twelve thousand (12,000) and the actual number of containers loaded onto or discharged from vessels berthing at the premises during such Annual Period, and in the event that the total number of containers loaded onto or discharged from vessels berthing at the premises during any other Annual Period is less than eighteen thousand (18,000) (hereinafter called "the minimum annual crane guarantee") then the equipment rental for such Annual Period shall be increased by an amount (hereinafter called "the subsequent minimum crane container rental") equal to the product obtained by multiplying Ten Dollars and No Cents ($10.00) by the difference between eighteen thousand (18,000) and the actual number of containers loaded onto or discharged from vessels berthing at the premises during such Annual Period (the first minimum crane container rental and the subsequent minimum crane container rental is hereinafter called "the minimum crane container rental" as applicable).

If the Annual Period from January 1, 1994 to August 31, 1994 contains less than 243 days and any other Annual Period (other than the Annual Period from January 1, 1994 to August 31, 1994) contains less than 365 days then the minimum annual crane guarantee for such Annual Period shall be prorated on a daily basis.

The computation of equipment rental and minimum crane container rental for any Annual Period shall be individual to such period, and without relation to any other Annual Period, or any portion of any Annual Period. The time for making payment of the equipment rental and the minimum crane container rental, and the method of calculation thereof, shall be as set forth in paragraph (c) of this Section.

(c) The Lessee shall pay the equipment rental and the minimum crane container rental as follows: on January 1, 1994 and on the first day of each calendar month thereafter occurring during the term hereof the Lessee shall pay to the Port Authority the sum of Fifteen Thousand Dollars and No Cents ($15,000.00) (which sum is hereinafter called "the minimum monthly equipment payment"). On February 28, 1994 and on the last day of each and every month thereafter occurring during the term hereof, including the month following the end of the term hereof, the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee showing the total number of containers loaded onto or discharged from vessels berthing at the premises during the preceding month and the cumulative number of containers loaded onto or discharged from vessels berthing at the premises from January 1, 1994 through the last day of the preceding month; each monthly statement shall be accompanied by vessel activity reports to substantiate the statement, showing the total number of containers loaded onto or discharged from vessels berthing at the premises during such month; whenever any such statement shall show that the equipment rental for the month for which the report is made, calculated in accordance with the provisions of paragraph (b) of this Section, exceeds the minimum monthly equipment payment previously made for such month by the Lessee, the Lessee shall pay at the time of rendering the statement an amount (hereinafter referred to as "the additional monthly equipment payment") equal to such excess; *provided, however,* that the Lessee shall be allowed a credit against the additional monthly equipment payment in an amount equal to the amount by which the aggregate of (i) the minimum monthly equipment payments made by the Lessee during the Annual Period prior to the month for which the statement is made, and (ii) the

aggregate of additional monthly equipment payments made by the Lessee during the Annual Period prior to the month for which the statement is made exceeds the aggregate of the equipment rental shown to be due by the monthly statements rendered during the Annual Period for the months preceding the month for which the statement is made. The statement rendered following the expiration of the term hereof shall report the total number of containers loaded onto or discharged from vessels berthing at the premises during the term hereof, and shall calculate the equipment rental and the minimum crane container rental payable for such period. The Lessee shall pay at the time of rendering the statement the total equipment rental and the minimum crane container rental due for the Annual Period, less payments thereof previously made during such period. If such statement indicates an overpayment of equipment rental and the minimum crane container rental, the Lessee shall be entitled to a credit to the extent of such excess. Any credit the Lessee shall be entitled to following the expiration of this Agreement shall be applied first against the Lessee's outstanding obligations under this Agreement, with the balance to be paid to the Lessee within ninety (90) days following the expiration of the letting.

Section 4C. Records

The Lessee shall maintain in accordance with accepted accounting practice during the term of the letting under this Agreement and for three years thereafter records and books of account (including, without limitation, bills of lading and manifests) recording all transactions in any way connected with or reflecting upon the payment of any rental by the Lessee pursuant to Section 4A or Section 4B hereof, and which records and books of account shall be kept at all times within the Port of New York District, and permit, in ordinary business hours during such time, the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account and also any of such records and books of account of any company which is owned or controlled by the Lessee, if said company performs services, similar to those performed by the Lessee, anywhere in the Port of New York District.

Section 5. Rights of User

(a) The Lessee shall use the premises for the following purposes only, and for no other purpose whatsoever:

(1) The open area contiguous to the bulkhead for the loading and unloading of cargo, and incidentally of passengers and their baggage, ships' stores, supplies and gear, on or from seagoing vessels and other craft permitted to be berthed in the berthing area;

(2) The covered area for the receiving, handling and storage incidental to transportation, of cargo transported or to be transported by seagoing vessels and other craft permitted to be berthed in the berthing area; for the incidental handling of passengers and their baggage, and for administrative offices in connection with the purposes set forth in this Section 5; and

(3) The open area other than that described in subparagraph (1) above for storage incidental to transportation of cargo transported or to be transported by seagoing vessels permitted to be berthed in the berthing area, and of ships' stores, supplies and gear for such vessels, for the parking of motor vehicles owned or operated by the Lessee, its employees or persons doing business with it at the Facility, and for the storage of cargo-handling equipment and small amounts of dunnage, used in the Lessee's operations under this Agreement.

(b) The Lessee shall have the right to berth in the berthing area seagoing vessels ~~operated only by~~ for which the Lessee acts as stevedore or terminal operator.

and tugboats, barges, lighters and other harbor craft serving such seagoing vessels, for loading or discharge of passengers, baggage, cargo, ships' stores, supplies and gear. Such loading and discharge from seagoing vessels may be accomplished in the berthing area through the medium of barges, lighters, and other harbor craft moored inshore or offshore. The Lessee shall have the exclusive right to collect dockage and wharfage from such seagoing vessels and all other craft, subject to all the terms and provisions of this Agreement. The Lessee shall not at any time berth in the berthing area a passenger vessel, by which is meant a seagoing vessel, other than one in military or naval service, engaged primarily in carrying more than three hundred twenty (320) persons as passengers, and loading or unloading not more than one thousand (1,000) long tons of cargo, on voyages extending for not less than twenty-four (24) hours, and actually operated on voyages of at least such duration, from or to the Port of New York. The Lessee shall not use or permit the use of the berthing area except as hereinabove provided.

Section 6. Ingress and Egress

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

Section 7. Governmental and Other Requirements

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

(b) The Lessee shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, rules, regulations, requirements, orders and directions which may pertain or apply to its operations or to its use and occupancy of the premises hereunder, and in addition shall make all improvements, repairs and alterations which may be so required. The Lessee shall have no obligation hereunder, however, to make structural alterations or improvements which are required to be made to substantially all piers at the Facility and are so required without regard to the particular operations conducted on the premises.

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

Section 8. Rules and Regulations

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

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

(c) No statement or provision in the said Rules and Regulations shall be deemed a representation or promise by the Port Authority that the services or privileges described shall be or remain available, or that the charges, prices, rates or fees stated therein shall be or remain in effect throughout the letting, all of the same being subject to change by the Port Authority from time to time whenever it deems a change advisable. Nothing contained in this paragraph (c) shall imply that such charge, price, rate or fee applies to the Lessee.

(d) In the event that the present or future Rules and Regulations, or any part thereof, are inconsistent with the rights granted to the Lessee under this Agreement or prevent the use of the premises for the purposes stated under this Agreement, then, only to the extent of such inconsistency, they shall not apply to the Lessee, its agents, employees or invitees; but nothing herein contained shall limit the effectiveness of any rule or regulation now or hereafter promulgated by the Port Authority for reasons of safety, health or preservation of property, or for the safe or efficient operation of the Facility.

Section 9. Method of Operations

(a) In the performance of its obligations hereunder and in the use of the premises, the Lessee shall conduct its operations in an orderly and proper manner, so as not to annoy, disturb or be offensive to others near the premises or at the Facility, and within twenty-four (24) hours the Lessee shall remove the cause of any objection made by the Port Authority relative to the demeanor, conduct or appearance of any of the employees of the Lessee or of any others on the premises with the consent of the Lessee.

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

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

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

(e) The Lessee shall take all reasonable measures to eliminate vibrations tending to damage the premises or the Facility or any part thereof.

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

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

(h) The Lessee shall not overload any floor, roof, land surface, bulkhead, pavement, landing, pier or wharf at the Facility and shall repair, replace or rebuild any such, including but not limited to supporting members, damaged by overloading.

[There is no paragraph (i) in this Section.]

(j) The Lessee shall permit the use of the premises, (not excluding the berthing area) at any time and from time to time for the installation, maintenance and operation of such navigation lights as may be required by the United States Coast Guard or other governmental authority having jurisdiction, and the Lessee shall furnish such electricity as may be required for use by navigation lights which may be so installed.

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

[There is no paragraph (l) in this Section.]

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

(n) The Lessee shall promptly raise and remove or cause to be raised and removed any and all objects of any kind, including vessels or other floating structures and equipment (whether or not intended to be floating), owned or operated by the Lessee, or by a corporation, company or other organization or person associated, affiliated or connected with the Lessee or for which the Lessee acts as agent, stevedore or terminal operator, (or of others going to or from the premises on business with the Lessee) which shall have sunk, settled or become partially or wholly submerged at the Facility.

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

Section 10. Signs

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

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

Section 11. Indemnity

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

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

(c) The Lessee, in its own name as assured, shall maintain and pay the premiums on the following described policies of comprehensive public liability insurance (or other comparable insurance coverage of at least the same risks) which shall cover its operations hereunder and shall be effective throughout the letting, in limits not lower than the following:

(1) Bodily-injury liability: for injury to or wrongful death of one person,
for injury to or wrongful death of more than one person from any one occurrence, ; and

(2) Property-damage liability: for all damages arising out of injury to or destruction of property in any one occurrence,

(d) Such policies shall not exclude or except from their coverage damages arising out of injury to or destruction of property occupied or used by or rented to the Lessee or property in the care, custody or control of the Lessee.

(e) The Port Authority shall not be named as an insured in any policy of liability insurance required by this Agreement, unless the Port Authority shall, at any time during the letting under this Agreement, direct otherwise in writing, in which case the Lessee shall cause the Port Authority to be so named.

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

Section 12. Maintenance and Repair

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

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

(c) After receipt by the Port Authority of notice from the Lessee that repair or replacement of any of the following parts of the pier is needed: the foundations, footings and structure of the pier, including underpinning, structural members, decking, fender system, backing logs and standard fixed mooring devices; the Port Authority shall make or do the same to the extent necessary to keep such parts of the pier in a reasonably good condition for the operations of the Lessee hereunder; the Port Authority shall not be obligated to make repairs or replacements to bring the pier to a better condition than that existing at the commencement of the letting. The Port Authority's responsibility under this Section 12(c) shall be limited to bearing the expense of repair or replacement and without limitation of the foregoing, the Port Authority shall have no obligation whatsoever with respect to any repairs or replacements which are the obligation of the Lessee under other provisions of this Agreement. The Port Authority shall have no obligation with respect to any repairs or replacements required because of any type of casualty whether or not insured or insurable, except as expressly provided in Section 13 of this Agreement. If the Port Authority shall fail after a reasonable time to substantially perform its obligations hereunder, the Lessee, as its sole remedy, shall perform the work, and the Port Authority shall on demand pay to the Lessee its actual certified cash expenditures therefor, or extend to the Lessee in an amount equal to such expenditures a credit against its rental obligations under this Agreement. Furthermore, prior to the Port Authority's commencement of any work set forth in the Lessee's notice to the Port Authority, the Lessee shall take all precautions necessary to protect persons or property at the Facility, including the immediate performance by the Lessee of such work as may be required to correct conditions which involve danger to persons or property, and the Port Authority will reimburse the Lessee for such work as hereinabove provided. The Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, employees and representatives from and against all claims and demands of any third persons whatsoever, including without limitation thereto the Lessee's employees, officers, agents and representatives, for personal injuries (including death) or property damage which may arise from the condition of the premises or any part thereof, or from failure of the Lessee to notify the Port Authority of conditions requiring repair or replacement, or from failure of the Lessee to make timely corrections of dangerous or potentially dangerous conditions in or on the premises.

(d) The Lessee shall take good care of the premises, making frequent periodic inspections and, from time to time as the necessity therefor arises and regardless of the cause of the condition requiring the same, and except for those items of repair or replacement which the Port Authority is obligated to perform under paragraph (c) of this Section, the Lessee shall perform all necessary preventive maintenance of the premises and shall make all necessary repairs and replacements thereof (regardless of whether such repairs are structural or non-structural, ordinary or extraordinary, foreseen or unforeseen), including without limitation thereto all maintenance, repair and replacement of: (1) all buildings, structures, installations and improvements on the premises (including without limitation* ~~all such buildings, structures and installations or other improvements (including~~ the crane rails* ~~added to the premises as part of the Port Authority Work~~) and every part thereof, including without limitation fences, the exterior and interior and operating mechanisms of and attachments to windows and skylights, screens, roofs, interior paving, columns, foundations (except for the foundation for the stripping and stuffing transit shed and for the wharf), steel work, columns, the exterior and interior and operating mechanisms of and attachments to doors, partitions, floors, ceilings, glass of every kind, and the utility, mechanical, electrical and other systems; (2) all electrical equipment and fixtures including without limitation thereto lighting fixtures, switches, outlets, receptacles and other electrical devices and accessories and including, further, all relamping and fuse replacement; (3) the plumbing fixtures and equipment and all finished plumbing; (4) all personnel and cargo doors, floor-covering, special mooring devices and special loading devices, whether mechanical, electrical, hydraulic or other, signs and fire-extinguishers; (5) all painting of walls (including the interior of exterior walls), floors and ceilings in offices, corridors, lavatories, waiting-rooms, security-rooms, cribs and stairways and all painting of cargo doors and personnel doors. With respect to the above obligations, the Lessee shall make the same repairs and replacements and do the same painting and paving that would be done by a reasonably prudent owner who desires to keep and maintain the premises so that at the expiration or earlier termination of the letting and at all times during the letting, the same (or any replacement or reconstruction of all or any part thereof) will be in as good condition as at the commencement

* see 1.28 (h)

*the Cranes, as defined in Section 1 hereof; and

of the letting, except for damage caused by reasonable wear which does not adversely affect the weather-tight condition or structural integrity of the building or buildings or other structures included within the premises, or adversely affect the efficient or proper utilization or appearance of any part of the premises. The said repairs and replacements shall be equal in quality to the original in material and workmanship. With respect to anything originally supplied or installed by the Port Authority, the Lessee shall have the benefit of the warranty, if any, running to the Port Authority, to the extent assignment thereof does not impair or void the same. The Lessee shall commence to perform each of its obligations hereunder not previously commenced or performed within twenty (20) days after notice thereof from the Port Authority and shall thereafter expeditiously continue the same to completion; but no failure on the part of the Port Authority to give such notice shall relieve the Lessee of its obligations.

(e)(1) The obligations of the Lessee as set forth in paragraphs (b) and (d) of this Section, in the event of damage or destruction covered by any contract of fire, extended coverage or pier and wharf insurance under which the Port Authority is the insured, are 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 operate to preclude the issuance of or invalidate any such policy of insurance or to reduce, limit or void the rights of the Port Authority thereunder, then the release shall be void and of no effect. Nothing herein shall be construed to imply an obligation on the Port Authority to carry any such insurance policy or to obtain or keep in force any such insurance.

(e) (ii) Without limiting the obligations of the Lessee stated elsewhere in this Agreement, the Lessee shall be solely responsible to the Port Authority for loss or theft of or damage to any and all personal property, equipment and fixtures belonging to the Port Authority or for which it is responsible, located or to be located in or on the premises, and shall promptly replace or repair the same within twenty (20) days after such loss, theft or damage; and the Lessee shall yield and deliver the same or replacements thereof to the Port Authority at the expiration or earlier termination of the letting under this Agreement in the same condition as at the commencement of the letting, reasonable wear not materially affecting the efficient use and functioning of the same excepted.

(f) Upon sixty (60) days' notice from the Lessee that any part of the berthing area has shallowed to a depth of

feet below mean low water, the Port Authority shall proceed (to the extent permitted by governmental authorities having jurisdiction) to dredge that part of the berthing area specified in the said notice (or such portion thereof as may be necessary), either directly or through a contractor, to a depth of

feet below mean low water. The term "mean low water" as used in this paragraph shall mean mean low water as most recently at the time of execution of this Agreement determined by observations of the United States Coast and Geodetic Survey. Notwithstanding the foregoing, the dredging required shall be only such as shall produce (or leave in place) depths and slopes as may be required for underwater support of structures, in the opinion of the Marine Terminals Construction Engineer of the Port Authority, which opinion shall be controlling.

Section 13. Casualty

(a) In the event that, as a result of a casualty insured against in favor of the Port Authority under the standard form of fire insurance policy and extended coverage endorsement, or under a policy of pier and wharf insurance, carried by it on any structure, building or portion of a building which is or is a part of the premises, the same is damaged so as to render it untenantable in whole or substantial part, then

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

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

The Port Authority shall not be obligated to obtain or to maintain in force any insurance referred to in this Section, and, furthermore if any such insurance is maintained and if any damage described in this paragraph (a) shall have been caused or contributed to by the fault of the Lessee, its officers, employees or others on or at the premises with the Lessee's consent, then notwithstanding the foregoing, the Port Authority shall have no obligation to repair such damage unless the proceeds of insurance covering such damage actually paid to the Port Authority by the insurance company are at least equal in amount to the Port Authority's estimate of the cost of such repairs, and the Lessee shall not be entitled to any abatement of the rental provided for in this Agreement except to the extent that such abatement of rental is recouped by the Port Authority by payment to it of the proceeds of rental insurance which may be carried by it. The Port Authority will notify the Lessee, if the Port Authority cancels any fire, extended coverage, or pier and wharf insurance, or if it does not renew a policy of such insurance, provided such insurance is in force on the date of commencement of the letting hereunder.

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

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

(d) In the event of damage to or a partial or total destruction of the premises, the Lessee shall within thirty (30) days of the occurrence commence to remove from the premises or from the portion thereof destroyed, all damaged property (and all debris thereof) belonging to the Lessee or to any third person whatsoever, and thereafter shall diligently continue such removal, and if the Lessee does not perform its obligation hereunder, the Port Authority may remove such debris and dispose of the same and may remove such property to a public warehouse for deposit or may retain the same in its own possession and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, and second to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if th 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. Without limiting any term or provision of this Agreement, the Lessee shall indemnify and save harmless the Port Authority, its officers, agents, employees, contractors and subcontractors, from and against any and all claims of third persons arising out of the exercise by the Port Authority of its right to remove property as hereinabove provided including all claims for conversion, all claims for damage or destruction of property, all claims for injuries to persons (including death), and all other claims for damages, consequential or otherwise.

Section 14. Assignment and Sublease

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

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

(c) If the Lessee assigns, sells, conveys, transfers, mortgages, pledges or sublets in violation of paragraphs (a) or (b) of this Section or if the premises are occupied by anybody other than the Lessee, the Port Authority may collect rent from any assignee, sublessee or anyone who claims a right to this Agreement or to the letting or who occupies the premises, and shall apply the net amount collected to the rental herein reserved; and no such collection shall be deemed a waiver by the Port Authority of the covenants contained in paragraphs (a) and (b) of this Section or an acceptance by the Port Authority of any such assignee, sublessee, claimant or occupant as tenant, or a release of the Lessee by the Port Authority from the further performance by the Lessee of the covenants contained in this Agreement.

(d) The Lessee further covenants and agrees that it will not use or permit any person whatsoever to use the premises or any portion thereof for any purpose other than as provided in Section 5 of this Agreement.

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 or conveyance"), the Lessee shall not be entitled to assert any claim to any compensation, award or part thereof made or to be made therein or therefor or any claim to any consideration or rental or any part thereof paid therefor, or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority for any such taking or conveyance, it being understood and agreed between the Port Authority and the Lessee 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 and all claim or right on the part of the Lessee.

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

(c) In the event that the taking or conveyance covers the entire premises, or in the event that a termination pursuant to paragraph (b) of this Section covers the entire premises, such taking or conveyance, or such termination shall be effective, 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, in the same manner as if the said date were the original date of expiration of the letting under this Agreement.

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

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

Section 16. Construction by the Lessee

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

Section 17. Additional Rent and Charges

(a) If the Port Authority has paid any sum or sums or has incurred any obligations or expense which the Lessee has agreed to pay or reimburse the Port Authority for, or if the Port Authority is required or elects to pay any sum or sums or incurs any obligations or expense by reason of the failure, neglect or refusal of the Lessee to perform or fulfill any one or more of the conditions, covenants or agreements contained in this Agreement or as a result of an act or omission of the Lessee contrary to the said conditions, covenants and agreements, the Lessee shall pay to the Port Authority the sum or sums so paid or the expense so incurred, including all interest, costs, damages and penalties, and the same may be added to any installment of rent thereafter due hereunder, and each and every part of the same shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the ~~basic~~ rental as set forth in Section 4 of this Agreement.

(b) For all purposes under this Section and in any suit, action or proceeding of any kind between the Port Authority and the Lessee, any receipt showing any payment of any 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 thereof, any time report of any employee of the Port Authority showing hours of work or labor allocated to such work, or any stock requisition of the Port Authority showing the issuance of materials for use in the performance thereof, shall likewise be prima facie evidence against the Lessee that the amount of such charge was necessary and reasonable.

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

Section 18. Rights of Entry Reserved

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

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

(c) In the event that any property of the Lessee shall obstruct the access of the Port Authority, its employees, agents or contractors to any of the existing or future utility, mechanical, electrical and other systems and thus shall interfere with the inspection, maintenance or repair of any such system, the Lessee shall move such property, as directed by the Port Authority, in order that the access may be had to the system or part thereof for its inspection, maintenance or repair, and, if the Lessee shall fail so to 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 impose, or shall be construed to impose upon the Port Authority, any obligations so to construct or maintain or to make repairs, replacements, alterations or additions, or shall create any liability for any failure so to do. The Lessee is and shall be in exclusive control and possession of the premises and the Port Authority shall not in any event be liable for any injury or damage to any property or to any person happening on or about the premises or for any injury or damage to the premises or to any property of the Lessee or of any other person located therein or thereon (other than those occasioned by the acts of the Port Authority).

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

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

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

Section 19. Limitation of Rights and Privileges Granted

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

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

(c) Nothing in this Agreement contained shall grant to the Lessee any rights whatsoever in the air space above the roof of the building or buildings or portion of a building or buildings, if any are included in the premises, (except to the extent required in either case for the performance of any of the obligations of the Lessee hereunder), or more than twenty (20) feet above the present ground level of any open area included in the premises. If any construction or installation is contemplated in this Agreement, the height thereof above ground shall be as determined solely by the Port Authority.

Section 20. Prohibited Acts

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

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

Section 21. Termination

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 22. Right of Re-entry

The Port Authority shall, as an additional remedy upon the giving of a notice of termination as provided in Section 21 of this Agreement, have the right to re-enter the premises and every part thereof upon the effective date of termination without further notice of any kind, and may regain and resume possession either with or without the institution of summary or any other legal proceedings or otherwise. Such re-entry, or regaining or resumption of possession, however, shall not in any manner affect, alter or diminish any of the obligations of the Lessee under this Agreement, and shall in no event constitute an acceptance of surrender.

Section 23. Waiver of Redemption

The Lessee hereby waives any and all rights 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 24. 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 21 of this Agreement, or the interest of the Lessee shall have been cancelled pursuant thereto, or in the event that the Port Authority has reentered, regained or resumed possession of the premises in accordance with the provisions of Section 22 of this Agreement, all of the obligations of the Lessee under this Agreement shall survive such termination or cancellation, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of the letting, as originally fixed in Section 3 hereof, 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 to re-entry, regaining or resumption of possession) on account of the ~~basic~~ rental obligations of the Lessee, shall be the sum of the following:

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

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

Section 25. Reletting by the Port Authority

The Port Authority, upon termination or cancellation pursuant to Section 21 of this Agreement, or upon any re-entry, regaining or resumption of possession pursuant to Section 22 of this Agreement, may occupy the premises or may relet the premises and shall have the right to permit any person, firm or corporation to enter upon the premises and use the ~~same~~. Such reletting may be of part only of the premises or of the premises or a part thereof together with other space, and for a period of time the same as or different from the balance of the term hereunder remaining, and on terms and conditions the same as or different from those set forth in this Agreement. The Port Authority shall also, upon termination or cancellation pursuant to Section 21 of this Agreement, or upon re-entry, regaining or resumption of possession pursuant to Section 22 of this Agreement, have the right to repair and to make structural or other changes in the premises, including changes which alter the character of the premises and the suitability thereof for the purposes of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder. In the event either

of any reletting or of any actual use and occupancy by the Port Authority (the mere right to use and occupy not being sufficient however) there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the premises (or portion thereof) during the balance of the term of the letting as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the premises as the Port Authority may itself during such period actually use and occupy, all expenses, costs and disbursements incurred or paid by the Port Authority in connection therewith. Neither any such letting nor any such other use or occupancy shall be or be construed to be an acceptance of a surrender.

Section 26. Remedies to Be Nonexclusive

All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any other remedy available to the Port Authority at law or in equity, and neither the exercise of any remedy, nor any provision in this Agreement for a remedy or an indemnity shall prevent the exercise of any other remedy.

Section 27. Surrender

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

(b) Unless required for the performance by the Lessee of its obligations hereunder, the Lessee shall have the right at any time during the letting to remove from the premises, all its equipment, removable fixtures and other personal property, and all property of third persons for which the Lessee is responsible, and on or before the expiration or earlier termination of the letting it shall remove all of the same from the premises, repairing all damage caused by any removal. If the Lessee shall fail to remove such property on or before the termination or expiration of the letting, the Port Authority may remove such property to a public warehouse for deposit or may retain the same in its own possession and in either event may sell the same at public auction, the proceeds of which shall be applied: first to the expenses of removal, including repair required thereby, and of storage and sale; second, to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if the expenses of such removal, repair, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority upon demand. Without limiting any other term or provision of this Agreement, the Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, employees and contractors from all claims of third persons arising out of the Port Authority's removal and disposition of property pursuant to this Section, including claims for conversion, claims for loss of or damage to property, claims for injury to persons (including death), and claims for any other damages, consequential or otherwise.

Section 28. 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, shall be deemed an acceptance of a surrender of the letting or of this Agreement.

Section 29. Notices

(a) All notices, permissions, requests, consents and approvals given or required to be given to or by either the Port Authority or the Lessee shall be in writing (which shall include a telegram when delivered to the telegraph company), and all such notices and requests shall be (i) personally delivered to the party or to the duly designated officer or representative of such party; or (ii) delivered to an office of such party, officer or representative during regular business hours; or (iii) delivered to the residence of such party, officer or representative at any time; or (iv) if directed to the Lessee, delivered to the premises at any time; or (v) forwarded to such party, officer or representative at the office or residence address by registered or certified mail. The Lessee shall designate an office within the Port of New York District and an officer or representative whose regular place of business is at such office. Until further notice, the Port Authority hereby designates its Executive Director, and the Lessee designates the person whose name appears on the first page of this Agreement as their respective officers or representatives upon whom notices and requests may be served, and the Port Authority designates its office at One World Trade Center, New York, New York 10048, and the Lessee designates its office, the address of which is set forth on Page 1 of this Agreement, as their respective offices where notices and requests may be served.

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

Section 30. General

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

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

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

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

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

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

(c) Unless otherwise stated in this Agreement, in its use of the premises the Lessee shall act only for its own account and, without limiting the generality of the foregoing, shall not act as agent, representative, factor, broker, forwarder, bailee, or consignee without legal title to the subject matter of the consignment, except to the extent necessary for exercise of the rights of user granted by this Agreement.

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

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

(f) All payments required of the Lessee by this Agreement shall be made at the office of the Treasurer of the Port Authority, One World Trade Center, New York, New York 10048, or to such other officer or address as may be substituted therefor. ~~If the commencement date of the letting under this Agreement is other than the first day of a calendar month, the basic rental for the portion of the calendar month during which the letting is effective shall be the amount of the monthly installment prorated on a daily basis using the actual number of days in the said calendar month, and if the expiration or termination date of the letting is other than the last day of a calendar month, the basic rental for the portion of the month during which the letting remains effective shall be the amount of the monthly installment similarly prorated.~~

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

(h) As used in Sections 9 and 18, the phrase "utility, mechanical, electrical and other systems" shall mean and include (without limitation thereto) the following: machinery, engines, dynamos, boilers, elevators, escalators, incinerators and incinerator flues, systems for the supply of fuel, electricity, water, gas and steam, plumbing, heating, sewerage, drainage, ventilating, air-conditioning, communications, fire-alarm, fire-protection, sprinkler, telephone, telegraph and other communications systems, and their respective wires, mains, switches, conduits, lines, tubes, valves, hydrants, pipes, hoses, motors, cables, fixtures and other equipment.

[There is no paragraph (i) in this Section.]

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

(k) As used in this Agreement:

[There is no Page 29]

(1) "Letting" shall include any extension of the letting under this Agreement, whether made by agreement or by operation of law.

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

[There is no paragraph (1) in this Section.]

(m) The rights of the Port Authority in the Facility are those acquired by it pursuant to the deeds and agreements described in paragraph (k) (1) of this Section, and no greater rights are granted or intended to be granted to the Lessee hereunder than the Port Authority has power thereunder to grant. In the event the premises or any portion thereof constitute all or a portion of the premises as to which the Port Authority is the lessee under any one or more of the agreements described in the said paragraph (k) (1), the letting under this Agreement shall in any event terminate simultaneously with the termination or expiration of the letting under such agreement or agreements of lease; provided, however, that in the event only a portion of the premises hereunder is included within the premises under such expiring agreement or agreements of lease, the letting hereunder shall continue, as to the balance of the premises hereunder, in accordance with the terms of this Agreement.

(n) The rights and operations of the Lessee under this Agreement are subject to the terms of a certain agreement of lease made between the Port Authority and New York Cross Harbor Railroad Terminal Corp. dated August 9, 1983, as the same may be or may have been extended and amended. The said agreement of lease covers premises and rights-of-way at the Facility and grants and privileges at the Facility in connection with the operation of a railway thereat. The Lessee shall not do, or permit its employees, contractors, invitees or those doing business with it to do, anything which will interfere or conflict with the exercise of rights or operations under the said agreement of lease.

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

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

(q) This Agreement and the letting hereunder are subject and subordinate to all mortgages which may now or hereafter affect the premises or the Facility and to all renewals, modifications, consolidations, replacements and extensions thereof, and the Lessee agrees to execute any and all instruments which may be deemed necessary or desirable further to effect the subordination of this Agreement and the letting hereunder to any such mortgage or mortgages.

(r) Without in any wise limiting the Lessee's obligations as elsewhere stated in this Agreement, the Lessee shall be liable to the Port Authority for any damage done to the Facility or to any part thereof or to any property of the Port Authority thereon through any act or omission of those in charge of or operating any one or more vessels, steamers, barges, lighters, or other floating equipment, or trucks, other highway or other vehicles or other transportation equipment, while the same are at, coming to, or leaving the premises, except for damage to the Facility (other than the premises caused by such of the foregoing as may be coming to or leaving the premises without previous knowledge on the part of the Lessee.

Section 31. Premises

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

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

Section 32. Force Majeure

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

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

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

Section 33. Brokerage

The Lessee shall indemnify and save harmless the Port Authority of and from any and every claim for commission or brokerage made by any and all persons, firms or corporations employed or engaged or dealt with by the Lessee, or by any one or more of its officers, agents, employees or representatives or by any one or more persons, firms, corporations, companies or organizations controlling or controlled by or affiliated with the Lessee, for services in connection with the negotiation and execution of this Agreement.

Section 34. Non-Liability of Individuals

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

Section 35. Services

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

(b) The Lessee shall promptly pay all water-bills covering consumption on the premises. In the event that any such water-bill or bills shall remain unpaid for a period of six (6) months after the same becomes due and payable, or in the event that any such bill remains unpaid at the date of expiration or earlier termination of the letting under this Agreement, the Port Authority may pay the same and any interest or penalties thereon, and the total payment or payments shall constitute an item of additional rental, payable to the Port Authority on demand.

(c) Unless the Port Authority has expressly undertaken to heat the enclosed portions of the premises, if any, the Lessee agrees to heat the enclosed portions of the premises to a sufficient temperature, or to bleed pipes, so that the plumbing, fire-protection and sprinkler system, if any, will not be damaged by reason of low temperatures.

(d) If any federal, state, municipal or other governmental body, authority or agency, or any public utility or other entity providing any service, assesses, levies, imposes, makes or increases any charge, fee, rent or assessment on the Port Authority, for any service, system or utility now or in the future supplied to or available at the premises or to any tenant, lessee, occupant or user thereof, or to the structures or buildings, which, or a portion or portions of which, are included in the premises, the Lessee shall, at the option of the Port Authority exercised at any time and from time to time by notice to the Lessee, pay, in accordance with any such notice, such charge, fee, rent or assessment or such increase thereof (or the portion thereof allocated by the Port Authority to the premises or to the operations of the Lessee under this Agreement) either directly to the governmental body, authority or agency, or to the public utility or other entity, or directly to the Port Authority, as such notice may direct. All such payments shall constitute items of additional rental.

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

(f) Without in any wise affecting the obligations of the Lessee elsewhere stated in this Agreement, the Lessee shall, subject to the provisions of Section 16 of this Agreement, provide, maintain and keep in good order, condition and repair any and all meters (to be located as designated by the Port Authority, other governmental authority or utility), ship-filling lines and other water-using equipment and facilities.

Section 36. Additional Rights of Termination

(a) At all times during the term of the letting under this Agreement, the Lessee shall act as terminal operator or as stevedore, or in both capacities, (and shall provide berthing facilities at the premises in connection with such functions) for at least one steamship line which maintains regularly-scheduled service to and from the Facility. If the Lessee shall desist from so acting in at least one such capacity, on behalf of, or from making such provision for, such a steamship line for a period of fifteen (15) days, the Port Authority shall thereafter have the right to terminate the letting under this Agreement at any time by giving the Lessee ten (10) days' notice in advance.

(b) In the event that at any time during the term of the letting under this Agreement (i) the Lessee shall cease to be the holder of a valid and effective stevedoring license issued by The Waterfront Commission of New York Harbor or (ii) the Lessee or an officer, employee or agent thereof, or a firm, corporation or individual having a controlling interest in or ownership of the Lessee shall have been convicted of any crime, felony or misdemeanor (but in the case of an individual or agent only if such conviction relates to or is connected with the operations or activities of the Lessee and in the case of a misdemeanor only if such conviction involves dishonesty or moral turpitude) then the Port Authority shall have the right to terminate the letting under this Agreement by giving the Lessee ten (10) days' notice in advance.

(c) Termination under the provisions of this Section shall be effective as if the effective date of termination set forth in the notice were the date of expiration of the letting.

[There are no Pages 35, 36 or 37 to this Agreement
and there are no Sections 37 or 38 to this Agreement]

Section 39. Additional Provisions

(a)(i) The following subdivisions (12), (13) and (14) shall be deemed to have been inserted immediately following subdivision (11) in paragraph (a) of Section 21 of this Agreement entitled "Termination":

"(12) A period of ninety (90) consecutive calendar days shall have passed without any container vessel (by which is meant a vessel no less than eighty percent (80%) of whose cargo is carried in marine containers) having berthed at the premises for the loading and unloading of containers;

"(13) A total of less than fifteen thousand (15,000) containers have been loaded onto and discharged from vessels berthing at the premises in any period of twelve consecutive calendar months;

"(14) Less than 400,000 revenue tons have moved through the premises in any period of twelve consecutive months;"

(ii) The running of consecutive calendar days pursuant to subdivision 12 above and the running of consecutive calendar months pursuant to subdivision 13 or 14 above shall be deemed tolled during such period during which the Lessee's terminal operations have substantially ceased because of a strike or other labor difficulties or during a suspension period as defined in paragraph (p) of this Section 39. Tolling shall not be deemed to affect the consecutiveness of any combination of time periods occurring before and after such tolling.

(b) The Lessee hereby represents and warrants to the Port Authority that it is engaged primarily in maritime operations.

(c) The Lessee recognizes that the Port Authority has undertaken various obligations under the Project Agreement regarding the operation of the marine terminal and the letting of the City Property and in this connection the Lessee hereby covenants that it shall conduct its operations at all times in a manner consistent with the Port Authority's obligations under the Project Agreement and the Lessee shall, as necessary, in addition to its obligations under

this Agreement, perform such actions as the Port Authority may require to conform the operations of the marine terminal to the requirements of the Project Agreement. Without limiting the generality of the foregoing, the Lessee covenants that (i) it shall at all times keep such records and accounts in regard to the conduct of its operations as the Port Authority may require at any time and from time to time; (ii) it shall make no discrimination against any person because of age, religion, race, creed, color, national origin or ancestry; and (iii) it shall arrange for the supplying of such consumer services to accommodate users of the Facility as the Port Authority deems necessary.

(d) The figures "thirty-eight (38) feet" and "forty (40) feet" appearing in paragraph (g) of Section 12 of this Agreement shall only apply to the portion of the berthing area outlined in blue on Exhibit A hereof, said portion of the berthing area being labeled "the Container Berth" on said Exhibit; with respect to the remaining portion of the berthing area the figures "thirty-three (33) feet" and "thirty-five (35) feet" shall be deemed to be inserted respectively in lieu of the figures appearing in said paragraph (g).

(e) The Lessee shall, throughout the term of the letting (and interim letting) hereunder, maintain and pay for fire and extended coverage insurance on (i) all buildings, structures (including the wharf structure for both breakbulk and container vessels), improvements and installations on the premises (or portion hereof in the case of the interim letting) at the time the premises (or portion thereof) are tendered to the Lessee; and (ii) any construction by the Lessee under the provisions of this Agreement in an amount equal to at least 90% of the full insurable value thereof by policies containing the usual co-insurance clause. The term "insurable value" as used herein shall mean the cost of the replacement of all the items described in subdivisions (i) and (ii) above. Notwithstanding anything herein to the contrary, the Port Authority shall at all times be entitled to insurance in an amount sufficient to avoid the effects of co-insurance in the event of partial loss. All the provisions of paragraph (c) of Section 11 hereof shall apply with respect to the insurance which the Lessee is required to maintain under this paragraph. The proceeds of insurance policies required hereunder actually received by the Port Authority (see paragraph (f) of this Section) shall be made available to the Lessee as necessary to cover costs and expenses incurred by the Lessee in connection with its obligations of repair and replacement under this Agreement undertaken in connection with damage for which such proceeds have been paid.

(f) In any policy of insurance on property other than that of the Lessee required by this Agreement including without limitation the policies required under Section 11 and paragraph (e) of this Section 39, the Port Authority shall be named as the owner except that as to property as to which the Port Authority is itself a lessee, the Port Authority shall be named as the Lessee and the owner shall be named as the owner. Each shall be endorsed substantially as follows:

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

(g) The words "Marine Terminals Department" and "Marine Terminals" wherever they appear in this Agreement shall be deemed deleted therefrom and the words "Port Department" and "Port" shall be deemed inserted respectively in lieu thereof.

(h) Paragraph (m) of Section 30 of this Agreement has been deleted therefrom.

(i) Notwithstanding the definition of "Facility" as set forth in Sections 1 and 2 of this Agreement, the term "the Facility" when used in (i) paragraph (a) of Section 11 of this Agreement entitled "Indemnity"; (ii) paragraph (b) of Section 31 of this Agreement entitled "Premises"; and (iii) paragraph (r) of Section 30 of this Agreement entitled "General" shall mean and include, in addition to the Red Hook Container Terminal, any Port Authority owned property contiguous to the Red Hook Container Terminal.

(j) The words "as originally fixed in Section 3 hereof" appearing on the tenth line of paragraph (a) of Section 24 of this Agreement have been deleted therefrom and the words "as said term may have been extended pursuant to Section 38 hereof" shall be deemed inserted in lieu thereof.

(k) The following paragraph shall be deemed added as paragraph (c) of Section 24 of this Agreement entitled "Survival of the Obligations of the Lessee":

"(c) 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 usage rental obligations of the Lessee shall be equal to the amount of usage rental which would have been paid by the Lessee during the balance of the term if there had been no termination or cancellation (or re-entry, regaining or resumption of possession), said amount to be calculated in accordance with the following:

(i) the unit rate per revenue ton prevailing at the time of termination or cancellation (or re-entry, regaining or resumption of possession) shall be multiplied by the "average number of revenue tons per month" as defined below and the product so obtained shall in turn be multiplied by the number of full calendar months remaining in the term of the letting ~~(or extension)~~ at the time of termination or cancellation (or re-entry, regaining or resumption of possession); (ii) the unit rate per container prevailing at the time of termination or cancellation (or re-entry, regaining or resumption of possession) shall be multiplied by the "average monthly number of containers" as defined below and the product so obtained shall in turn be multiplied by the number of full calendar months remaining in the term of the letting ~~(or extension)~~. The "average number of revenue tons per month" shall be calculated by dividing the total number of revenue tons handled in breakbulk or stuffed or stripped at the premises during the last full twelve month annual period by twelve (12) and the "average monthly number of containers" shall be calculated by dividing the number of containers handled at the premises which were neither stripped or stuffed during the last full 12 month annual period divided by twelve (12). The sum of the amounts determined in accordance with subdivisions (i) and (ii), above shall be the damages on account of usage rental."

~~(1) If the commencement date of the letting under this Agreement is other than the first day of a month, the basic rental for the portion of the month during which the letting is effective shall be paid in advance and shall be the amount of the monthly installment prorated on a daily basis using the actual number of days in the month, and if the expiration or termination date of the letting is other than the last day of a month, the basic rental for the portion of the month during which the letting is effective shall be the amount of the monthly installment similarly prorated.~~

~~(m) The second sentance of paragraph (a) of the Section of this Agreement entitled "The Premises" was deleted therefrom.~~

(n) The words "and its invitees" shall be deemed inserted following the word "Lessee" appearing on the fourteenth line of Section 6 of this Agreement entitled "Ingress and Egress".

(o) The words "of any portion of the exterior paving of the premises or" shall be deemed inserted following the word "replacement" appearing on the second line of paragraph (c) of Section 12 of this Agreement entitled "Maintenance and Repair".

(p)(i) In the event that the Port Authority has not fulfilled its dredging obligation in ~~paragraph (f) of~~ Section 41 of this Agreement within the sixty (60) day period set forth in said Section, then, in such event the Lessee's obligation to pay the ~~basic and~~ usage rental during the period following said sixty day period during which said obligation remains unfulfilled (said subsequent period being hereinafter called "the suspension period") shall be modified as follows: neither on the first day of the calendar month following the calendar month during which the suspension period commences nor on the first day of any other calendar month occurring during the suspension period shall the Lessee pay either the minimum monthly usage rental ~~or the monthly installment of basic rental~~ which would otherwise be due on said date; the Lessee shall pay a usage rental for the calendar month in which the suspension period commences in exactly the same manner required by paragraph (c) of Section 4A as if the suspension period had not occurred during said calendar month; for the calendar month following the calendar month in which the suspension period begins and for each calendar month thereafter during the suspension period the Lessee shall accompany its monthly report enumerating revenue tons and containers for each said calendar month with a payment equal to ~~the sum of~~ the following ~~two amounts~~: the amount of usage rental shown to be due by said statement for said month applying the then applicable Unit Rates, ~~plus an amount equal~~ to the product obtained by multiplying an amount equal to the monthly installment of basic rental which would have been due for said month but for the occurrence of the suspension period by a fraction the numerator of which shall be the amount of usage rental shown to be due for said month and the denominator of which shall be the minimum monthly usage rental which would have been due for said month ~~but for the occurrence of the suspension period~~. The

minimum container figure (set forth in paragraph (b) of Section 4A) of 16,000 shall be reduced in computing the minimum container rental for any annual period in which the suspension period occurs by an amount equal to the product obtained by multiplying the said figure by a fraction the numerator of which shall be the number of days during such annual period in which the suspension period was in effect and the denominator of which shall be 365. The occurrence of a suspension period shall not toll or otherwise effect the definition of annual period set forth in paragraph (a) of Section 4A hereof.

(ii) In calculating the usage rental due during the suspension period the Lessee shall be entitled to a credit to be applied to said usage rental equal to the product obtained by multiplying the basic rental paid by the Lessee during the calendar month in which the suspension period began by a fraction the numerator of which shall be the number of days in which the suspension period was in effect in said month and the denominator of which shall be the number of days in said month; on the first day of the calendar month following the calendar month in which the suspension period ends the Lessee shall make a payment on account of basic rental, in addition to the monthly installment of lease rental required for said month, in an amount equal to the product obtained by multiplying the monthly installment of basic rental which would have been due on the first day of the calendar month in which the suspension period ended but for the occurrence of said suspension by a fraction the numerator of which shall be equal to the number of days during the preceding calendar month in which the suspension period was not in effect and the denominator of which shall be the total number of days in such calendar month.

(iii) If the suspension period continues for a period in excess of one year, then, in such event, the Lessee shall have the right to terminate the letting under this Agreement at any time after the first anniversary of the beginning of the suspension period without cause upon twenty (20) days' notice to the Port Authority but such termination shall be null and void and of no force or effect if the Port Authority is able to fulfill its dredging obligation on or before the effective date stated in the Notice. In the event of termination pursuant to this paragraph, this Agreement and the letting hereunder shall cease and expire as if the effective date of termination stated in the notice were the date stated herein for the expiration of the letting under this Agreement.

(q) The phrase "fifty percent (50%)" appearing on the third line of paragraph (e) of Section 15 of this Agreement entitled "Condemnation" shall be deemed deleted therefrom and the phrase "fifteen percent (15%)" shall be deemed inserted in lieu thereof.

(r) Notwithstanding anything possibly to the contrary in paragraph (c) of Section 19 of this Agreement entitled "Limitation of Rights and Privileges Granted", nothing in said Section is intended to prohibit the stacking of containers more than twenty feet above the present ground level of any open area in the premises, nothing herein being intended to limit or modify in any way any other provision of this Agreement which would affect the stacking of such containers, including without limitation the Lessee's obligations under paragraphs (g) and (h) of Section 9 of this Agreement entitled "Method of Operations". The 20-foot limitation set forth in paragraph (c) shall also be inapplicable to any crane of a greater height whose erection has been approved by the Port Authority.

(s) The covenant contained in paragraph (p) of Section 30 of this Agreement entitled "General" shall be binding upon successors in interest of the Port Authority but the Lessee understands and agrees that the Port Authority shall not be liable for, or responsible in any way to the Lessee for, any violation of such covenant by any successor in interest.

(t) The phrase "fifteen (15) days" appearing on the eighth line of paragraph (a) of Section 36 of this Agreement entitled "Additional Rights of Termination" shall be deemed deleted therefrom and the phrase "sixty (60) days" shall be deemed inserted in lieu thereof.

(u) Notwithstanding the provisions of paragraph (c) of Section 24 of this Agreement (said paragraph having been added to said Section pursuant to paragraph (k) of this Section), said paragraph (c) shall not be applicable in the event of a termination by the Port Authority pursuant to subdivisions (12), (13) or (14) of Section 21 of this Agreement (said subdivisions having been added pursuant to paragraph (a) of this Section), it being the intention of the Port Authority that no damages on account of usage rental shall be payable by the Lessee in the event of a termination of this Agreement pursuant to any of said three subdivisions.

Section 40. Insurance

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

SCHEDULE

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

(ii) Property-damage liability:

For all damages arising out of injury to or destruction of property in any one occurrence: $2,000,000.00

The policy of comprehensive general liability insurance required hereunder: (i) shall include coverage for Completed Operations and Premises-Operations in the amount set forth above, (ii) shall not exclude property damage to any property in the care, custody or control of any party insured under such policy, (iii) shall include a contractual liability endorsement covering the Lessee's indemnity obligations under this Agreement, and (iv) shall name the Port Authority as an additional insured. If the Lessee's use or occupation of the premises shall entail the ownership, maintenance, operation, or use of any owned, hired, or non-owned watercraft, the Lessee (1) shall have any exclusion for such watercraft deleted from the policy of comprehensive general liability insurance required by this paragraph or (2) shall purchase equivalent coverage under a policy of Protection and Indemnity Insurance which shall name the Port Authority as an additional insured. The policy of comprehensive automobile liability insurance required by this paragraph shall include all owned, non-owned and hired vehicles. In addition the Lessee shall take out and maintain Workers' Compensation and Employers' Liability Insurance, including coverage for U.S. Longshoremen's and Harbor Workers' Compensation Act and Coverage B - "Jones Act", maritime. Each policy of liability insurance required by this paragraph shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority, and each such policy of insurance shall provide or contain an endorsement providing that the protections afforded the 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 against the Port Authority by the Lessee, but such endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured.

(b) In addition to the policies of insurance required by paragraph (a) of this Section, the Lessee in its own name as assured shall secure and pay the premium or premiums for all risk property damage insurance to be effective during the term of the letting and covering the full replacement cost of any property now or in the future leased by the Lessee under this Agreement, including without limitation all buildings, structures (including the wharf structure for both breakbulk and container vessels), improvements and installations, container cranes (including the Cranes), and crane rail foundations. Full replacement cost shall be determined by the Port Authority from time to time. Such insurance shall cover and insure against such hazards and risks as at least would be insured against under the Standard Form of Fire Insurance policy in the State of New York, or any successor thereto, and the broadest form of extended coverage endorsement prescribed as of the effective date of said insurance by the rating organization having jurisdiction, including without limitation hazards and risks of flood and earthquake. The proceeds of insurance policies required hereunder actually received by the Port Authority (see paragraph (c) of this Section) shall be made available to the Lessee as necessary to cover costs and expenses incurred by the Lessee in connection with its obligations of repair and replacement under this Agreement undertaken in connection with damage for which such proceeds have been paid.

(c) In every policy of insurance on property other than that of the Lessee required by this Section, the Port Authority shall be named as the Owner except that as to property as to which the Port Authority is itself a lessee, the Port Authority shall be named as the Lessee and the owner shall be named as the Owner. Each shall be endorsed substantially as follows:

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

(d) As to insurance of any type whatsoever required or permitted by any provision of this Agreement, a certified copy of each of the policies or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within fifteen (15) days after the commencement date of the letting. In the event any binder is

delivered it shall be replaced with due diligence by a certified copy of the policy or by a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written advance notice thereof to the Port Authority. A binder evidencing each renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the letting hereunder, as the letting may be from time to time extended, and a certificate or a certified copy of each such renewal policy shall be delivered to the Port Authority with due diligence. If at any time any policy shall be or become unsatisfactory to the Port Authority as to form or substance, or if any carrier issuing any one or more such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain one or more new and satisfactory policies in replacement.

Section 41. Dredging

Upon sixty (60) days' notice from the Lessee that any one or more of the various parts of the berthing area as hereinbelow set forth have shallowed to the depth below mean low water hereinbelow set forth in the column headed "Shallowed Depth", the Port Authority shall (to the extent permitted by governmental authorities having jurisdiction) proceed to dredge that part of the berthing area specified in the said notice (or such portion thereof as may be necessary), either directly or through a contractor, to a depth as hereinbelow set forth in the column labeled "Dredged Depth". The term "mean low water" as used in this Section shall mean low water as most recently at the time of execution of this Agreement determined by observations of the United States Coast and Geodetic Survey. Notwithstanding the foregoing, the dredging required shall be only such as shall produce (or leave in place) depths and slopes as may be required for underwater support of structures, in the opinion of the Marine Terminals Construction Engineer of the Port Authority, or a successor in duties and functions; the opinion of such engineer or successor shall be controlling. Nothing in this Agreement shall require or be construed to require the Port Authority to dredge at any time or under any circumstances to a greater depth than that set forth in the column labeled "Dredged Depth".

Portion of Berthing Area	Shallowed Depth	Dredged Depth
The north side of Pier 9A (Shown in red)	33 ft.	35 ft.
9A southside 9B northside 9B southside (Shown in green)	30 ft.	32 ft.
Buttermilk Channel Area (Shown in blue)	38 ft.	40 ft.
Atlantic Basin, northside and westside (Shown in red)	33 ft.	35 ft.

Section 42. Sprinkler System Maintenance

(a) Notwithstanding the provisions of paragraph (d) of Section 12 hereof, and without otherwise limiting the generality thereof, the Port Authority shall perform routine maintenance, inspection and servicing of the sprinkler systems in the buildings shown in diagonal crosshatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A-1" (which buildings are hereinafter called "the Buildings") for the period commencing January 1, 1994 and continuing thereafter indefinitely during the letting of the Buildings under this Agreement, provided, however, that either the Port Authority or the Lessee may discontinue the obligations hereinabove set forth, together with prospective payments therefor, on not less than thirty (30) days' notice in writing to the other party, such notice to be otherwise of no effect whatsoever in connection with the letting under this Agreement.

(b) In addition to all payments to be made by the Lessee under this Agreement, the Lessee shall pay to the Port Authority on account of the services to be performed in accordance with paragraph (a) of this Section a fee at the monthly rate of Eight Hundred Thirty-three Dollars and Thirty-three Cents ($833.33) payable in that amount in full in advance on January 1, 1994 and on the first day of each and every calendar month thereafter during the duration of this

arrangement. The fee shall be increased at the same time and by the same percentage as increases in the rental under this Agreement.

(c) The Port Authority shall perform the same routine maintenance, inspection and servicing as it performs on properties of its own. The services shall include inspection, testing, cleaning and lubrication. In connection with its routine maintenance, inspection and servicing, the Port Authority may make minor routine repairs and replacements of parts, which shall be for the account of the Lessee, payable on demand by the Port Authority, without regard to the cause or reason for the damage or failure requiring repair or requiring repair or replacement. Nothing herein contained shall alter, amend or affect the obligation of the Lessee to pay maintenance and service costs for Central Office Sprinkler Supervision and fire-alarm services.

(d) The Port Authority shall not be responsible to the Lessee for any failure of the sprinkler system except for a failure directly caused by a wilful affirmative act on the part of the Port Authority or of its employee or employees.

Section 43. Additional Rights of Entry

The Lessee acknowledges that in addition to the Cranes there are located on the premises one (1) Paceco Container Crane bearing Serial No. 1010 and owned by Universal Maritime Service Corp. (which crane is hereinafter called "the UMS Crane") and one (1) Star Container Crane bearing Serial No. 4094 and owned by the City (which crane is hereinafter called "the City Crane"). The Port Authority and the Lessee agree that neither the UMS Crane nor the City Crane constitutes part of the premises let to the Lessee under this Agreement and that the Lessee shall have no right to use the UMS Crane or the City Crane for any purpose whatsoever. In addition to any other rights of entry reserved to the Port Authority under this Agreement, the Port Authority reserves to itself and Universal Maritime Service Corp., and their respective employees, agents, representatives, contractors and subcontractors the right to enter the premises at any time and from time to time during the term of the letting to perform maintenance and repair work on the UMS Crane and to remove the UMS Crane from the premises at such time and in such manner as the Port Authority shall determine. Further, in addition to all other rights of entry reserved to the Port Authority under this Agreement, the Port Authority reserves to itself and the City, and their respective employees, agents,

representatives, contractors and subcontractors the right to enter the premises at any time and from time to time during the term of the letting to perform maintenance and repair work on the City Crane and to remove the City Crane from the premises at such time and in such manner as the Port Authority shall determine. The Lessee further acknowledges that the Port Authority and the City, acting through its Department of Environmental Protection, contemplate entering into an agreement under which the City will perform sewer construction and repairs to the Degraw Street Flushing Tunnel and work related thereto, and that such sewer construction, repairs and related work will be performed on a portion or portions of the premises let under this Agreement. In addition to all other rights of entry reserved to the Port Authority under this Agreement, the Port Authority reserves to itself and the City, and their respective employees, agents, representatives, contractors and subcontractors the right to enter the premises at any time and from time to time during the term of the letting to perform the sewer construction, repairs and related work referred to in the immediately preceding sentence at such time and in such manner as the Port Authority shall determine.

Section 44. Termination Rights

The Port Authority and the Lessee shall each have the right to terminate the letting under this Agreement, without cause, effective at any time on or before August 31, 1994, upon ninety (90) days' prior written notice to the other party. In addition, the Port Authority and the Lessee shall each have the right to terminate the letting under this Agreement, without cause, effective either as of August 31, 1995 or as of August 31, 1996; provided, however, that the party exercising such right shall give unconditional written notice to the other party of its election so to do subscribed by an executive officer thereof at least one (1) year prior to the effective date of termination set forth in the notice of termination. Any notice given by the Lessee in accordance with the provisions of this Section shall not be effective if the Lessee is under notice of default as to which any applicable period to cure has passed, or is under notice of termination, from the Port Authority, either on the date of the giving of said notice or on the intended effective date thereof. Termination of the letting under this Agreement pursuant to the terms of this Section shall not relieve the Lessee of any liabilities or obligations which shall have accrued on or prior to the effective date of termination or which shall mature on such date. In the event of termination pursuant to this Section the term of the letting under this Agreement shall

cease and expire as if the effective date of termination stated in the notice of termination were the date originally set forth in this Agreement for the expiration of the term of the letting under this Agreement.

Section 45. Project Agreement

The Lessee recognizes that the Port Authority has agreed to surrender to the City the City Property as defined in the Project Agreement free of occupants. The Lessee recognizes this obligation of the Port Authority and, without limiting the generality of any other provision of this Agreement, the Lessee agrees that it shall be liable to the Port Authority and to the City of New York, for whose benefit this provision is also intended, for all damages, including without limitation consequential damages, in the event that it fails to surrender either the Port Authority Realty or the City Property immediately upon termination or expiration of the letting under this Agreement.

Section 46. Cancellation Prior to Commencement of the Letting

In the event that the Project Agreement is cancelled or terminated prior to the commencement of the letting of the premises pursuant to Section 3 hereof, this Agreement shall be deemed automatically cancelled, except that each party shall and does release the other party of and from any and all claims and demands based on this Agreement or a breach or alleged breach thereof.

Section 47. Affirmative Action

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

(b) Without limiting the foregoing, it is hereby agreed that the Lessee, in connection with its continuing operation, maintenance and repair of the Facility, or any portion

thereof, and in connection with every award or agreement for concessions or consumer services at the Facility, shall throughout the term of the letting hereunder commit itself to and use good faith efforts to implement an extensive program of Affirmative Action, including specific affirmative action steps to be taken by the Lessee, to ensure maximum opportunities for employment and contracting by minorities and women. In meeting the said commitment the Lessee agrees to submit its said extensive Affirmative Action program, including the specific affirmative action steps to be taken by the Lessee to meet its aforesaid commitment, within sixty (60) days after the commencement of the term of the letting hereof to the Port Authority for its review and approval. The Lessee shall incorporate in its said program such revisions and changes as the Port Authority and the Lessee may agree upon from time to time. The Lessee throughout the term of the letting hereunder shall document its efforts in implementing the said program, shall keep the Port Authority fully advised of the Lessee's progress in implementing the said program and shall supply to the Port Authority such information, data and documentation with respect thereto as the Port Authority may from time to time and at any time request, including but not limited to annual reports. The obligations imposed on the Lessee under this paragraph shall not be construed to impose any greater requirements on the Lessee than those which may be imposed on the Lessee under applicable law.

(c) "Minority" as used herein shall mean:

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

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

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

Section 48. Postponement

If the Port Authority shall not give possession of the premises on the date fixed in Section 3 for the commencement of the term, by reason of the fact that the premises or any part thereof are in the course of construction, repair, alteration or improvement or by reason of the fact that the occupant thereof failed or refused to deliver possession to the Port Authority, or by reason of any cause or condition beyond the control of the Port Authority, the Port Authority shall not be subject to any liability for the failure to give possession on said date. No such failure to give possession on the date of commencement of the term shall in any wise affect the validity of this Agreement or the obligations of the Lessee hereunder, nor shall the same be construed in any wise to extend the term beyond the date stated in Section 3 for expiration. However, the rent shall not commence until possession of the premises is tendered by the Port Authority to the Lessee; the tender shall be made by notice given at least five (5) days prior to the effective date of the tender and in the event that such notice of tender is not given for possession to commence on or before one hundred eighty-five (185) days after the date stated in Section 3 for commencement of the term then this Agreement shall be deemed cancelled, except that each party shall and does hereby release the other party of and

from any and all claims or demands based on this Agreement, or a breach or alleged breach thereof.

Section 49. Rights of User with respect to the Cranes

The following subdivision (4) shall be and be deemed added to paragraph (a) of Section 5 of this Agreement:

"(4) The Cranes for the handling of cargo containers filled or empty in accordance with the capacity of the Cranes and Port Authority regulations for the use of container cargo cranes, on the Red Hook Container Terminal."

Section 50. Portion of Premises

The Port Authority shall have the right to terminate the letting of the portion of the premises shown in stipple on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A-2", without cause, at any time, on thirty (30) days' prior written notice to the Lessee. Termination under the provisions of this Section shall have the same effect as if the date stated in the notice of termination were the date originally set forth in this Agreement for the expiration of the term of the letting of the portion of the premises shown on Exhibit A-2. Termination of the letting of the portion of the premises shown on Exhibit A-2 shall not affect the letting of the remaining portion of the premises and the letting of the remaining portion of the premises shall continue in full force and effect, subject to and in accordance with all the terms, provisions, covenants and conditions of this Agreement.

Section 51. Entire Agreement

The within Agreement consists of pages number 1 through 54, together with Exhibits A, A-1 and A-2. It constitutes the entire agreement between the Port Authority and the Lessee on the subject matter thereof, and may not be changed, modified, discharged, or extended except by instrument in writing duly executed on behalf of the Port Authority and the Lessee.

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

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

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By Lillian C. Liburdi
LILLIAN C. LIBURDI

(Title) ~~DIRECTOR, PORT DEPARTMENT~~

ATTEST:

Secretary

AMERICAN STEVEDORING, INC.

By

(Title) Keith A Catucci President

APPROVED:
FORM
TERMS

STATE OF NEW YORK

COUNTY OF NEW YORK)

On the 17th day of December, 1993, before me personally came

LILLIAN C. LIBURDI
DIRECTOR, PORT DEPARTMENT

to me known, who, being by me duly sworn, did depose and say that he resides at

that he is the Port Depart Director 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 Board of Commissioners of the said corporation; and that he signed his name thereto by like order.

Frank Wyspianski Jr.
(notarial seal and stamp)

FRANK WYSPIANSKI JR.
Notary Public, State of New York
No. 9759825
Qualified in Suffolk County
Commission Expires April 30, 1994

STATE OF New York }
COUNTY OF Westchester } ss.

On the 16 day of December, 1993, before me personally came

Keith A Catucci

to me known, who, being by me duly sworn, did depose and say that he resides at

;

that he is the President of AMERICAN STEVEDORING, INC.

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 Board of Directors of the said corporation; and that he signed his name thereto by like order.

[illegible]
Notary Public, State of New York
No. 60-0603625
Commission Expires April 30, 1979

[illegible]
(notarial seal and stamp)

STATE OF }
COUNTY OF } ss.

On the day of , 197 , before me personally came

to me known and known to me to be the individual described in and who executed the foregoing instrument, and acknowledged to me that he executed the same.

(notarial seal and stamp)

2/15/90

EXCEPTED CARGOES

The term "excepted cargoes" means mainly cargoes that are not subject to the tonnage assessment or container unit assessment and shall include;

Domestic cargoes (1)
Lumber in shipload quantities
Bulk cargo (carried without mark or count, including scrap or sugar)
Newsprint
Uncontainerized cargoes such as:
Steel products
Raw unfabricated metals
Linerboard
Waste paper
Cardboard
Plywood
Printing paper
Oil drilling rigs

all of which moved in specified minimum lots fixed by the NYSA-ILA Contract Board.

(1)The term "domestic cargo" means cargo moving in the coastal or intercoastal trade of the United States, but does not include cargo moving to or from Puerto Rico, Hawaii or Alaska, or any other point outside the continental limits of the United States.

The following more specific items have been fixed by the NYSA-ILA Contract Board as subject to "excepted cargo manhour assessments."

Bales of wood pulp, carried as breakbulk cargo in lots of 500 long tons or more per vessel.

Steel or steel products as well as raw, unfabricated metals including but not limited to copper, zinc, lead, nickel and aluminum ingots moving in full or partial non-liner shiploads or non-containerized liner service, in quantities of 1,000 tons or more per vessel.

Linerboard, either exported or imported, which originates from or is destined to a point in the United States more than 500 miles from the Port of New York and shipped in lots of 500 tons or more.

Waste paper and cardboard, moving as breakbulk cargo in lots of 500 long tons or more per vessel.

Plywood, imported, in lots of 5,000 tons or more per vessel.

Printing paper, carried as breakbulk cargo in lots of 1,000 tons or more per vessel.

Equipment for oil drilling rigs, carried in full shiploads of no less than 1,000 tons per vessel.

Rags, moving as breakbulk cargo in lots of 1,000 tons or more per vessel.

Gypsum board, moving as breakbulk cargo in lots of 1,000 tons or more per vessel.

Canned pineapples, inbound and containerized, moving in lots of 500 long tons or more per vessel.

Malt and hops, outbound and containerized, moving in lots of 500 long tons or more per vessel.

Dry animal food, packed in plastic or polyethylene bags for export only.

Fibreboard, palletized, moving in lots of 1,000 or more tons on a breakbulk vessel.

Cement, bagged or palletized, moving in lots of 1,000 tons or more on a breakbulk vessel.

Soy Bean Seeds, in containers, originating from various ports in the Mid West.

NYSA-ILA ASSESSMENT AGREEMENT

This agreement was made and entered into this 25th day of November, 1987, between New York Shipping Association, Inc. ("NYSA") and International Longshoremen's Association, AFL-CIO ("ILA").

ARTICLE I

PURPOSE

This agreement establishes the assessment program for the funding of obligations arising under NYSA-ILA collective bargaining agreements. These obligations include fringe benefit costs and related expenses for pension, welfare and clinics, Guaranteed Annual Income ("GAI"), vacations, holidays, supplemental cash benefits, and labor contract administrative expenses, including the administrative support of NYSA. NYSA-ILA Assessment Agreement No. 201-011077 heretofore in effect is hereby amended and replaced by this agreement, effective immediately.

ARTICLE II

DEFINITIONS

For purposes of this agreement, the following definitions shall apply:

Section 1

The term "Port" shall mean the Port of New York and New Jersey. The term "center of the Port" shall mean Columbus Circle in the City, County and State of New York.

Section 2

The term "contract year" shall mean the fiscal year ending September 30.

Section 3

The term "vessel" shall mean a ship, boat, barge or other craft, whether or not self-propelled, used for the transport of cargo by water.

Section 4

The term "assessment ton" shall mean 2,240 pounds or 40 cubic feet, whichever is greater, for all cargo except uncontainerized automobiles, trucks and buses. For such uncontainerized vehicles, an "assessment ton" shall mean a weight ton of 2,240 pounds.

Section 5

The term "passenger assessments" shall mean man-hour assessments applicable to man-hours worked in passenger operations, where the carrier's revenue is derived almost exclusively from the sale of passenger accommodations, which shall be assessed at the rate of $2.50 per man-hour.

Section 6

The term "banana assessments" shall mean assessments applicable to uncontainerized bananas, which shall be assessed at the rate of $0.01 per individual box or carton of bananas provided the inside volume of the receptacle does not exceed 1.8 cubic feet.

Section 7

The term "export sugar assessment" shall mean assessments applicable to sugar, which has been imported into the Port by water and assessed on import at the excepted cargo rate, refined and bagged in the Port area, and exported in uncontainerized form, which shall be assessed at the rate of $0.20 per 50 kilo bag.

Section 8

The term "transshipped or relayed container" shall mean an intransit loaded or empty container not consigned to the Port which is transferred from one vessel to another vessel in the Port for carriage to a final United States or foreign port of discharge.

Section 9

The term "restowed container" shall mean an intransit loaded or empty container not consigned to the Port which in the same handling operation in the Port is unloaded from a vessel and then reloaded onto the same vessel for carriage to a final United States or foreign port of discharge.

Section 10

The term "pier container" shall mean a container which is stuffed or stripped at a vessel carrier's waterfront facility in the Port by longshore employees covered by NYSA-ILA collective bargaining agreements.

Section 11

The term "house container" shall mean a container handled at a vessel carrier's waterfront facility in the Port intact without stuffing or stripping.

Section 12

The term "domestic cargo" shall mean cargo moving in the coastal or intercoastal trade of the United States, but shall not include cargo moving to or from Puerto Rico, Hawaii or Alaska, or any other point outside the continental limits of the United States.

Section 13

The term "excepted cargoes" shall mean cargoes that are not subject to either the tonnage assessment or container unit assessment prescribed in article III hereof and shall include domestic cargo, lumber in shipload quantities, bulk cargo (carried without mark or count, including scrap and sugar), newsprint, and uncontainerized cargoes, such as steel products, raw unfabricated metals, linerboard, waste paper, cardboard, plywood, printing paper and oil drilling rigs, which move in specified minimum lots to be fixed by the NYSA-ILA Contract Board and which are subject to such other conditions as shall be established by the NYSA-ILA Contract Board.

Section 14

The term "excepted cargo assessments" shall mean man-hour assessments applicable to all man-hours worked in or relating to the handling of excepted cargoes, which shall be assessed at the flat rate of $5.50 per man-hour.

Section 15

The term "tonnage assessable cargoes" shall mean all cargoes handled in the Port except (a) cargoes in restowed containers, (b) baggage and other cargoes in connection with passenger operations, (c) bananas, (d) cargoes in transshipped or relayed containers, (e) export sugar, as described in article II, § 7 hereof, and, (f) excepted cargoes.

Section 16

The term "Puerto Rican trade" shall apply to all cargoes and containers originating in or destined to Puerto Rico and shall exclude cargoes and containers which are merely transshipped, relayed or restowed in a Puerto Rican port.

Section 17

The term "military cargo" shall mean cargo owned by or transported for the account of the Armed Forces of the United States.

Section 18

The term "military container" shall mean a container loaded with military cargo.

Section 19

The term "Canadian cargo" shall mean cargo in house containers destined for or originating from points within the dominion of Canada which is to be used in the normal course of business within the dominion of Canada and which is not destined for reshipment to points within the U.S. and/or which has not originated from points in the U.S. for reshipment via Canada through the Port of New York.

Section 20

The term "West Coast Cargo" shall mean cargo destined for or originating from points within the states of California, Oregon, Washington, Idaho, Nevada or Arizona, and cargo shipped through ports on the West Coast of the North American mainland.

Section 21

The term "reduced assessment cargo" shall mean tonnage assessable Canadian cargo, tonnage assessable West Coast Cargo, military cargo, breakbulk cargo and cargo in pier containers. All reduced assessment cargo except Canadian cargo shall be assessed on a tonnage basis at the reduced rate of $2.85 per assessment ton. Canadian cargo shall be assessed on a tonnage basis at the reduced rate of $4.00 per assessment ton.

201-200017-001

RECEIVED

Port Authority Lease No. BP-286
Supplement No. 1

EFFECTIVE
NOV 09 1994
UNDER THE
SHIPPING ACT
OF 1984
Federal Maritime Commission

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of September 27, 1994, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and AMERICAN STEVEDORING, INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of December 10, 1993, the Port Authority and the Lessee entered into an agreement of lease (hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease") covering premises at the Red Hook Container Terminal in the Borough of Brooklyn, County of Kings, City and State of New York; and

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

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

1. The Lessee shall be entitled to a credit against the rentals payable under the Lease in the amount of Three Hundred Four Thousand Eight Hundred Forty-two Dollars and Thirteen Cents ($304,842.13). Neither the whole nor any part of the aforesaid credit shall be or become or shall constitute a debt due and owing from the Port Authority to the Lessee nor shall said amount be recoverable or applicable in any manner other than as specifically provided for in this paragraph, including but not limited to a set-off or counterclaim in any action by the Port Authority against the Lessee for rental or other claims.

2. Notwithstanding any provision to the contrary contained in the Lease, including without limitation the provisions of paragraphs (c) and (d) of Section 12 thereof, effective September 27, 1994 the obligations of the Port Authority set forth in said paragraph (c) shall apply to and include the following: (i) the roofs, shipwater service stations and cargo doors of Shed 9B and Shed 11 (said Shed 9B being shown as Item No. 1 on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A-3" and said Shed 11 being shown as Item No. 2 on Exhibit A-3); (ii) the heating and air conditioning systems and electrical substations of Shed 9B and Shed 11; and

PORT DEPARTMENT
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(iii) the roofs of Building 111 and Building 116 (said Building 111 being shown as Item No. 3 on Exhibit A-3 and said Building 116 being shown as Item No. 4 on Exhibit A-3). The obligations of the Port Authority set forth in subdivision (i) of this paragraph shall cease as to the respective shed referred to therein in the event that the Port Authority rehabilitates the respective shed and thereafter the Lessee shall have the obligations with respect to said rehabilitated shed or sheds as are set forth in paragraph (d) of Section 12 of the Lease. The obligations of the Port Authority set forth in subdivision (ii) of this paragraph shall cease as to any heating and/or air conditioning system or systems and/or electrical substation or substations referred to therein in the event that the Port Authority refurbishes the respective system or substation and thereafter the Lessee shall have the obligations with respect to said refurbished system or systems and/or substation or substations as are set forth in paragraph (d) of Section 12 of the Lease. The obligations of the Port Authority set forth in subdivision (iii) of this paragraph shall cease as to the roof of the respective building referred to therein in the event that the Port Authority replaces the roof of the respective building and thereafter the Lessee shall have the obligations with respect to said replaced roof or roofs as are set forth in paragraph (d) of Section 12 of the Lease. The determination of when Sheds 9B and 11 have been rehabilitated, when the heating and air conditioning systems and electrical substations of said sheds have been refurbished, and when the roofs of Buildings 111 and 116 have been replaced shall be made by the Port Authority, and the Port Authority shall provide the Lessee with written notice of said determination or determinations. In addition to any other rights of entry reserved to the Port Authority under the Lease as herein amended, the Port Authority reserves for itself, its employees, agents, representatives, contractors and subcontractors the right to enter the Facility at any time and from time to time during the entire term of the letting upon prior written notice to the Lessee in order to perform the rehabilitation, refurbishing, and/or roof replacement work described in this paragraph. Nothing contained in this paragraph shall create or be deemed to create any obligation under the Lease as herein amended on the part of the Port Authority to perform such rehabilitation, refurbishing, and/or roof replacement work.

3. Effective September 27, 1994, the right of the Port Authority and the Lessee each to terminate the letting under the Lease as herein amended, without cause, effective as of August 31, 1996 upon one (1) year's notice, as set forth in Section 44 of the Lease, shall cease and the provisions of said Section 44 shall be and be deemed null and void and of no further force or effect. Effective September 27, 1994, the Lessee shall have the right to terminate the letting under the Lease as herein amended, upon thirty (30) days' prior written notice to the Port Authority, in the event that the operation of a Red Hook barge

service, substantially as such barge service is provided for in a certain agreement between the Port Authority and Salco Trucking Corporation dated January 7, 1994, is discontinued; provided, that, the Lessee shall not be under notice of default as to which any applicable period to cure has passed, or under notice of termination, from the Port Authority, either on the date of its giving of such notice to the Port Authority or the effective date thereof. Termination pursuant to the provisions of this paragraph shall have the same effect as if the effective date of termination stated in the notice were the date of expiration of the term of the letting under the Lease as herein amended.

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

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

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

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

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

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

ATTEST:

SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By LILLIAN C. LIBURDI

(Title) DIRECTOR, PORT DEPARTMENT

(Seal)

ATTEST:

Secretary

AMERICAN STEVEDORING, INC.

By

(Title) President

(Corporate Seal)

APPROVED:

FORM

TERMS

STATE OF NEW YORK
COUNTY OF NEW YORK } ss.

On the 21st day of October, 1994, before me personally came Lillian C. Liburdi to me known, who, being by me duly sworn, did depose and say that he resides at

that he is the Director / Port Department 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 Board of Commissioners of the said corporation; and that he signed his name thereto by like order.

Marie M. Edwards
(notarial seal and stamp)

MARIE M. EDWARDS, NOTARY
Public, State of New York
No. 24-4959693
Qualified in Kings County
Commission Expires 1/6/96

STATE OF New York
COUNTY OF Westchester } ss.

On the 8th day of September, 1994 before me personally came Keith Catucci to me known, who, being by me duly sworn, did depose and say that he resides at

that he is the President of American Stevedoring, Inc.

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 Board of Directors of the said corporation; and that he signed his name thereto by like order.

Notary Public, State of New York
No. 60-[illegible]
Commission Expires March 30, 1996

Keith Catucci
(notarial seal and stamp)

STATE OF
COUNTY OF } ss.

On the day of , 197 , before me personally came

to me known and known to me to be the individual described in and who executed the foregoing instrument, and acknowledged to me that he executed the same.

(notarial seal and stamp)

Port Authority Lease No. BP-286
Supplement No. 2

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of December 1, 1994, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and AMERICAN STEVEDORING, INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of December 10, 1993, the Port Authority and the Lessee entered into an agreement of lease (hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease") covering premises at the Red Hook Container Terminal in the Borough of Brooklyn, County of Kings, City and State of New York; and

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

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

1. Effective from and after December 1, 1994, the Lessee shall pay to the Port Authority a usage rental equivalent to the product obtained by multiplying Seventy Cents ($0.70) by the total number of revenue tons, as defined in Section 4A of the Lease, of qualified cargo and exempt cargo, as defined in said Section 4A, loaded onto or discharged from lighter aboard ship barges berthing at the premises during each Annual Period during the term of the letting; provided, however, that any cargo containers (whether or not stuffed or stripped at the premises) and unboxed vehicles loaded onto or discharged from lighter aboard ship barges berthing at the premises shall be subject to the rental provisions set forth in the Lease without regard to the provisions of this paragraph. Except as specifically set forth in this paragraph, all rentals under the Lease shall continue to be subject to the provisions of Section 4A and Section 4B of the Lease.

2. In addition to the Lessee's reporting requirements set forth in paragraph (c) of Section 4A of the Lease, each statement required to be rendered by the Lessee thereunder shall include as a separate category the number of revenue tons, as defined in said Section 4A, of cargo subject to the rental provisions of paragraph 1 of this Agreement.

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

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

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

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

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

ATTEST:

ASSISTANT SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By GRA Frank Caggiano 12/29/94
for LILLIAN C. LIBURDI
(Title) DIRECTOR, PORT DEPARTMENT
(Seal)

ATTEST:

Secretary

AMERICAN STEVEDORING, INC.

By

(Title) President
(Corporate Seal)

APPROVED:

FORM	TERMS	
N	AS	DL

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

On the 29 day of December, 1994 before me personally came Frank Cazzano, Deputy Director, Port Dept. to me known, who, being by me duly sworn, did depose and say that he resides at

that he is the Deputy Director, Port Department 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 Board of Commissioners of the said corporation; and that he signed his name thereto by like order.

Nancy S. Gonzalez
(notarial seal and stamp)

NANCY S. GONZALEZ
Notary Public, State of New York
No. 31-4[illegible]
Qualified in New York County
Commission Expires March 8, 19 96

STATE OF New York
COUNTY OF Westchester } ss.

On the 7th day of December, 1994, before me personally came

to me known, who, being by me duly sworn, did depose and say that he resides at

that he is the President of American Stevedoring, Inc.

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 Board of Directors of the said corporation; and that he signed his name thereto by like order.

[illegible]
(notarial seal and stamp)

STATE OF
COUNTY OF } ss.

On the day of , 197 , before me personally came

to me known and known to me to be the individual described in and who executed the foregoing instrument, and acknowledged to me that he executed the same.

(notarial seal and stamp)

CONFORMED COPY

Port Authority Lease No. BP-286
Supplement No. 3

224-200814 002

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of February 18, 1998, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and AMERICAN STEVEDORING, INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of December 10, 1993, the Port Authority and the Lessee entered into an agreement of lease (hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease") covering premises at the Red Hook Container Terminal in the Borough of Brooklyn, County of Kings, City and State of New York; and

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

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

1. (a) Notwithstanding the provisions of paragraph (b) of Section 4A of the Lease referring to the wharfage charge set forth in the Port Authority's tariff for "all cargo, unless otherwise specifically provided for," as such charge "may be amended from time to time," as the rate for usage rental on exempt cargo, the Lessee shall pay to the Port Authority usage rental for salt in bulk discharged from vessels berthing at the premises in the amount equal to the product obtained by multiplying the total number of revenue tons, as defined in said Section 4A, of salt in bulk discharged from vessels berthing at the premises during each Annual Period, as defined in said Section 4A, occurring during the period from September 1, 1997 through August 31, 2001, by Seventy Cents ($0.70). Except as set forth in this paragraph and hereinafter in this Agreement, the Lessee shall pay usage rental for salt in bulk at the same time and in the same manner as the usage rental for exempt cargo (other than salt in bulk) is paid under Section 4A of the Lease.

(b) In addition to the Lessee's reporting requirements set forth in paragraph (c) of Section 4A of the Lease, each of the statements required to be rendered by the Lessee thereunder for each Annual Period from September 1, 1997 through August 31, 2001 shall include as a separate category the

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UNDER THE SHIPPING ACT OF
Federal Maritime Commission

number of revenue tons of salt in bulk discharged from vessels berthing at the premises during the month for which the report is made and the cumulative number of revenue tons of salt in bulk discharged from vessels berthing at the premises during the period from the first day of the Annual Period through the end of the month for which the report is made. The Lessee shall include in its first report following the effective date of this Agreement the aforesaid information for the period from September 1, 1997 through the end of the month for which the report is made.

2. Notwithstanding the provisions of Section 4A of the Lease, as amended by paragraph 1 of this Agreement, the Lessee shall not be obligated to pay usage rental under said Section 4A, as amended by said paragraph 1, on the first two hundred fifty thousand (250,000) revenue tons of salt in bulk discharged from vessels berthing at the premises during each of the following two Annual Periods: (a) the Annual Period commencing on September 1, 1997 and ending August 31, 1998; and (b) the Annual Period commencing on September 1, 1998 and ending on August 31, 1999. Notwithstanding the provisions of Section 4A of the Lease, as amended by paragraph 1 of this Agreement, the Lessee shall not be obligated to pay usage rental under said Section 4A, as amended by said paragraph 1, on the two hundred fourteen thousand two hundred eighty-five (214,285) revenue tons of salt in bulk discharged from vessels berthing at the premises during the Annual Period commencing on September 1, 1999 and ending August 31, 2000 next following the first thirty-five thousand seven hundred fifteen (35,715) revenue tons of salt in bulk discharged from vessels berthing at the premises during such Annual Period. The provisions of this paragraph shall be limited by the provisions of subparagraph (b) of paragraph 4 hereof.

3. (a) In the event that the total number of revenue tons of salt in bulk discharged from vessels berthing at the premises during the Annual Period commencing on September 1, 1999 and ending August 31, 2000 is less than thirty-five thousand seven hundred fifteen (35,715), then, in addition to all other rentals payable under the Lease, the Lessee shall pay an additional usage rental (hereinafter called "the first salt usage rental") equal to the product obtained by multiplying Seventy Cents ($0.70) by the difference between thirty-five thousand seven hundred fifteen (35,715) and the actual number of revenue tons of salt in bulk discharged from vessels berthing at the premises during such Annual Period.

(b) In the event that the total number of revenue tons of salt in bulk discharged from vessels berthing at the premises during the Annual Period commencing on September 1, 2000 and ending August 31, 2001 is less than two hundred fifty thousand (250,000), then, in addition to all other rentals payable under the Lease, the Lessee shall pay an additional usage

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rental (hereinafter called "the second salt usage rental") equal to the product obtained by multiplying Seventy Cents ($0.70) by the difference between two hundred fifty thousand (250,000) and the actual number of revenue tons of salt in bulk discharged from vessels berthing at the premises during such Annual Period.

(c)(1) The Lessee shall pay the first salt usage rental as follows: on September 1, 1999 and on the first day of each calendar month thereafter occurring during the Annual Period commencing on that date and ending August 31, 2000, the Lessee shall pay to the Port Authority the sum of Two Thousand Eighty-three Dollars and Thirty-three Cents ($2,083.33) (which sum is hereinafter called "the minimum monthly first salt usage payment"). On October 31, 1999 and on the last day of each and every calendar month thereafter occurring during said Annual Period, including the month following the end of said Annual Period, the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee showing the total number of revenue tons of salt in bulk discharged from vessels berthing at the premises during the preceding month, and the cumulative number of revenue tons of salt in bulk discharged from vessels berthing at the premises from September 1, 1999 through the last day of the preceding month; each monthly statement shall be accompanied by vessel activity reports to substantiate the statement, showing the total number of revenue tons of salt in bulk discharged from vessels berthing at the premises during such month; whenever any such statement shall show that the first salt usage rental for the month for which the report is made, calculated in accordance with the provisions of subparagraph (a) of this paragraph, exceeds the minimum monthly first salt usage payment previously made for such month by the Lessee, the Lessee shall pay at the time of rendering the statement an amount (hereinafter referred to as "the additional monthly first salt usage payment") equal to such excess, provided, however, that the Lessee shall be allowed a credit against the additional monthly first salt usage payment in an amount equal to the amount by which the aggregate of (i) the minimum monthly first salt usage payments made by the Lessee during the Annual Period prior to the month for which the statement is made, and (ii) the aggregate of additional monthly first salt usage payments made by the Lessee during the Annual Period prior to the month for which the statement is made exceeds the aggregate of the first salt usage rental shown to be due by the monthly statements rendered during the Annual Period for the months preceding the month for which the statement is made. The statement rendered on the last day of the month following the last month of said Annual Period shall report the total number of revenue tons of salt in bulk discharged from vessels berthing at the premises during such Annual Period, and shall calculate the first salt usage rental payable for said Annual Period. The Lessee shall pay at the time of rendering the statement the total first salt usage rental due for said Annual Period, less payments

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thereof previously made during such period. If such statement indicates an overpayment of the first salt usage rental, the Lessee shall be entitled to a credit to the extent of such excess. Any credit the Lessee shall be entitled to following the expiration of the Lease as herein amended shall be applied first against the Lessee's outstanding obligations under the Lease as herein amended, with the balance to be paid to the Lessee within ninety (90) days following the expiration of the letting.

(c)(2) The Lessee shall pay the second salt usage rental as follows: on September 1, 2000 and on the first day of each calendar month thereafter occurring during the Annual Period commencing on that date and ending August 31, 2001, the Lessee shall pay to the Port Authority the sum of Fourteen Thousand Five Hundred Eighty-three Dollars and Thirty-three Cents ($14,583.33) (which sum is hereinafter called "the minimum monthly second salt usage payment"). On October 31, 2000 and on the last day of each and every calendar month thereafter occurring during said Annual Period, including the month following the end of said Annual Period, the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee showing the total number of revenue tons of salt in bulk discharged from vessels berthing at the premises during the preceding month, and the cumulative number of revenue tons of salt in bulk discharged from vessels berthing at the premises from September 1, 2000 through the last day of the preceding month; each monthly statement shall be accompanied by vessel activity reports to substantiate the statement, showing the total number of revenue tons of salt in bulk discharged from vessels berthing at the premises during such month; whenever any such statement shall show that the second salt usage rental for the month for which the report is made, calculated in accordance with the provisions of subparagraph (b) of this paragraph, exceeds the minimum monthly second salt usage payment previously made for such month by the Lessee, the Lessee shall pay at the time of rendering the statement an amount (hereinafter referred to as "the additional monthly second salt usage payment") equal to such excess, provided, however, that the Lessee shall be allowed a credit against the additional monthly second salt usage payment in an amount equal to the amount by which the aggregate of (i) the minimum monthly second salt usage payments made by the Lessee during the Annual Period prior to the month for which the statement is made, and (ii) the aggregate of additional monthly second salt usage payments made by the Lessee during the Annual Period prior to the month for which the statement is made exceeds the aggregate of the second salt usage rental shown to be due by the monthly statements rendered during the Annual Period for the months preceding the month for which the statement is made. The statement rendered on the last day of the month following the last month of said Annual Period shall report the total number of revenue tons of salt in bulk discharged from vessels berthing at the premises during such Annual Period, and shall calculate the

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second salt usage rental payable for said Annual Period. The Lessee shall pay at the time of rendering the statement the total second salt usage rental due for said Annual Period, less payments thereof previously made during such period. If such statement indicates an overpayment of the second salt usage rental, the Lessee shall be entitled to a credit to the extent of such excess. Any credit the Lessee shall be entitled to following the expiration of the Lease as herein amended shall be applied first against the Lessee's outstanding obligations under the Lease as herein amended, with the balance to be paid to the Lessee within ninety (90) days following the expiration of the letting.

4. (a) The Port Authority and the Lessee acknowledge that they are entering into an agreement of lease of even date bearing Port Authority Lease No. BP-292 and covering the letting of open area in the vicinity of Pier 12 of the Brooklyn-Port Authority Marine Terminal (which agreement of lease is hereinafter called "Lease No. BP-292"). The Port Authority and the Lessee further acknowledge that Special Endorsement No. 11 to Lease No. BP-292 grants to the Port Authority the right to terminate the letting under Lease No. BP-292 in the event that the Lessee does not timely complete certain specified improvements to the premises under Lease No. BP-292. The Lessee agrees that, in the event that the Port Authority shall terminate the letting under Lease No. BP-292 pursuant to the provisions of Special Endorsement No. 11 thereto, then paragraph 2 of this Agreement and all of the provisions thereof shall be null and void and of no further or prior force or effect, and that the Lessee shall pay to the Port Authority within thirty (30) days of the effective date of the termination of Lease No. BP-292 all of the usage rentals for salt in bulk that would have been payable from and after September 1, 1997 under the Lease had this Agreement never contained said paragraph 2. The Lessee shall continue to be obligated to pay the first salt usage rental and the second salt usage rental pursuant to the provisions of paragraph 3 hereof notwithstanding any such termination of Lease No. BP-292.

(b) The Port Authority and the Lessee acknowledge that New York Cross Harbor Railroad (hereinafter called "Cross Harbor") claims the right to maintain railroad trackage and ancillary equipment on the premises to be leased to the Lessee under Lease No. BP-292. In the event that Cross Harbor shall be successful in any claim requiring that the railroad trackage and/or ancillary equipment located on said premises not be removed therefrom, the Port Authority shall have the right to terminate this Agreement on sixty (60) days' written notice given to the Lessee at any time following the determination of said claim. Without limiting the generality of the immediately preceding sentence, and notwithstanding any other provision of this Agreement, in the event of such termination the Lessee shall

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pay to the Port Authority within thirty (30) days of the effective date of termination all of the usage rentals for salt in bulk that would have been payable from and after September 1, 1997 under the Lease had this Agreement never contained said paragraph 2, and the Lessee's obligation to pay the first salt usage rental and the second salt usage rental pursuant to the provisions of paragraph 3 hereof shall be cancelled as if this Agreement had never contained said paragraph 3.

(c) The Port Authority and the Lessee acknowledge that paragraphs (p) and (q) of Special Endorsement No. 1 to Lease No. BP-292 define the term "Qualifying Cost" of the work to be performed by the Lessee under Lease No. BP-292. Notwithstanding any other provision of this Agreement, the Lessee agrees that the cumulative amount of usage rental which under paragraph 2 hereof the Lessee shall not be obligated to pay on salt in bulk during the period from September 1, 1997 through August 31, 2000 shall in no event exceed the Qualifying Cost. Moreover, in the event that said cumulative amount of said usage rental not paid under paragraph 2 hereof shall exceed the Qualifying Cost as determined under Lease No. BP-292, then, upon written notice thereof from the Port Authority, the Lessee shall pay the difference to the Port Authority with the next payment of usage rental due under the Lease as herein amended, or if the letting shall have expired or earlier terminated, shall make such payment upon demand made to it by the Port Authority.

5. If the Lessee should fail to pay any amount required under the Lease as herein amended when due to the Port Authority, including without limitation any payment of rental or any payment of utility fees or charges, or other charges or fees, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period hereinbelow described during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under the Lease as herein amended. 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. Each late charge shall be and become

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additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rentals as set forth in the Lease as herein amended. 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 the Lease as herein amended, including without limitation any termination rights of the Port Authority or (ii) any obligations of the Lessee under the Lease as herein amended. In the event that any late charge imposed pursuant to this paragraph shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under the Lease as herein amended shall be payable instead at such legal maximum.

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

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

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

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

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in writing duly executed on behalf of both the Port Authority and the Lessee. The Lessee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in the Lease or in this Agreement.

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

ATTEST:

SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

(Title) DIRECTOR, PORT COMMERCE DEPARTMENT

(Seal)

ATTEST:

Secretary

AMERICAN STEVEDORING, INC.

By _____

(Title) President

(Corporate Seal)

APPROVED:
FORM TERMS

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FORM XLD - Ack., N.Y. 51380

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

On this 11th day of March, 1998, before me personally came Lillian C. Borrone to me known, who, being by me duly sworn, did depose and say that she resides at _____; that she is the Director, Port Commerce Dept of the Port Authority of New York and New Jersey, (one of) the corporations described in and which executed the foregoing instrument; that she 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 Board of Commissioners of the said corporation; and that she signed ~~his~~ her name thereto by like order.

Elaine M Costello
(notarial seal and stamp)

ELAINE M. COSTELLO
NOTARY PUBLIC, State of New York
No. 01CO5082011
Qualified in Kings County
Commission Expires July 14, 1999

STATE OF N.J.
) ss.
COUNTY OF Hudson)

On the 27 day of Jan, 1998, before me personally came Keith Catucci to me known, who, being by me duly sworn, did depose and say that he resides at _____; that he is the President President of American Stevedoring, Inc., 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 Board of Directors of the said corporation; and that he signed his name thereto by like order.

Olivia Klim
(notarial seal and stamp)

OLIVIA KLIM
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Jan. 5, 2000

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Port Authority Lease No. BP-286
Supplement No. 4

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, dated as of the 3rd day of October, 1999, by and between **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** (hereinafter called the "Port Authority") and **AMERICAN STEVEDORING, INC.** (hereinafter called the "Lessee");

WITNESSETH, That:

WHEREAS, the Port Authority and the Lessee heretofore and as of the 10th day of December, 1993, entered into an agreement of lease identified by the above Port Authority Lease Number (which agreement of lease, as the same has heretofore been supplemented and amended, is hereinafter called the "Lease") covering premises at the Red Hook Container Terminal, in the Borough of Brooklyn, County of Kings, City and State of New York, as more particularly described in the Lease; and

WHEREAS, the Lessee desires to provide facilities on Pier 11 of the premises under the Lease for a dinner to be held by the Brooklyn Academy of Music (hereinafter called "BAM") as part of BAM's 1999 Next Wave Festival Gala (which dinner is hereinafter called "the Dinner") and parking for automobiles and buses in connection with the Dinner; and

WHEREAS, the Port Authority and the Lessee desire to amend the Lease as set forth herein;

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

1. Notwithstanding the provisions of Section 5 of the Lease, effective from October 3, 1999 through October 6, 1999 (such period being hereinafter referred to as the "Dinner Usage Period"), the Lessee shall be permitted to have BAM and its contractors cater the Dinner and provide associated special effects and have patrons attend the Dinner on the portion of the premises under the Lease shown in diagonal crosshatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A-3" and shall be permitted to have patrons attending the Dinner and the Lessee's contractor, Triborough Parking, Inc., d/b/a Parking Systems ("which contractor is hereinafter called "Parking Systems") park motor vehicles on the portion of the

premises shown in diagonal hatching on Exhibit A-3 (which portions of the premises shown respectively in diagonal crosshatching and diagonal hatching are hereinafter collectively called "the Site"), subject to all the terms and conditions of this Agreement. The only motor vehicles allowed to be parked at the Site shall be those of patrons attending the Dinner and of BAM and its contractors directly involved in providing the Dinner or transporting patrons to and from the Dinner. In addition, no motor vehicles except those of the aforesaid patrons, the Lessee, Parking Systems, BAM and/or its contractors shall be operated by any person or entity for any purpose on the Site during the Dinner Usage Period.

2. The Lessee, in addition to all other rentals payable to the Port Authority under the Lease, shall pay to the Port Authority an additional rental under this Agreement in the amount of Three Thousand Five Hundred Dollars and No Cents ($3,500.00). Said additional rental shall be payable in a single payment to the Port Authority on October 3, 1999.

3. Without in any way limiting the provisions of Section 7 of the Lease, the Lessee shall: (a) cause to be procured all required licenses, certificates, permits or other authorizations from all governmental authorities, if any, having jurisdiction over the Dinner and any activities performed as part of said Dinner or in connection therewith; (b) procure all required licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Lessee's operations at the Site which may be necessary for the parking of motor vehicles at the Site during the Dinner Usage Period; and (c) pay all taxes, license, certification, permit and examination fees and excises which may be assessed, levied, exacted or imposed on its property or operation hereunder during the Dinner Usage Period, and shall make all applications, reports and returns required in connection therewith. It is specifically understood by the parties hereto, and agreed to by the Lessee, that the failure of the Lessee to comply with subparagraph (a) of this paragraph shall entitle the Port Authority to immediately cancel this Agreement.

4. (a) In addition to the policies of insurance described in Section 40 of the Lease, the Lessee shall procure and maintain in full force and effect throughout the Dinner Usage Period protecting against occurrences arising, or alleged to arise, out of the activities permitted under this Agreement:

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(i) Commercial General Liability Insurance including but not limited to coverage for Premises-Operations, Products-Completed Operations, Independent Contractor coverage, and personal injury, with a contractual liability endorsement covering the obligations assumed by the Lessee under Section 11(a) of the Lease, and which are customarily insured under such a policy, with a minimum combined single limit coverage for bodily injury and property damage of $15 million per occurrence.

(ii) Automobile Liability Insurance covering owned, non-owned, and hired vehicles, with a minimum combined single limit coverage for bodily injury and property damage of $3 million per accident.

(iii) Workers' Compensation and Employers' Liability Insurance in accordance with the requirements of the law of New York.

(b) With the exception of the Workers' Compensation and Employers' Liability Insurance policy, each policy of insurance described in paragraph 4 of this Agreement shall include the Port Authority as an additional insured (including, without limitation, for purposes of premises-operations and products-completed operations). Such insurance shall also include a cross-liability statement providing severability of interests so that the coverage will respond as if separate policies were in force for each insured. Such insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, 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) Each such policy required by this paragraph shall contain a provision that the policies may not be cancelled, terminated or modified during the Dinner Usage Period.

(d) All insurance provided for in this paragraph shall be written by companies authorized to do business in the State of New York and approved prior to the Dinner Usage Period by the Port Authority. At any time prior to or during the Dinner Usage Period, if any policy shall be or become unsatisfactory to the Port Authority as to form, limits or substance, or if any of

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the carriers issuing such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall obtain a new and satisfactory policy in replacement with a carrier approved by the Port Authority. The limits of coverage shall not be reduced prior to or during the Dinner Usage Period without the Port Authority's consent.

(e) As to any insurance required by the provisions of this Agreement, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon the execution of this Agreement by the Lessee and the delivery thereof by the Lessee to the Port Authority prior to the commencement of the Dinner Usage Period. At the request of the Port Authority, the Lessee shall supply to the Port Authority certified copies of said policies.

5. The Lessee acknowledges that the following entities, their officers, employees, agents and representatives are involved in the activities to be conducted under this Agreement: Academy Lines, Inc.; BAM; Taste Caterers, Inc.; Parking Systems; and Union Square Group, Ltd. The Lessee agrees that it will cause each of the aforesaid entities to provide to the Port Authority the same insurance policies as are required to be provided by the Lessee under paragraph 4 hereof. The Lessee further acknowledges that Lansdell Protection Agency and Parking Systems, their officers, employees, agents and representatives are involved respectively in the security and parking activities to be conducted under this Agreement. The Lessee agrees that it will cause BAM to provide to the Port Authority the same insurance policies as are required to be provided by the Lessee and the entities referred to above in this paragraph, except that the respective policies of Commercial General Liability to be provided under this paragraph by BAM shall have a minimum combined single limit coverage for bodily injury and property damage of $10 million per occurrence and all other entities shall have a minimum combined single limit of $3 million per occurrence for bodily injury and property damage. All such entities shall also provide Automobile Liability Insurance covering owned, non-owned, and hired vehicles, with a minimum combined single limit coverage for bodily injury and property damage of $3 million, except for Academy Lines, Inc. whose limit shall be $10 million.

6. The Port Authority shall be under no obligation to furnish any services or utilities whatsoever at or on the Site with respect to any of the activities conducted under this Agreement.

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7. The Lessee shall be responsible for loss or damage to any motor vehicle parked at the premises under the provision of this Agreement, and shall provide or have Parking Systems provide evidence of Garage Keepers' Legal Liability insurance for collision and comprehensive, including theft of any motor vehicle with a limit of $1 million. Such policy shall include the Port Authority as an additional insured and shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.

8. The Port Authority makes no representations or warranties as to location, size, adequacy or suitability of the Site for the Lessee's use thereof for the purposes contemplated hereunder. The Lessee acknowledges and agrees that it has not relied on any representation or statement of the Port Authority, its Commissioners, officers, employees or agents as to the condition or the suitability thereof for use by the Lessee for the purposes contemplated hereunder. The Lessee agrees that the Port Authority shall have no responsibility for the condition of the Site and that the Port Authority shall have no obligation for making any repair or improvement or taking any steps with respect to the Site. Without limiting any obligation of the Lessee to commence operations under this Agreement at the time and in the manner stated elsewhere in this Agreement, the Lessee agrees that no portion of the Site will be used initially or at any time during the Parking Period which is in a condition unsafe or improper for the purpose contemplated hereunder and the Lessee further agrees that before any use it will immediately correct any such unsafe or improper condition.

9. The Port Authority shall have no responsibility to keep the Site guarded, attended or patrolled, or to provide any security personnel at the Site. The Lessee shall be solely responsible for security, crowd control, traffic control and emergency medical response coverage. Without in any manner limiting the generality of any provision of the Lease, the Lessee shall assume all risks involved in the use of the Site for the Dinner Usage Period, including the parking of motor vehicles, and agrees that all acts and omissions of any person on the Site for the purposes set forth in this Agreement shall be deemed the acts and omission of the Lessee. The Lessee hereby releases the Port Authority of and shall indemnify and hold the Port Authority

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harmless from any claims or demands for any loss, including but not limited to bodily injury, personal injury, and death, and theft or damage (including, but not limited to, indirect or consequential damages) of or to any property, including such claims and demands based upon acts or omissions of the Port Authority arising or alleged to arise during the Dinner Usage Period.

10. Nothing contained in this Agreement shall be or be deemed to be a consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the premises. The Lessee agrees that no such activities, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Lease and, if the Port Authority shall so require, an approved Construction Application or Tenant Alteration Application which the Lessee shall prepare and submit to the Port Authority.

11. The number of pounds avoirdupois contemplated in paragraph (h) of Section 9 of the Lease for the premises is as follows: five hundred (500).

12. The Port Authority shall have the right to cancel this Agreement, at any time, immediately upon written notice to the Lessee, if the Port Authority determines such cancellation to be necessary for public health or safety, which determination shall be within the sole discretion of the Port Authority.

13. The Lessee acknowledges and agrees that the rights granted the Lessee under this Agreement are for the Dinner Usage Period only and shall not be or be deemed to constitute an expansion of the Lessee's rights under the Lease, including without limitation any expansion of its rights under Section 5 of the Lease. The Lessee further acknowledges and agrees that the rights granted the Lessee under this Agreement shall not and shall not be deemed to constitute a waiver by the Port Authority of any of its rights under the Lease, including without limitation the right of the Port Authority to require the strictest compliance by the Lessee with the provisions of said Section 5.

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

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

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

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

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

ATTEST:

SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

(Title) DIRECTOR, PORT COMMERCE DEPARTMENT

(Seal)

ATTEST:

~~Secretary~~ Witness

AMERICAN STEVEDORING, INC.

By _____

(Title) Vice President

(Corporate Seal)

APPROVED: FORM _____ TERMS _____

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FORM - Ack., N.Y. 51380

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

On this 5th day of OCTOBER, 1999, before me personally came VICTORIA CROSS KELLY to me known, who, being by me duly sworn, did depose and say that she resides at _____; that she is the ACTING DEPUTY DIRECTOR - PORT COMMERCE DEPT. of The Port Authority of New York and New Jersey, (one of) the corporations described in and which executed the foregoing instrument; that she 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 Board of Commissioners of the said corporation; and that she signed her name thereto by like order.

Ronald M. Seno

(notarial seal and stamp)

RONALD M. SENO
Notary Public, State of New York
No. 31-4636449
Qualified in New York County
Commission Expires 6/30/2000

STATE OF)
) ss.
COUNTY OF)

On the 5th day of October, 1999, before me personally came Kevin G. Catucci to me known, who, being by me duly sworn, did depose and say that he resides at _____; that he is the Vice President of American Stevedoring, Inc., 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 Board of Directors of the said corporation; and that he signed his name thereto by like order.

Elaine M Costello

(notarial seal and stamp)

ELAINE M. COSTELLO
NOTARY PUBLIC, State of New York
No. 01CO5042011
Qualified in Kings County
Commission Expires July 14, 2001

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Port Authority Lease No. BP-286
Supplement No. 45

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of July 19, 2000, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and AMERICAN STEVEDORING, INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of December 10, 1993, the Port Authority and the Lessee entered into an agreement of lease (hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease") covering premises at the Red Hook Container Terminal in the Borough of Brooklyn, County of Kings, City and State of New York; and

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

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

1. (a) The Port Authority and the Lessee agree that the Lessee may undertake to perform the following construction work on the premises under the Lease (which work, combined with "the Pier 6 Work" and "the Pier 7 Work", as defined below in this subparagraph, is hereinafter called "the Lessee's construction work"): the purchase and installation of fabric buildings. The Lessee's construction work performed on the premises under this Agreement is hereinafter called "the BP-286 Work". The Port Authority and the Lessee acknowledge and agree that the Lessee will be purchasing and installing fabric buildings on the premises leased by the Lessee from the Port Authority under Lease No. BP-300 dated as of July 19, 2000 (which work on said premises is hereinafter called "the Pier 6 Work" and "the Pier 7 Work"). The Port Authority and the Lessee further acknowledge and agree that the Lessee's construction work shall and shall be deemed to include the Pier 6 Work and the Pier 7 Work for all purposes under this Agreement and Lease No. BP-300, including but not limited to the definition and application of the "the Construction Work Reimbursement Amount", as defined in subparagraph (o) of this paragraph. The Lessee's construction work shall be paid for by the Port Authority as provided for in subparagraphs (o) and (p) of this paragraph.

(b) With respect to the Lessee's construction work the Lessee shall be the insurer of the Port Authority, and its

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Commissioners, officers, agents and employees against the following distinct and several risks, whether they arise from acts or omissions of the Lessee, any contractors of the Lessee, the Port Authority, third persons, or from acts of God or the public enemy, or otherwise, excepting only risks which result solely from affirmative wilful acts done by the Port Authority subsequent to commencement of the work:

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

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

(iii) The risk of claims and demands, just or unjust, by third persons against the Port Authority, and its Commissioners, officers, agents and employees, arising or alleged to arise out of the performance of the work. The Lessee shall indemnify the Port Authority, and its Commissioners, officers, agents and employees, against and from all such claims and demands, and for all loss and expense incurred by it and by them in the defense, settlement or satisfaction thereof including without limitation thereto, claims and demands for death, for personal injury or for property damage, direct or consequential.

(c) Prior to the commencement of any of the Lessee's construction work, the Lessee shall submit to the Port Authority for its approval a Construction Application in the form supplied by the Port Authority, and containing such terms and conditions as the Port Authority may include, setting forth in detail by appropriate plans and specifications the 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 Lessee's construction work, and shall describe in detail the systems, improvements, fixtures and equipment to be installed by the Lessee. 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 architect or professional engineer who 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 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 subparagraphs (j) and (k) of this paragraph and such performance bonds as the Port Authority may specify. All of the Lessee's construction work shall be performed by the Lessee in accordance with the Construction Application and final plans and specifications approved by the Port Authority, shall be subject to inspection by the Port Authority during the progress of the work and after the completion thereof, and the Lessee shall redo or replace at its own expense any work not done in accordance therewith. Upon final completion of all of the Lessee's construction work the Lessee shall deliver to the Port Authority a certificate to such effect signed by a responsible officer of the Lessee and by the architect or engineer who sealed the Lessee's plans pursuant to the provisions of this subparagraph certifying that all of the work has been performed in accordance with the approved plans and specifications and the provisions of this Agreement, and the Lessee shall supply the Port Authority with one (1) set of as-built drawings of the Lessee's construction work in such form as the Port Authority shall determine. The Lessee shall keep said drawings current during the term of the letting under this Agreement. No changes or modifications to such work shall be made without prior Port Authority consent. Following its receipt of the Lessee's certificate, the Port Authority shall inspect the work and, unless such certification is not correct, or the Port Authority determines that the premises is unsuitable for occupancy and use by the Lessee, a certificate of final

completion shall be delivered to the Lessee by the Port Authority.

(d) Except as set forth in subparagraph (e) of this paragraph, the Lessee shall not commence any portion of the Lessee's construction work until the Construction Application and plans and specifications covering such work, referred to in subparagraph (c) of this paragraph, have been finally approved by the Port Authority.

(e) If the Lessee desires to commence construction of portions of the Lessee's construction work prior to the approval by the Port Authority of the complete Construction Application and plans and specifications covering all of such work pursuant to subparagraph (c) of this paragraph, the Lessee shall submit to the Port Authority a separate Construction Application for each portion of the Lessee's construction work the Lessee so desires to commence (each such portion of the Lessee's construction 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 construction work (the final and complete plans, specifications, drawings, and data covering each such portion of the Lessee's construction work are hereinafter referred to as "the Partial Approval Work Plans" with respect to such portion of the Lessee's construction work) setting forth in detail the work to be performed in connection with each such portion of the Lessee's construction work. The Port Authority shall have full and complete discretion as to 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:

(1) 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 construction 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 subparagraph, 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.

(2) Nothing contained in any approval given pursuant to this subparagraph 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 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 this Agreement.

(3) 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 construction 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.

(4) No Partial Approval Work performed by the Lessee pursuant to the provisions of this subparagraph shall affect or limit the obligations of the Lessee under any prior approvals it may have obtained with respect to the Lessee's construction work.

(5) The fact that the Lessee has performed any item of Partial Approval Work and that the Port Authority has consented to the performance thereof shall not affect or limit the obligations of the Lessee under this Agreement with respect to the Lessee's construction work. 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 construction 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 subparagraph, 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.

(6) In the event that in the opinion of the Port Authority the Lessee at any time during the performance of any portion of any item of Partial Approval Work under the approval granted by the Port Authority pursuant to this subparagraph shall fail to comply with all of the provisions of this Agreement with respect to such work or shall fail to comply with the provisions of the Construction Application covering such work and the plans and specifications forming a part thereof, or shall fail to comply with any requirements, stipulations, or provisions imposed by the Port Authority in its approval of the performance of such item of Partial Approval Work, or if in the Port Authority's opinion the Lessee shall be in breach of any of the provisions of this Agreement covering such work or shall be in breach of any of the provisions of the Construction Application and plans and specifications covering the performance of such work, or shall be in breach of any requirements, stipulations, or provisions imposed by the Port Authority in its approval of the work, the Port Authority shall have the right to cause the Lessee to cease all or such part of such item of the Partial Approval Work as is being performed in violation of this Agreement, the Construction Application and plans and specifications, or the conditions of the Port Authority's approval. Upon written direction from the Port Authority, the Lessee shall promptly cease performance of the portion of the Partial Approval Work specified. The Lessee shall thereupon submit to the Port Authority for its written approval the Lessee's proposal for making modifications, corrections or changes in or to the item of Partial Approval Work that has been or is to be performed so that the same will comply with the provisions of this Agreement, the Construction Application and plans and specifications, or the conditions of the Port Authority's approval covering such work. The Lessee shall not commence construction of the portion of the Partial Approval Work that has been halted until it has received written approval of the proposed modifications, corrections or changes.

(7) It is hereby expressly understood and agreed that the Port Authority has no duty or obligation of any kind whatsoever to inspect or police the performance of any Partial Approval 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 Port Authority has not exercised its right to require the Lessee to cease performance of all or any part of the Partial Approval 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 work in accordance with the terms of this Agreement, the Construction Application and plans and specifications covering such work, or the conditions of the Port Authority's approval of such work, nor shall such fact be or be

deemed to be a waiver by the Port Authority of any of the requirements of this Agreement with respect to such work, or any of the requirements of the Construction Application and plans and specifications covering such work, or any of the conditions of the Port Authority's approval of such work.

(f) Without limiting the generality of any of the provisions of this Agreement, the Lessee's construction work (including any Partial Approval Work performed by the Lessee) shall be performed in such a manner that there will be at all times during construction a minimum of air pollution, water pollution or any other type of pollution, and a minimum of noise emanating from, arising out of, or resulting from construction. Subject to the provisions of this Agreement, the Lessee shall construct such reasonable structures, fences, equipment, devices and other facilities as may be necessary or appropriate to accomplish the objectives set forth in this subparagraph, and, without limiting the generality of the foregoing, such construction shall be subject to the Port Authority's review and approval in accordance with the provisions of this paragraph.

(g) Without limiting or affecting any other term or provision of this Agreement, the Lessee shall be solely responsible for the design, adequacy and operation of all utility, mechanical, electrical, communications and other systems installed in the premises by the Lessee and all other improvements, additions, fixtures, finishes, decorations and equipment made or installed by the Lessee in the premises and shall do all preventive maintenance and make all repairs, replacements, rebuilding (ordinary or extraordinary, structural or non-structural) and painting necessary to keep such systems, 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 and tear which does not (i) adversely affect the efficient or proper utilization of any part of the premises, or (ii) adversely affect the appearance of any part of the premises.

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

(i) In addition to all policies of insurance otherwise required under the Lease as herein amended, the Lessee shall

procure and maintain or cause to be procured and maintained in effect during the performance of that portion of the Lessee's construction work constituting the BP-286 Work:

(i) Commercial General Liability Insurance including but not limited to coverage for premises operations and completed-operations, with a contractual liability endorsement covering the obligations assumed by the Lessee under subparagraph (b) of this paragraph, and which are customarily insured under such a policy, with a minimum combined single limit coverage for bodily injury and property damage of $3 million.

(ii) Commercial Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with said construction with a minimum combined single limit coverage for bodily injury and property damage of $2 million.

(iii) Workers' Compensation and Employers' Liability Insurance in accordance with the requirements of law and in limits of not less than $1 million per accident. The Workers' Compensation Policy shall be specially endorsed to include coverage afforded by the U.S. Longshoremen's and Harbor Workers' Compensation Act.

(j) In addition to the insurance required pursuant to the provisions of subparagraph (i) of this paragraph, the Lessee shall procure or cause to be procured prior to the commencement of any work Builder's Risk Insurance (All Risk) covering loss or damage (including any loss or damage resulting from flood or earthquake) to any structures, improvements, fixtures and equipment and furnishing and materials on the premises during said construction, whether or not attached to the land, in an amount equal to the full replacement cost. Such insurance shall name the Port Authority as an insured and such policy shall provide that the loss shall be adjusted with the Port Authority, and that the proceeds thereof shall be paid to the Port Authority and shall be made available to the Lessee for and applied strictly and solely to the payment of the cost of the repair, replacement, rebuilding or other performance of the Lessee's construction work.

(k) With the exception of the Workers' Compensation and Employers' Liability Insurance policy each policy of insurance described in subparagraph (i) of this paragraph shall include the Port Authority as an additional insured (including, without limitation, for coverage under premises operations and completed-operations), and no such policy shall contain any care, custody or control exclusions, or any exclusion for bodily injury to or sickness, disease or death of any employee of the Lessee or of any of its contractors which would conflict with or in any way

impair the coverages resulting from the Port Authority's status as an additional insured or the coverage under the contractual liability endorsement described in subdivision (i) of subparagraph (i) of this paragraph. Such insurance shall also contain an endorsement providing that the protection afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third party shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority and against the Port Authority by the Lessee, but said endorsement shall not limit, vary, change or affect the protections afforded the Port Authority as an additional insured. Such insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, 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.

(l) Unless otherwise set forth herein, each policy of insurance described in subparagraphs (i) and (j) of this paragraph shall be subject to the applicable provisions of Section 40 of the Lease.

(m) Title to and property in all improvements and fixtures placed, constructed or installed in or on the premises, including all such improvements and fixtures as shall constitute the Lessee's construction work (including, without limitation, the fabric buildings), shall vest in the Port Authority upon placement, construction or installation thereof and title to and property in any and all equipment and trade fixtures removable without substantial injury to the premises placed in or installed upon the premises shall vest in the Lessee upon the installation thereof. No equipment or trade fixtures shall be removed by the Lessee prior to the expiration date of the letting under the Lease as herein amended unless replaced with identical property of equal or greater value. Without limiting any other term of this Agreement, and notwithstanding the foregoing provisions, upon notice given by the Port Authority either prior to or within sixty (60) days after expiration or earlier termination of the letting of the premises under the Lease as herein amended the Lessee shall remove from the premises any improvements (including, without limitation, the fabric buildings), fixtures, trade fixtures, or equipment as the Port Authority may specify in its notice, and shall repair any damage to the premises caused by such removal.

(n) In the performance of the Lessee's construction work the Lessee shall not permit any situation or condition to continue that may cause or be conducive to any labor troubles at the Facility which interferes with the progress of other

construction work at the Facility. The determinations of the Port Authority shall be conclusive on the Lessee and, upon notice from the Port Authority, the Lessee shall or shall cause its contractor to immediately rectify any condition specified in the notice. In the event of failure by the Lessee or any of its contractors to immediately comply with the requirements of this subparagraph (whether or not such failure is due to the Lessee's fault) the Port Authority by notice shall have the right to suspend the Port Authority's permission to the Lessee to proceed with any portion of the Lessee's construction work being performed by or on behalf of the Lessee, and the Lessee shall thereupon immediately cease the same. When labor troubles shall be so settled that such interference or the danger thereof no longer exists, the Port Authority by notice to the Lessee shall reinstate the permission to the Lessee to perform the work on all the same terms and conditions as before the suspension. "Labor troubles" shall mean and include strikes, boycotts, picketing, work-stoppages, slowdowns, complaints, disputes, controversies or any other type of labor trouble, regardless of the employer of the person involved or their employment status, if any.

(o) Upon performance by the Lessee of the Lessee's construction work in accordance with the provisions of this paragraph, the Port Authority will pay to the Lessee a sum (which sum is hereinafter referred to as "the Construction Work Reimbursement Amount") equal to the lesser of: (1) the reasonable cost, as hereinafter defined, of the Lessee's construction work or (2) Six Million Dollars and No Cents ($6,000,000.00). The Construction Work Reimbursement Amount is applicable to both the BP-286 Work to be performed under this Agreement and the Pier 6 Work and the Pier 7 Work to be performed under Lease No. BP-300, and the Construction Work Reimbursement Amount set forth above restates and is the same as the Construction Work Reimbursement Amount set forth in paragraph (o) of Special Endorsement No. 1 to Lease No. BP-300, and the said two stated amounts are not to be added together but constitute one discrete amount under this Agreement and Lease No. BP-300 to be applied to the Lessee's construction work. To the extent permitted by sound accounting practice, the sum of the following items of cost incurred by the Lessee in performing the Lessee's construction work shall constitute the cost thereof for the purposes of this Agreement:

(1) The Lessee's payments to contractors;

(2) The Lessee's payments for supplies and materials;

(3) The Lessee's payments to persons, firms or corporations other than construction contractors or suppliers of materials, for services rendered or rights granted in connection with construction, not including

services of the types mentioned in items (4), (5) and (6) of this subparagraph;

(4) The Lessee's payments of premiums for performance bonds and for the insurance the Lessee is required to maintain in effect in accordance with the provisions of subparagraphs (j) and (k) of this paragraph during the period of construction only;

(5) The Lessee's payments for engineering services in connection with the Lessee's construction work, and during the period of the construction only;

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

(7) The sum of the costs approved under items (4), (5) and (6) of this subparagraph shall not exceed 20% of the sum of the costs approved under items (1), (2) and (3) of this subparagraph; if in fact there is any such excess, such excess shall not be a part of the cost incurred by the Lessee in the performance of the Lessee's construction work for the purposes of this paragraph.

No payment or payments on account of administrative or other overhead costs and no payment to employees of the Lessee shall be included in the cost of the work whether or not allocated to the cost of the work by the Lessee's own accounting practices. No payment to a firm or corporation wholly or partially owned by or in common ownership with the Lessee shall be included in the cost of the work.

(p) On or about the tenth day of the first calendar month following the commencement of the Lessee's construction work the Lessee shall certify to the Port Authority by written certification subscribed by a responsible officer of the Lessee: (i) the amount of the Lessee's construction work performed by the Lessee in the preceding month showing separately the amount of the Pier 6 Work, the Pier 7 Work and the BP-286 Work, the cost of the work described in the certificate showing separately the cost of the Pier 6 Work, the Pier 7 Work and the BP-286 Work, the amount of each such cost incurred by the Lessee during such month, and the amount paid by the Lessee on account of each such cost, if any; (ii) that except for the amount, if any, stated in such certificate to be due for services and materials, there is no outstanding indebtedness known to the persons signing such certificate, after due inquiry, then due on account of the purchase of any equipment or fixtures described in the certificate or for labor, wages, materials, supplies or services in connection with any work described therein which, if unpaid, might become the basis of a vendor's, mechanic's, laborer's or

materialmen statutory or similar lien or alleged lien upon such work or upon the premises or any part thereof, or upon the Lessee's leasehold interest therein, nor are any of the equipment, or fixtures described in such certificate secured by any liens, mortgages, security interests or other encumbrances. Nothing contained herein shall be deemed or construed as a submission by the Port Authority to the application to itself of any such lien; and (iii) that the work for which the amount set forth in the certificate is due has been performed in accordance with the Lessee's approved plans and specifications and the provisions of this Agreement. Such certificate shall also contain a certification by the architect or engineer who sealed the Lessee's plans pursuant to the provisions of subparagraph (c) of this paragraph certifying that all of the work described in the certificate has been performed in accordance with the final plans and specifications approved by the Port Authority. Following its receipt of the Lessee's certificate, the Port Authority shall remit to the Lessee an amount equal to the amount paid by the Lessee for the portion of the Lessee's construction work performed by the Lessee in the preceding month as shown in the certificate less ten percent (10%) thereof and also less the amount of any claims made against the Port Authority by subcontractors, materialmen or workmen, if any, in connection with any of the work described in the certificate. On or about the tenth day of each month thereafter during the period of the performance of the Lessee's construction work the Lessee shall deliver a similar certificate to the Port Authority signed by a responsible officer of the Lessee which certificate shall certify the amount of the Lessee's construction work performed by the Lessee in the preceding month showing separately the amount of the Pier 6 Work, the Pier 7 Work and the BP-286 Work, the cost of the work described in the certificate performed by the Lessee in the preceding month showing separately the cost of the Pier 6 Work, the Pier 7 Work and the BP-286 Work, the amount of each such cost incurred by the Lessee during such month, the amount paid by the lessee on account of each such cost, the cumulative amount of each such cost incurred by the Lessee on account of the work described in the certificate from the date of the commencement of the work, and the cumulative amount of all payments made on account of each such cost from the date of the commencement of the work, and such certificate shall also contain the statements set forth in subdivisions (ii) and (iii) of this subparagraph both with respect to the work described in the certificate and all work previously performed by the Lessee. Each such certificate shall also contain a certification the architect or engineer who sealed the Lessee's plans pursuant to the provisions of subparagraph (c) of this paragraph certifying that all of the work described in the certificate has been performed in accordance with the final plans and specifications approved by the Port Authority. Following its receipt of such certificate the Port Authority shall remit to the Lessee an amount equal to the amount paid by the Lessee for the portion of

the Lessee's construction work performed by the Lessee in the preceding month as shown in the certificate less ten percent (10%) thereof and less the amount of claims, if any, made against the Port Authority by subcontractors, materialmen or workmen on account of any of the work described in the certificate. Upon final completion of all of the Pier 6 Work or the Pier 7 Work or the BP-286 Work to be performed by the Lessee as set forth in the Lessee's approved plans and specifications, the Lessee shall submit to the Port Authority a certification signed by a responsible officer thereof that all of the Pier 6 Work or the Pier 7 Work or the BP-286 Work, as the case may be, has been completed, which certificate shall certify the final cost of all of the Pier 6 Work or the Pier 7 Work or the BP-286 Work, as the case may be, performed by the Lessee, the cumulative payments made by the Lessee on account of the cost of the Pier 6 Work or the Pier 7 Work or the BP-286 Work, as the case may be, and shall also certify the items set forth in subdivisions (ii) and (iii) of this subparagraph with respect to all of such work. In addition, the architect or engineer who sealed the Lessee's plans and specifications pursuant to the provisions of subparagraph (c) of this paragraph shall certify that all of such work has been performed in accordance with the final plans and specifications for such work approved by the Port Authority. The Lessee shall also supply to the Port Authority such supporting documents and records as the Port Authority shall deem necessary to substantiate the matters set forth in the Lessee's certificate. The Port Authority shall have the right (but shall not be obligated) to conduct an interim inspection and audit in connection with the work certified as completed, and shall have the rights in the conduct of such interim inspection and audit as are set forth below in this subparagraph in regard to the final inspection and audit. After examination and approval of such certificate, and such supporting documents and records as the Port Authority shall deem necessary to substantiate the certificate, the Port Authority shall inspect the premises and the Pier 6 Work or the Pier 7 Work or the BP-286 Work, as the case may be, and after such inspection the Port Authority shall notify the Lessee if all of such work has been performed in accordance with the approved plans and specifications and the provisions of this Agreement. If all of such work has been completed in accordance with the approved plans and specifications, and the provisions of this Agreement, the Port Authority will pay to the Lessee on account of the cost of the Pier 6 Work or the Pier 7 Work or the BP-286 Work, as the case may be, the difference between the sum obtained by adding together all prior payments made by the Port Authority to the Lessee on account of the cost of the Pier 6 Work or the Pier 7 Work or the BP-286 Work, as the case may be, and the final cost of the Pier 6 Work or the Pier 7 Work or BP-286 Work, as the case may be, as certified by the Lessee. If the sum of all of the previous payments made by the Port Authority to the Lessee on account of the cost of the Pier 6 Work or the Pier 7 Work or the

BP-286 Work, as the case may be, exceeds the final cost as certified by the Lessee of the Pier 6 Work or the Pier 7 Work or the BP-286 Work, as the case may be, the Lessee shall pay to the Port Authority the amount of such excess on demand. No payment made by the Port Authority to the Lessee as set forth above in this subparagraph, including, without limitation, any payment made to the Lessee following the Port Authority's receipt of the Lessee's certification of final cost of the Pier 6 Work or the Pier 7 Work or the BP-286 Work, shall be deemed final until the cost of such work has been finally determined by the Port Authority. Any payment made to the Lessee following the Port Authority's receipt of the Lessee's certification of final cost of the Pier 6 Work or the Pier 7 Work or the BP-286 Work shall not be deemed a final determination of the cost of such work. Upon final completion of all of the Lessee's construction work to be performed by the Lessee as set forth in the Lessee's approved plans and specifications, the Lessee shall submit to the Port Authority a final certification signed by a responsible officer thereof that all work has been completed, which certificate shall certify separately the final cost of all of the Lessee's construction work performed by the Lessee, the cumulative payments made by the Lessee on account of such costs, and shall also certify the items set forth in subdivisions (ii) and (iii) of this subparagraph with respect to all of the work. In addition, the architect or engineer who sealed the Lessee's plans and specifications pursuant to the provisions of subparagraph (c) of this paragraph shall certify that all of the work has been performed in accordance with the final plans and specifications for the work approved by the Port Authority. After examination and approval of such certificate, and such supporting documents and records as the Port Authority shall deem necessary to substantiate the certificate, the Port Authority shall finally inspect the premises and the work and after such inspection the Port Authority shall notify the Lessee if all of the work has been performed in accordance with the approved plans and specifications and the provisions of this Agreement. If all of the work has been completed in accordance with the approved plans and specifications, and the provisions of this Agreement, the Port Authority will pay to the Lessee on account of the cost of the Lessee's construction work the difference between the sum obtained by adding together all prior payments made by the Port Authority to the Lessee on account of the cost of the Lessee's construction work and the Construction Work Reimbursement Amount. If the sum of all of the previous payments made by the Port Authority to the Lessee on account of the cost of the Lessee's construction work exceeds the Construction Work Reimbursement Amount, the Lessee shall pay to the Port Authority the amount of such excess on demand. No payment made by the Port Authority to the Lessee pursuant to the provisions of this subparagraph, including, without limitation, any payment made to the Lessee following the Port Authority's receipt of the Lessee's final certification of cost, shall be deemed final until the cost of

the Lessee's construction work has been finally determined by the Port Authority. Any payment made to the Lessee following the Port Authority's receipt of the Lessee's final certification of cost shall not be deemed a final determination of the cost of the Lessee's construction work. Such final determination shall occur only after the Port Authority has examined and approved the Lessee's final certificate of cost and such records and other documentation of the Lessee as the Port Authority shall deem necessary to substantiate such cost. The Lessee shall permit the Port Authority by its agents, employees and representatives at all reasonable times prior to a final determination of the cost of the Lessee's construction work to examine and audit the records and other documentation of the Lessee which pertain to and will substantiate such cost. In no event whatsoever shall the cost of any portion of the Lessee's construction work as finally determined and computed in accordance with the provisions of subparagraph (o) of this paragraph and in accordance with the provisions of this subparagraph include any expenses, outlays or charges whatsoever by or for the account of the Lessee for or in connection with any improvements, equipment or fixtures or the performance of any work unless such are actually and completely installed in and/or made to the premises nor shall cost include the costs of any equipment, fixture or improvements which are secured by liens, mortgages, other encumbrances or conditional bills of sale. If the cost of the Lessee's construction work as finally determined shall be less than the amount previously paid pursuant to this subparagraph, the Lessee shall pay the difference to the Port Authority within ten (10) days after notification to the Lessee stating the amount thereof. No payment made by the Port Authority to the Lessee pursuant to the provisions of this subparagraph shall or shall be deemed to imply that the Lessee's construction work has been completed in accordance with law or the provisions of this Agreement.

(q) The Port Authority's entire obligation under this Agreement to make payments to the Lessee on account of the cost of the Lessee's construction work shall be limited in amount to the Construction Work Reimbursement Amount. 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.

(r) The Lessee agrees to and shall require its contractor to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) in the Lessee's construction work. "Meaningful participation" shall mean at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the

construction work are for the participation of MBEs and WBEs, of which at least twelve percent (12%) are for the participation of MBEs. A Minority Business Enterprise shall mean a company or firm at least 51% of which is owned and controlled by a minority or minorities. A Women Business Enterprise shall mean a company or firm at least 51% of which is owned and controlled by a woman or women. For purposes of this subparagraph minority is a member of one of the following groups:

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

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

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

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

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

(2) Actively and affirmatively soliciting bids for subcontracts from 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.

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

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

(5) Encouraging the formation of joint ventures, partnerships or other similar arrangements among

contractors, where appropriate, to insure that the Lessee and said contractors will meet their obligations hereunder.

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

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

2. (a) Attached hereto as Exhibit Y is a form of election pursuant to Section 142(b) of the Internal Revenue Code of 1986, as amended. The Lessee acknowledges that two counterparts of said form of election have been delivered to it by the Port Authority. Upon the execution of this Agreement by the Lessee and its delivery to the Port Authority, the Lessee shall execute the said two counterparts and deliver one fully executed counterpart to the Port Authority with its delivery of this Agreement, and the Lessee shall keep the second executed counterpart with its records for the balance of the entire term of the letting under the Lease as herein amended.

(b) The Lessee is not acquiring an ownership interest in the premises defined in Section 1 of the Lease. Capital expenditures in connection with the premises have been, or are expected to be made, in whole or in part by the Port Authority from "exempt facility bonds" (within the meaning of Section 142(a) of the Internal Revenue Code of 1986) issued by the Port Authority from time to time (such capital expenditures are hereinafter called "the Property"). The Lessee hereby irrevocably elects not to claim for purposes of federal, state or local taxation of income any depreciation or investment credits, for which it may be eligible with respect to the Property. The Lessee further agrees that this irrevocable election shall be binding upon its successors in interest, if any, under the Lease as herein amended, and as a condition of any permitted sale or assignment of the interest of the Lessee under the Lease as herein amended, every successor in interest shall furnish an executed irrevocable election in the form of the immediately preceding sentence to the Port Authority. The foregoing shall not grant or be deemed to grant to the Lessee the right to sell or assign, in any manner, its interest under the Lease as herein amended.

(c) In the event the Lessee records any documents in lieu of recording this Agreement, such documents shall incorporate the substance of subparagraph (b) of this paragraph.

(d) It is understood that the election set forth in subparagraph (b) of this paragraph shall not apply to any personal property of the Lessee (including equipment and trade fixtures) removable without material damage to the premises leased to the Lessee pursuant to the Lease as herein amended which are installed by the Lessee in or on the premises leased to the Lessee pursuant to the Lease as herein amended and which shall be deemed to be and remain the property of the Lessee.

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

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

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

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

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

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

ATTEST:

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

(Title) Director, Port Commerce Dept.

(Seal)

ATTEST:

_____
Secretary

AMERICAN STEVEDORING, INC.

By _____

(Title) CEO President

(Corporate Seal)

APPROVED:
FORM
TERMS

EXHIBIT Y

ELECTION

(PURSUANT TO SECTION 142 (b) OF THE
INTERNAL REVENUE CODE OF 1986)

1. AMERICAN STEVEDORING, INC. (hereinafter called "the Lessee") pursuant to an Agreement of Lease bearing Port Authority Lease No. BP-286 (hereinafter called "the Lease") made under date of December 10, 1993, between the Lessee and The Port Authority of New York and New Jersey (hereinafter called "the Port Authority"), has leased a site and the structures, improvements, additions, buildings and facilities located or to be located thereon at the Red Hook Container Terminal, all as described in the Lease (hereinafter called "the Leased Premises") to be used basically as premises constituting a public port for a term commencing on January 1, 1994 and expiring August 31, 2001.

2. The principal office of the Port Authority is at One World Trade Center, New York, New York 10048 and its taxpayer identification number is 13-6400654W.

3. The principal office of the Lessee is at ~~2170 N. Fleet Street, Elizabeth, New Jersey 07201~~ 70 Hamilton Ave, Brooklyn, New York 11231 and its taxpayer identification number is

4. Capital expenditures in connection with the Leased Premises have been, or are expected to be made, in whole or in part by the Port Authority from "exempt facility bonds" (within the meaning of Section 142(a) of the Internal Revenue Code of 1986) issued by the Port Authority from time to time (such capital expenditures being hereinafter called "the Property").

5. The Lessee has not acquired and is not acquiring an ownership interest in the Property. The Lessee hereby irrevocably elects not to claim for purposes of federal, state or local taxation of income any depreciation or investment credits, for which it may be eligible with respect to the Property. The Lessee further agrees that this irrevocable election shall be binding upon its successors in interest, if any, under the Lease, and as a condition of any permitted sale or assignment of the interest of the Lessee under the Lease, every successor in interest shall furnish an executed irrevocable election in the form of the immediately preceding sentence to the Port Authority. The foregoing shall not grant or be deemed to grant to the Lessee the right to sell or assign, in any manner, its interests under the Lease.

6. It is understood that the foregoing election shall not apply to any personal property of the Lessee (including equipment

and trade fixtures) removable without material damage to the Leased Premises, installed by the Lessee in or on the Leased Premises pursuant to the Lease, and which are deemed to be and remain the property of the Lessee.

ATTEST:

_____
Secretary
(Corporate Seal)

AMERICAN STEVEDORING, INC.

By_____

(Title) President

Dated:_____

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

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

On the 18th day of Sept in the year 2000, before me, the undersigned, a Notary Public in and for said state, personally appeared Richard M. Lavabee, 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.

Karen Eastman
(notarial seal and stamp)

KAREN E. EASTMAN
Notary Public, State of New York
No. 01EA4766314
Qualified in New York County
Commission Expires Feb. 28, 2001

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

On the 19th day of September in the year 2000, before me, the undersigned, a Notary Public in and for said state, personally appeared Salvato Calucci, 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.

Elaine M. Costello
(notarial seal and stamp)

ELAINE M. COSTELLO
NOTARY PUBLIC, State of New York
No. 01CO5082011
Qualified in Kings County
Commission Expires July 14, 20 01

ELECTION

(PURSUANT TO SECTION 142 (b) OF THE
INTERNAL REVENUE CODE OF 1986)

1. AMERICAN STEVEDORING, INC. (hereinafter called "the Lessee") pursuant to an Agreement of Lease bearing Port Authority Lease No. BP-286 (hereinafter called "the Lease") made under date of December 10, 1993, between the Lessee and The Port Authority of New York and New Jersey (hereinafter called "the Port Authority"), has leased a site and the structures, improvements, additions, buildings and facilities located or to be located thereon at the Red Hook Container Terminal, all as described in the Lease (hereinafter called "the Leased Premises") to be used basically as premises constituting a public port for a term commencing on January 1, 1994 and expiring August 31, 2001.

2. The principal office of the Port Authority is at One World Trade Center, New York, New York 10048 and its taxpayer identification number is 13-6400654W.

3. The principal office of the Lessee is at ~~2170 N. Fleet Street, Elizabeth, New Jersey 07201~~ 70 Hamilton Ave, Brooklyn, New York 11231 and its taxpayer identification number is

4. Capital expenditures in connection with the Leased Premises have been, or are expected to be made, in whole or in part by the Port Authority from "exempt facility bonds" (within the meaning of Section 142(a) of the Internal Revenue Code of 1986) issued by the Port Authority from time to time (such capital expenditures being hereinafter called "the Property").

5. The Lessee has not acquired and is not acquiring an ownership interest in the Property. The Lessee hereby irrevocably elects not to claim for purposes of federal, state or local taxation of income any depreciation or investment credits, for which it may be eligible with respect to the Property. The Lessee further agrees that this irrevocable election shall be binding upon its successors in interest, if any, under the Lease, and as a condition of any permitted sale or assignment of the interest of the Lessee under the Lease, every successor in interest shall furnish an executed irrevocable election in the form of the immediately preceding sentence to the Port Authority. The foregoing shall not grant or be deemed to grant to the Lessee the right to sell or assign, in any manner, its interests under the Lease.

6. It is understood that the foregoing election shall not apply to any personal property of the Lessee (including equipment and trade fixtures) removable without material damage to the

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Leased Premises, installed by the Lessee in or on the Leased Premises pursuant to the Lease, and which are deemed to be and remain the property of the Lessee.

ATTEST:

Secretary
(Corporate Seal)

AMERICAN STEVEDORING, INC.

By Salvatore F. Catucci

(Title) CEO President

Dated: 9-13-00

Port Authority Lease No. BP-286
Supplement No. 6

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of August 31, 2001, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and AMERICAN STEVEDORING, INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of December 10, 1993, the Port Authority and the Lessee entered into an agreement of lease (hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease") covering premises at the Red Hook Container Terminal in the Borough of Brooklyn, County of Kings, City and State of New York; and

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

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

1. The term of the letting under the Lease is hereby extended for the period ending at 11:59 o'clock P.M. on April 30, 2004, unless sooner terminated. The parties specifically agree that the term of the letting under the Lease as herein amended shall in no event be further extended beyond the period ending at 11:59 o'clock P.M. on April 30, 2004.

2. The date "August 31, 2001" appearing in the thirteenth line of subparagraph (a) and in the fifth line of subparagraph (b) of paragraph 1 of Supplement No. 3 to the Lease shall be and be deemed deleted therefrom and the date "April 30, 2004" shall be and be deemed substituted therefor.

3. Notwithstanding any other provision of the Lease as herein amended, the Lessee shall pay "the second salt usage rental", as that term is defined in subparagraph (b) of paragraph 3 of Supplement No. 3 to the Lease, during the extended term of the letting in accordance with the provisions of this paragraph. The second salt usage rental shall be payable for the period from September 1, 2001 through July 31, 2002 and thereafter shall no longer be payable for any period under the Lease as herein amended. Solely for purposes of the payment of the second salt usage rental for the period from September 1, 2001 through July

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31, 2002 and without affecting any of the obligations of the Lessee with respect to the payment of the second salt usage rental for any period prior to September 1, 2001, the following changes shall be made to subparagraph (b) and subparagraph (c)(2) of paragraph 3 of Supplement No. 3 to the Lease: (i) the phrase "September 1, 2000 and ending August 31, 2001" appearing in the third and fourth lines of subparagraph (b) shall be and be deemed deleted therefrom and the phrase "September 1, 2001 and ending July 31, 2002" shall be and be deemed substituted therefor; (ii) the number and figure "two hundred fifty thousand (250,000)" appearing in the fourth and fifth lines and in the ninth line of subparagraph (b) shall be and be deemed deleted therefrom and the number and figure "two hundred twenty-nine thousand one hundred sixty-seven (229,167)" shall be and be deemed substituted therefor; (iii) the date "September 1, 2000" appearing in the second and seventeenth lines of subparagraph (c)(2) shall be and be deemed deleted therefrom and the date "September 1, 2001" shall be and be deemed substituted therefor; (iv) the date "August 31, 2001" appearing in the fourth line of subparagraph (c)(2) shall be and be deemed deleted therefrom and the date "July 31, 2002" shall be and be deemed substituted therefor; (v) the date "October 31, 2000" appearing in the eighth line of subparagraph (c)(2) shall be and be deemed deleted therefrom and the date "October 31, 2001" shall be and be deemed substituted therefor; (vi) all references to the term "Annual Period" in subparagraph (b) and subparagraph (c)(2) shall be and be deemed to refer to the period commencing on September 1, 2001 and ending on July 31, 2002; and (vii) the term "Lease as herein amended" appearing in the fifth from last line of subparagraph (c)(2) shall be and be deemed deleted therefrom and the term "Annual Period" shall be and be deemed inserted in lieu thereof.

4. (a) The Lessee shall provide security in accordance with the provisions of Standard Endorsement No. L23.2 attached hereto and hereby made a part hereof. Except in the first line of said Standard Endorsement No. L23.2 attached hereto, the words "this Agreement" shall be deemed deleted therefrom and the words "the Lease as herein amended" shall be deemed inserted in lieu thereof.

(b) The Port Authority and the Lessee have heretofore entered into (i) an agreement of lease dated as of April 1, 1993 and bearing Port Authority Lease No. BP-274 covering the letting of premises at the Brooklyn-Port Authority Marine Terminal (which agreement of lease, as the same has been or may be supplemented, amended or extended, is hereinafter called "Lease No. BP-274"), (ii) an agreement of lease dated as of February 18, 1998 and bearing Port Authority Lease No. BP-292 covering the letting of premises at the Brooklyn-Port Authority

Marine Terminal (which agreement of lease, as the same has been or may be supplemented, amended or extended, is hereinafter called "Lease No. BP-292"), (iii) an agreement of lease dated as of July 19, 2000 and bearing Port Authority Lease No. BP-300 covering the letting of premises at the Brooklyn-Port Authority Marine Terminal (which agreement of lease, as the same has been or may be supplemented, amended or extended, is hereinafter called "Lease No. BP-300"), and (iv) an agreement of lease dated as of January 1, 1998 and bearing Port Authority Lease No. LPN-248 covering the letting of premises at Port Newark (which agreement of lease, as the same has been or may be supplemented, amended or extended, is hereinafter called "Lease No. LPN-248"). The Lessee and the Port Authority hereby agree that all sums deposited by the Lessee as security under the Lease as herein amended shall be held and used by the Port Authority as security for the full, faithful and prompt performance of and compliance with, on the part of the Lessee, all of the terms, provisions, covenants and conditions of the Lease as herein amended, Lease No. BP-274, Lease No. BP-292, Lease No. BP-300 and Lease No. LPN-248. All security deposited under the Lease as herein amended shall be considered as if deposited under Lease No. BP-274, Lease No. BP-292, Lease No. BP-300 and Lease No. LPN-248 and no part of the security deposited under the Lease as herein amended shall be repaid until the Lease as herein amended, Lease No. BP-274, Lease No. BP-292, Lease No. BP-300 and Lease No. LPN-248 shall have expired and except in accordance with the provisions of the last of the said agreements to expire. The provisions of Standard Endorsement No. L23.2 annexed to this Agreement shall apply to the Lessee's obligations under the Lease as herein amended and shall be incorporated in Lease No. BP-274, Lease No. BP-292, Lease No. BP-300 and Lease No. LPN-248 as if set forth therein in haec verba.

(c) Notwithstanding any other provision of the Lease as herein amended, the Port Authority shall have the right at any time and from time to time to have the Lessee deposit additional security in the amount of Sixty Thousand Dollars and No Cents ($60,000.00), for a total deposit under this Agreement of Ninety-four Thousand Dollars and No Cents ($94,000.00), in the event that the Port Authority shall determine, which determination shall be within its sole discretion, that the Lessee's financial condition requires said additional deposit. The Lessee shall deposit the aforesaid additional security within ten (10) days of written notice from the Port Authority stating that such deposit is required under the provisions of this subparagraph. The aforesaid additional security shall be part of the security under the Lease as herein amended for all purposes and shall be governed by all of the provisions of the Lease as herein amended, including, without limitation, the provisions of

Standard Endorsement No. L23.2 attached to this Agreement and subparagraph (b) of this paragraph.

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

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

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

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

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

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

ATTEST:

SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

RICHARD M. LARRABEE

(Title) DIRECTOR, PORT COMMERCE DEPT.

(Seal)

ATTEST:

Secretary

AMERICAN STEVEDORING, INC.

By _____

(Title) President

(Corporate Seal)

APPROVED:

FORM TERMS

(a) Upon the execution of this Agreement by the Lessee and delivery thereof to the Port Authority, the Lessee shall deposit with the Port Authority (and shall keep deposited throughout the letting under this Agreement) either the sum of Thirty-four Thousand Dollars and No Cents ($34,000.00) 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 Lessee, all of the terms, provisions, covenants and conditions of this Agreement 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 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. 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 Agreement 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 or 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 the sum specified above. 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 above-mentioned amount, 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 amount above stated, and such additional deposits shall be subject to all the conditions of this Section. After the expiration or earlier termination of the letting under this Agreement 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 Agreement, as this Agreement 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 Agreement 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.

(b) The Lessee may at any time during the term of the letting under this Agreement offer to deliver to the Port Authority, as security for all obligations of the Lessee under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York District, in favor of the Port Authority in the amount of Thirty-four Thousand Dollars and No Cents ($34,000.00). The form and terms of such letter of credit, as well as the institution issuing it, shall be subject

to the prior and continuing approval of the Port Authority. Such letter of credit shall provide that it shall continue throughout the term of the letting under this Agreement and for a period of not less than six (6) months thereafter; such continuance may be by provision for automatic renewal or by substitution of a subsequent satisfactory letter. Upon notice of cancellation of a letter of credit the Lessee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in accordance with paragraph (a) of this Standard Endorsement 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) of this Standard Endorsement. 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 Agreement on the part of the Lessee. Upon acceptance of such letter of credit by the Port Authority, and upon request by the Lessee made thereafter, the Port Authority will return the security deposit, if any, theretofore made under and in accordance with the provisions of paragraph (a) of this Standard Endorsement. 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 Agreement. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Lessee, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to its full amount.

(c) For purposes of the provisions set forth in this Standard Endorsement, the Lessee hereby certifies that its I.R.S. Employer Identification No. is

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

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

On the 7th day of Nov. in the year 2002 before me, the undersigned, a Notary Public in and for said state, personally appeared RICHARD M. LARRABEE DIRECTOR, PORT COMMERCE DEPT., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

MILLIE DOMINGUEZ
Notary Public - State of New York
NO. 01DO6051706
Qualified in Bronx County
My Commission Expires 12/4/02

Millie Dominguez
(notarial seal and stamp)

STATE OF New Jersey)
) ss.
COUNTY OF Essex)

On the 24th day of Oct in the year 2002, before me, the undersigned, a Notary Public in and for said state, personally appeared Keith Calnan, 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.

Michele Leahey
(notarial seal and stamp)

MICHELE LEAHEY
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES APRIL 6, 2005

Port Authority Lease No. BP-286
Supplement No. 7

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of April 24, 2003, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and AMERICAN STEVEDORING, INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of December 10, 1993, the Port Authority and the Lessee entered into an agreement of lease (hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease") covering premises at the Red Hook Container Terminal in the Borough of Brooklyn, County of Kings, City and State of New York; and

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

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

1. In addition to the premises heretofore let to the Lessee under the Lease, the letting as to which shall continue in full force and effect, subject to and in accordance with all the terms, provisions, covenants and conditions of the Lease as amended by this Agreement, the Port Authority hereby lets to the Lessee and the Lessee hires and takes from the Port Authority, the following:

(a) two (2) rail mounted quayside container cranes, model LIEBHERR P150L-Super and having the serial numbers IR1590 and IR1591 respectively (which cranes are hereinafter collectively called the "Liebherr Cranes");

(b) two (2) telescopic spreaders built by Bromma, Inc., Roxboro, North Carolina, USA (sw up to 60 long tons), for handling 20 ft., 40 ft., 45ft., and 2x20 ft. containers with serial numbers 1526 and 1527 (which spreaders are hereinafter called the "Spreaders");

(c) one (1) 60-Ton Hookbeam with serial number HB212 (which Hookbeam is hereinafter called the "Hookbeam"); and

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(d) the spare parts set forth in the schedule attached hereto, hereby made a part hereof and marked "Schedule A" (which spare parts are hereinafter called the "Spare Parts"),

with the aforesaid Liebherr Cranes, Spreaders, Hookbeam and Spare Parts (all of which are hereinafter collectively called the "Additional Crane Premises") to be and become a part of the premises under the Lease at 12:01 o'clock A.M. on April 24, 2003 let to the Lessee, subject to and in accordance with all of the terms, covenants and conditions of the Lease as herein amended, for a term expiring at 11:59 o'clock P.M. on April 30, 2004, unless sooner terminated.

2. The Lessee shall use the Additional Crane Premises solely for the purposes set forth in Section 5 of the Lease as amended by Section 49 of the Lease, and for no other purpose or purposes whatsoever.

3. The Port Authority shall deliver the Additional Crane Premises to the Lessee in their presently existing "as is" condition. The Lessee acknowledges that prior to the execution of this Agreement, it has thoroughly examined and inspected the Additional Crane Premises and has found them in good order and repair and has determined them to be suitable for the Lessee's operations therein under the Lease as herein amended. The Lessee agrees to and shall take the Additional Crane Premises in their "as is" condition, and the Port Authority shall have no obligations under the Lease as herein amended for finishing work or preparation of any portion of the Additional Crane Premises for the Lessee's use.

4. The Lessee acknowledges that it has not relied upon any representation or statement of the Port Authority or its Commissioners, officers, employees or agents as to the suitability of the Additional Crane Premises for the operations permitted therewith by the Lease as herein amended. Without limiting any obligation of the Lessee to commence operations under the Lease as herein amended at the time and in the manner therein stated, the Lessee agrees that the Additional Crane Premises will not be used initially or at any time during the letting thereof under the Lease as herein amended which is in a condition unsafe or improper for the conduct of the Lessee's operations therewith under the Lease as herein amended so that there is possibility of injury or damage to life or property.

5. Without limiting any provision of the Lease as herein amended, the Liebherr Cranes shall each be "a container crane" as set forth in the fifth line of subparagraph (2) of paragraph (a) of Section 4B of the Lease, and the Lessee shall

pay rental with respect to the Liebherr Cranes in accordance with the provisions of said Section 4B.

6. Without limiting any provision of the Lease as herein amended, the Additional Crane Premises shall be deemed to be included in the term "the Cranes", as such term is defined in Section 1 of the Lease, for all purposes of the Lease as herein amended including, without limitation, paragraph (d) of Section 12 of the Lease and paragraph (b) of Section 40 of the Lease.

7. From and after April 24, 2003, the following provision set forth in the sixth through the eighth lines of paragraph (b) of Section 4B of the Lease on page 3e thereof shall be and be deemed deleted therefrom and shall be null and void and of no further force or effect: "*provided, however,* that the equipment rental for any annual period shall not exceed Seven Hundred Fifty Thousand Dollars and No Cents ($750,000.00) per annum." Solely for purposes of the application through April 23, 2003 of the maximum equipment rental provision deleted from the Lease as herein amended by this paragraph, the period commencing on September 1, 2002 and ending on April 23, 2003 shall be treated as an annual period and the maximum equipment rental amount of Seven Hundred Fifty Thousand Dollars and No Cents ($750,000.00) per annum shall be prorated based on the number of days in that short annual period and adjusted to Four Hundred Eighty-two Thousand Eight Hundred Seventy-seven Dollars and No Cents ($482,877.00) for said short annual period.

8. Without limiting the generality of any provision of the Lease as herein amended, the Lessee agrees that with respect to any liability insurance policies required to be maintained by it under the Lease as herein amended, the Port Authority shall be an additional insured for purposes of both premises operations and completed-operations.

9. The Lessee acknowledges and agrees that Schedule A annexed to this Agreement is intended solely as a description of the Spare Parts and nothing set forth in Schedule A shall grant or be deemed to grant to the Lessee any rights in the Spare Parts, and the rights of the Lessee in the Spare Parts shall be those specifically granted in this Agreement.

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

11. The Lessee represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a

commission in connection therewith. The Lessee shall indemnify and save harmless the Port Authority of and from all claims for commission or brokerage made by any and all persons, firms or corporations whatsoever for services in connection with the negotiation or execution of this Agreement.

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

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

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

ATTEST:

SECRETARY

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By _____
RICHARD M. LARRABEE

(Title) DIRECTOR, PORT COMMERCE DEPT.
(Seal)

ATTEST:

Secretary

AMERICAN STEVEDORING, INC.

By _____

(Title) President
(Corporate Seal)

APPROVED:
FORM | TERMS

SCHEDULE A

Date: Revised 7.5.99

LIEBHERR CONTAINER CRANES LTD.

Selected List of Spare Parts
For Crane Type P150L-Super - AMERICAN STEVEDORING, INC.
Offer No. LCC 3144/1

ɔs.:	Description:	Ident No.	Qty. on 1 Crane	Rec. on site:	Delivery Position:	Unit Price U.S. $	Total Price U.S. $
	CRANE TRAVEL						
1.01	Brake Shoe c/w Lining	3231100	16	4	8 Weeks	148	592
1.02	Coupling Inserts	3231113	8 Sets	4 Sets	Ex Works	89	356
1.03	Long Travel Limit Switch	3231114	1	1	Ex Works	1800	1,800
1.04	Anchor Limit Switch	606034101	4	2	Ex Works	131	262
1.05	Flange Lubricating Sticks	861301801	16	8	Ex Works	21	168
1.06	Travel Motor	610453913	8	1	20 Weeks	13860	13,860
1.07	Rail Clamp Cylinder	510338701	2	1	6 Weeks	826	826
1.08	Rail Clamp Drive Motor	5014	2	1	10 Weeks	1,075	1,075
							18,939

LIEBHERR CONTAINER CRANES LTD.

Selected List of Spare Parts
For Crane Type P150L-Super - AMERICAN STEVEDORING, INC.
Offer No. LCC 3144/1

ɔs.:	Description:	Ident No.	Qty. on 1 Crane	Rec. on site:	Delivery Position:	Unit Price U.S. $	Total Price U.S. $
	HOIST						
⁝.01	Brake Shoe c/w Lining	3369285	4	2	8 Weeks	650	1,300
⁝.02	Motor Brushes	3369288	2 Sets	2 Sets	6 Weeks	1531	3,062
⁝.03	Coupling Seal Kit	503178101	2 Sets	1 Set	Ex Works	89	89
⁝.04	Tachometer	4015	2	1	Ex Works	900	900
⁝.05	Brushes for Tacho	4015	2 Sets	2 Sets	Ex Works	66	132
⁝.06	Hoist Motor	4015	2	1	20 Weeks	53,130	53,130
							58,613

LIEBHERR CONTAINER CRANES LTD.

Selected List of Spare Parts
For Crane Type P150L-Super - AMERICAN STEVEDORING, INC.
Offer No. LCC 3144/1

os.:	Description:	Ident No.	Qty. on 1 Crane	Rec. on site:	Delivery Position:	Unit Price U.S. $	Total Price U.S. $
	TROLLEY						
3.01	Brake Shoe c/w Liner	502309401	8 Sets	2 Sets	6 Weeks	520	1,040
3.02	Motor Brushes	3296810	4 Sets	2 Sets	8 Weeks	1,010	2,020
3.03	Coupling Seal Kit	3296815	4 Sets	1 Set	Ex Works	82	82
3.04	Limit Switches 'Assorted'	606047001	10	4	Ex Works	135	540
3.05	Flange Lubricating Sticks	861301801	8	8	Ex Works	21	168
3.06	Trolley Motor	610455013	4	1	20 Weeks	13,440	13,440
							17,290

LIEBHERR CONTAINER CRANES LTD.

Selected List of Spare Parts
For Crane Type P150L-Super - AMERICAN STEVEDORING, INC.
Offer No. LCC 3144/1

os.:	Description:	Ident No.	Qty. on 1 Crane	Rec. on site:	Delivery Position:	Unit Price U.S. $	Total Price U.S. $
	DERRICK						
1.01	Brake Shoe c/w Lining	502304001	2	2	Ex Works	240	480
1.02	Limit Switches 'Assorted'	606047801	10	2	Ex Works	135	270
1.03	Motor Brushes		1 Set	1 Set	6 Weeks	850	850
1.04	Coupling Insert	4015	1 Set	1 Set	4 Weeks	89	89
1.05	Derrick Motor	4015	1	1	20 Weeks	18,200	18,200
							19,889

LIEBHERR CONTAINER CRANES LTD.

Selected List of Spare Parts
For Crane Type P150L-Super - AMERICAN STEVEDORING, INC.
Offer No. LCC 3144/1

os.:	Description:	Ident No.	Qty. on 1 Crane	Rec. on site:	Delivery Position:	Unit Price U.S. $	Total Price U.S. $
	CABLE DRUM						
5.01	Motor Brushes c/w Holders		1 Set	1 Set	8 Weeks	925	925
5.02	Slipring Brush c/w Holders		1 Set	1 Set	6 Weeks	1,150	1,150
							2,075

LIEBHERR CONTAINER CRANES LTD.

Selected List of Spare Parts
For Crane Type P150L-Super - AMERICAN STEVEDORING, INC.
Offer No. LCC 3144/1

os.:	Description:	Ident No.	Qty. on 1 Crane	Rec. on site:	Delivery Position:	Unit Price U.S. $	Total Price U.S. $
	ELECTRICS						
'.01	Thyristor Fuses	4015	24	10	8 Weeks	298	2,980
'.02	Fuses	604100901	100	50	Ex Works	4	200
'.03	Bulbs for Control Panel		20	5	Ex Works	2	10
'.04	Cable Car	540155413	14	2	10 Weeks	840	1,680
'.05	Main Rollers for Cable Car	540151013	56	50	10 Weeks	78	3,900
'.06	Anti-Lift Rollers for Cable Car	540149513	28	20	10 Weeks	106	2,120
'.07	Side Rollers for Cale Car	540149413	56	50	10 Weeks	62	3,100
'.08	Towing Harness	540155913	12	12	10 Weeks	448	5,376
'.09	Towing Harness	540156013	4	4	10 Weeks	616	2,464
'.10	Cable Cleat	4015	64	10	10 Weeks	30	300
	Cabin:						
'.11	Joystick Contron Units	4015	3	3	8 Weeks	2,520	7,560
'.12	Push Button	4015	10	5	2 Weeks	30	150
'.13	Telephone Hand Set	691508613	3	1	Ex Works	210	210
							30,050

LIEBHERR CONTAINER CRANES LTD.

Selected List of Spare Parts
For Crane Type P150L-Super - AMERICAN STEVEDORING, INC.
Offer No. LCC 3144/1

os.:	Description:	Ident No.	Qty. on 1 Crane	Rec. on site:	Delivery Position:	Unit Price U.S. $	Total Price U.S. $
	TRIM & LIST						
3.01	Pump	4015	1	1	6 Weeks	4,110	4,110
3.02	Coupling	4015	1	1	6 Weeks	340	340
3.03	Drive Motor	4015	1	1	6 Weeks	2,115	2,115
3.04	Return Filter Element	4015		2	Ex Stock	570	1,140
3.05	Pressure Filter Element	4015		2	Ex Stock	256	512
3.06	Breather Element	4015		1	Ex Stock	90	90
3.07	Coupling Insert	4015		2	Ex Stock	320	640
							8,947

LIEBHERR CONTAINER CRANES LTD.

Selected List of Spare Parts
For Crane Type P150L-Super - AMERICAN STEVEDORING, INC.
Offer No. LCC 3144/1

os.:	Description:	Ident No.	Qty. on 1 Crane	Rec. on site:	Delivery Position:	Unit Price U.S. $	Total Price U.S. $
)	**PERSONNEL LIFT**						
J.01	Set of Spares (to be selected)	4015	1 Set	1 Set	10 Weeks	1,500	1,500

1500

157,303

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

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

On the 10th day of March in the year 2005, before me, the undersigned, a Notary Public in and for said state, personally appeared RICHARD M. LARRABEE DIRECTOR, PORT COMMERCE DEPT., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

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

STATE OF New Jersey)
) ss.
COUNTY OF Monmouth)

On the 1st day of November in the year 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared Keith A. Catucci, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

Port Authority Lease No. BP-286
Supplement No. 8

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of April 30, 2004, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and AMERICAN STEVEDORING, INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of December 10, 1993, the Port Authority and the Lessee entered into an agreement of lease (hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease") covering premises at the Red Hook Container Terminal in the Borough of Brooklyn, County of Kings, City and State of New York; and

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

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

1. The term of the letting under the Lease of the portion of the premises shown in diagonal crosshatching and diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A-4" (hereinafter called "the Extended Premises") is hereby extended for the period ending at 11:59 o'clock P.M. on March 31, 2007. The parties specifically agree that the term of the letting of the Extended Premises under the Lease as herein amended shall in no event be further extended beyond the period ending at 11:59 o'clock P.M. on March 31, 2007.

2. (a) The term of the letting under the Lease of the portion of the premises shown in diagonal crosshatching and diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A-5" (hereinafter called "the Temporary Premises") is hereby extended for the period ending at 11:59 o'clock P.M. on May 31, 2004, and shall continue from month to month thereafter as a periodical tenancy (except that the final period of such periodical tenancy shall be for a period of fifteen days extending from December 1, 2004 through December 15, 2004), provided, however, that such periodical tenancy shall expire in any event, if not sooner terminated, at 11:59 o'clock P.M. on December 15, 2004, without other, further, or separate

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notice to or from either party to the other. The parties specifically agree that the aforesaid periodical tenancy of the Temporary Premises under the Lease as herein amended shall in no event be further continued beyond the period ending at 11:59 o'clock P.M. on December 15, 2004.

(b) In addition to all other rights under the Lease as herein amended, the Port Authority shall have the right to terminate the letting of the Temporary Premises, without cause, at any time, on thirty (30) days' prior written notice to the Lessee. Termination under the provisions of this paragraph shall have the same effect as if the effective date of termination stated in the notice were the date of expiration of the term of the letting of the Temporary Premises.

3. Without limiting the generality of any provision of the Lease, including without limitation the provisions of Section 5 thereof, the Lessee shall have the right to berth in the berthing area only those seagoing vessels operated by persons, firms or corporations which shall have the prior and continuing consent of the Port Authority, to be granted, withheld, and withdrawn in the sole discretion of the Port Authority. In addition, the Lessee shall not, without the express, prior written consent of the Port Authority, to be granted, withheld, and withdrawn in the sole discretion of the Port Authority, either (a) berth in the berthing area any seagoing vessel carrying or about to carry municipal or commercial solid waste or (b) handle at the premises any municipal or commercial solid waste whether or not housed in cargo containers.

4. The date "April 30, 2004" appearing in the thirteenth line of subparagraph (a) and in the fifth line of subparagraph (b) of paragraph 1 of Supplement No. 3 to the Lease as amended by paragraph 2 of Supplement No. 6 to the Lease shall be and be deemed deleted therefrom and the date "March 31, 2007" shall be and be deemed substituted therefor.

5. (a) Subparagraphs (a) and (c) of paragraph 4 of Supplement No. 6 to the Lease and Standard Endorsement No. L23.2 attached to said Supplement No. 6 shall be and be deemed deleted therefrom and Standard Endorsement No. L23.2A attached to this Agreement and providing for a security deposit in the amount of One Million Dollars and No Cents ($1,000,000.00) shall be and be deemed substituted in lieu of said Standard Endorsement No. L23.2 attached to said Supplement No. 6. The Lessee acknowledges that the security in the amount of Thirty-four Thousand Dollars and No Cents ($34,000.00) required to be deposited under subparagraph (a) of paragraph 4 of Supplement No. 6 to the Lease and Standard

Endorsement No. L23.2 attached to said Supplement No. 6 has not been deposited or otherwise provided by the Lessee to the Port Authority. Except in the first line of said Standard Endorsement No. L23.2A attached hereto, the words "this Agreement" shall be deemed deleted therefrom and the words "the Lease as herein amended" shall be deemed inserted in lieu thereof. Notwithstanding any provision contained in said Standard Endorsement No. L23.2A, and without otherwise limiting the generality thereof, the security to be provided by the Lessee during the extended term of the letting shall be a letter of credit under the provisions of paragraph (b) of said Standard Endorsement No. L23.2A. The provisions of subparagraph (b) of paragraph 4 of Supplement No. 6 to the Lease applying the security deposited under the Lease to certain other agreements of lease between the Port Authority and the Lessee shall apply to the letter of credit deposited by the Lessee pursuant to the provisions of this subparagraph and Standard Endorsement No. L23.2A attached to this Agreement.

(b) The Lessee has heretofore deposited with the Port Authority as security a letter of credit in the amount of Sixteen Thousand Dollars and No Cents ($16,000.00) in accordance with the provisions of Standard Endorsement No. L23.2 attached a certain agreement of lease dated as of April 1, 1993 between the Port Authority and the Lessee and bearing Port Authority Lease No. BP-274 (which agreement of lease, as the same has been amended, supplemented or extended, is hereinafter called "Lease No. BP-274"), as said Standard Endorsement No. L.23.2 annexed to Lease No. BP-274 was amended by paragraph 4 of Supplement No. 1 to Lease No. BP-274 and further amended by paragraph 5 of Supplement No. 2 to Lease No. BP-274, and which paragraph 5 of said Supplement No. 2 made said security deposit of a letter of credit in the amount of Sixteen Thousand Dollars and No Cents ($16,000.00) applicable as security under the Lease. Upon the Lessee's delivery of a letter of credit to the Port Authority in the amount of One Million Dollars and No Cents ($1,000,000.00) in accordance with the provisions of subparagraph (a) of this paragraph and Standard Endorsement No. L23.2A attached to this Agreement, the Port Authority will return to the Lessee the letter of credit in the amount of Sixteen Thousand Dollars and No Cents ($16,000.00) deposited under Lease No. BP-274.

6. Effective from and after May 1, 2004, the phrase "but which are not in excess of one hundred thousand (100,000) qualified containers" shall be and be deemed inserted in the twenty-second line of paragraph (b) of Section 4A of the Lease following the word "amount" appearing as the first word in said twenty-second line. Effective from and after May 1, 2004, the following provision shall be and be deemed added to the end of

paragraph (b) of Section 4A of the Lease following the word "letting" appearing as the sole word in the twenty-fourth line of said paragraph (b):

> ", (iii) the product obtained by multiplying Fifteen Dollars and No Cents ($15.00) by the number of qualified containers which are in excess of one hundred thousand (100,000) qualified containers but which are not in excess of one hundred fifty thousand (150,000) qualified containers loaded onto or discharged from vessels berthing at the premises during each Annual Period during the term of the letting, and (iv) the product obtained by multiplying Ten Dollars and No Cents ($10.00) by the number of qualified containers which are in excess of one hundred fifty thousand (150,000) qualified containers loaded onto or discharged from vessels berthing at the premises during each Annual Period during the term of the letting."

For purposes of computing the usage rental on qualified containers for the short Annual Period commencing on September 1, 2006 and ending on March 31, 2007, the annual exemption amount, and the numbers "one hundred thousand (100,000)" and "one hundred fifty thousand (150,000)" set forth in the immediately above provision, shall each be prorated on a daily basis.

7. From and after the expiration or earlier termination of the periodical tenancy of the Temporary Premises, the Lessee hereby grants to the Port Authority, and to its employees, agents, representatives, contractors, subcontractors and designees, the right to enter the Extended Premises twenty-four (24) hours a day, seven (7) days a week for the purpose of: (a) performing maintenance and repairs (whether ordinary or extraordinary, structural or non-structural) of the wharf structure, fender systems (including any backing logs or bumpers), and standard mooring devices of the portion of the wharf area contiguous to the water area shown in diagonal hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A-6" (which water area is hereinafter called "the Pier 10 South Water Area"), and (b) the dredging of the Pier 10 South Water Area. Nothing set forth in this paragraph shall create or be deemed to create any obligation on the part of the Port Authority to maintain or repair said wharf area or to dredge the Pier 10 South Water Area. Further, nothing set forth in this paragraph shall create or be deemed to create any rights of the Lessee in or to the Pier 10 South Water Area. The Lessee agrees that there shall be no reduction or abatement of any of the

rentals payable under the Lease as herein amended on account of the right of entry granted under this paragraph or any exercise thereof, and such right of entry and exercise thereof shall not constitute an eviction, or constructive eviction of the Lessee.

8. (a) The Port Authority has informed the Lessee of the following:

(1) The Port Authority and the City of New York (collectively with its agencies, hereinafter called "the City") contemplate that Piers 6, 7, 8, 9A, 9B and 10 or any one of them and related space at the Red Hook Container Terminal and at the Brooklyn-Port Authority Marine Terminal will be sold, leased or returned to the City by the Port Authority (which Piers 6, 7, 8, 9A, 9B and 10 and their related space or any one of such piers and its related space are hereinafter individually and collectively called "the Piers" and the sale, lease or return of any one or all of the Piers is hereinafter individually and collectively called "the Pier Transfers") for the development and use by the City for maritime or non-maritime purposes including the possible expansion of a cruise ship terminal (hereinafter called the "Cruise Ship Terminal").

(2) The Port Authority expects that the Pier Transfers will result in significant economic benefits to the Port Authority by means of all or any of the following: (i) revenue received by the Port Authority from the sale of the Piers owned by the Port Authority to the City; (ii) revenue received by the Port Authority from the lease of the Piers owned by the Port Authority to the City; (iii) the reduction or elimination of the Port Authority's operating and capital costs of operating and maintaining the Piers upon their sale, lease or return by the Port Authority to the City; and/or (iv) revenue received by the Port Authority from the operation of the Cruise Ship Terminal in a joint venture with the City.

(3) Time is of the essence for the Port Authority to obtain possession of the Extended Premises from the Lessee on March 31, 2007 and in the condition required under the Lease, since any resulting delay in the delivery of the Piers by the Port Authority to the City at the time and in the condition required by the City for their development and use could result in the Pier Transfers being delayed or partially or totally abandoned.

(b) In the event that the Lessee fails to vacate the Extended Premises and to deliver possession thereof to the Port Authority on March 31, 2007 and in the condition required under the Lease, then, inasmuch as the damage and loss to the Port

Authority will be incapable or very difficult to accurately estimate, in lieu and in liquidation of damages for such breach, the Lessee shall pay to the Port Authority the amount of Sixty-five Thousand Dollars and No Cents ($65,000.00) for each calendar day (Saturdays, Sundays and holidays included) following March 31, 2007 that the Lessee shall fail to vacate the Extended Premises and to deliver possession thereof to the Port Authority and in the condition required under the Lease. Notwithstanding the provisions of the immediately preceding sentence, the Lessee shall not be obligated to pay liquidated damages for any period following March 31, 2007 that it shall fail to vacate the Extended Premises and to deliver possession thereof to the Port Authority and in the condition required under the Lease due to causes or conditions beyond the Lessee's control; provided, that, the Lessee shall be relieved of the obligation to pay liquidated damages only for the period of such failure to so vacate and deliver the Extended Premises that did not result from the failure of the Lessee to use reasonable efforts to anticipate and avoid or reasonable efforts to mitigate such failure to so vacate and deliver the Extended Premises.

(c) The provisions of subparagraph (b) of this paragraph shall apply only if the failure of the Lessee to vacate the Extended Premises and to deliver possession thereof to the Port Authority on March 31, 2007 and in the condition required under the Lease is a contributing factor to any delay in or the partial or total abandonment of the Pier Transfers. In the event that the provisions of subparagraph (b) of this paragraph shall not apply for the reasons set forth in the immediately preceding sentence, the Lessee agrees that the Port Authority shall have all of its rights and remedies under law and in equity to obtain possession of the Extended Premises and to recover damages resulting from or caused by the failure of the Lessee to vacate the Extended Premises and to deliver possession thereof to the Port Authority on March 31, 2007 and in the condition required under the Lease.

(d) In addition to the matters set forth in subparagraph (a) of this paragraph, the Port Authority has informed the Lessee of the following:

(1) The Port Authority and the City contemplate that Pier 11 and related space at the Red Hook Container Terminal, in combination with Pier 12 and related space at the Brooklyn-Port Authority Marine Terminal, will be leased to the City by the Port Authority (which Pier 11 and its related space are hereinafter collectively called "Pier 11") for the development and operation by the City of the Cruise Ship Terminal. Further, the Port Authority believes that the

development and operation of the Cruise Ship Terminal by the City will serve as the basis, framework and incentive to the City to accept the Pier Transfers on or after April 1, 2007.

(2) Time is of the essence for the Port Authority to obtain possession of the Temporary Premises from the Lessee on December 15, 2004 and in the condition required under the Lease, since any resulting delay in the delivery of Pier 11 by the Port Authority to the City at the time and in the condition required by the City for its development and use could result in the development or operation of the Cruise Ship Terminal and the subsequent Pier Transfers being delayed or partially or totally abandoned.

(e) In the event that the Lessee fails to vacate the Temporary Premises and to deliver possession thereof to the Port Authority on December 15, 2004 and in the condition required under the Lease, then, inasmuch as the damage and loss to the Port Authority will be incapable or very difficult to accurately estimate, in lieu and in liquidation of damages for such breach, the Lessee shall pay to the Port Authority the amount of Sixty-five Thousand Dollars and No Cents ($65,000.00) for each calendar day (Saturdays, Sundays and holidays included) following December 15, 2004 that the Lessee shall fail to vacate the Temporary Premises and to deliver possession thereof to the Port Authority and in the condition required under the Lease. Notwithstanding the provisions of the immediately preceding sentence, the Lessee shall not be obligated to pay liquidated damages for any period following December 15, 2004 that it shall fail to vacate the Temporary Premises and to deliver possession thereof to the Port Authority and in the condition required under the Lease due to causes or conditions beyond the Lessee's control; provided, that, the Lessee shall be relieved of the obligation to pay liquidated damages only for the period of such failure to so vacate and deliver the Temporary Premises that did not result from the failure of the Lessee to use reasonable efforts to anticipate and avoid or reasonable efforts to mitigate such failure to so vacate and deliver the Temporary Premises.

(f) The provisions of subparagraph (e) of this paragraph shall apply only if the failure of the Lessee to vacate the Temporary Premises and to deliver possession thereof to the Port Authority on December 15, 2004 and in the condition required under the Lease is a contributing factor to any delay in or the partial or total abandonment of the development or operation of the Cruise Ship Terminal. In the event that the provisions of subparagraph (e) of this paragraph shall not apply for the reasons set forth in the immediately preceding sentence, the Lessee agrees that the Port Authority shall have all of its

rights and remedies under law and in equity to obtain possession of the Temporary Premises and to recover damages resulting from or caused by the failure of the Lessee to vacate the Temporary Premises and to deliver possession thereof to the Port Authority on December 15, 2004 and in the condition required under the Lease.

(g) In the event that the Lease shall be terminated for cause under Section 21 of the Lease entitled Termination, then the provisions of subparagraph (b) of this paragraph as modified by subparagraph (c) of this paragraph and the provisions of subparagraph (e) of this paragraph as modified by subparagraph (f) of this paragraph shall apply as if the effective date of termination under said Section 21 were the expiration date of the Lease; provided, that, the Port Authority shall have provided written notice to the Lessee prior to or contemporaneously with the date of service of any notice of termination upon the Lessee under said Section 21 stating that the provisions of said subparagraphs shall so apply.

(h) Notwithstanding any provision set forth in this paragraph, the Port Authority reserves its full rights and recourse to all actions in law or equity, whether summary or otherwise, to obtain possession of the Extended Premises or the Temporary Premises from the Lessee. Such rights and recourse shall be in addition to any other rights and remedies set forth in this paragraph including, without limitation, the right of the Port Authority to recover liquidated damages.

(i) The Port Authority and the Lessee have heretofore entered into (i) an agreement of lease dated as of April 1, 1993 and bearing Port Authority Lease No. BP-274 covering the letting of premises at the Brooklyn-Port Authority Marine Terminal, and (ii) an agreement of lease dated as of July 19, 2000 and bearing Port Authority Lease No. BP-300 covering the letting of premises at the Brooklyn-Port Authority Marine Terminal. The two leases described in the immediately preceding sentence are hereinafter collectively called "the Other Leases". Further, the Port Authority and the Lessee have entered into agreements extending the term of the letting of each of the Other Leases through March 31, 2007, and such agreements contain the provisions of subparagraphs (a) through (c) and (g) through (h) of this paragraph in substantially identical form. In the event that the Lessee shall be liable for liquidated damages under the provisions of subparagraph (b) of this paragraph and under the provisions of one or both of the Other Leases, the rate of Sixty-five Thousand Dollars and No Cents ($65,000.00) per day for liquidated damages shall not be multiplied or otherwise increased for any day because of the simultaneous application of said rate

under the provisions of subparagraph (b) of this paragraph and the provisions of one or both of the Other Leases, and said rate shall remain at Sixty-five Thousand Dollars and No Cents ($65,000.00) despite its simultaneous application under the provisions of subparagraph (b) of this paragraph and the provisions of one or both of the Other Leases.

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

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

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

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

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

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

ATTEST:

SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

RICHARD M. LARRABEE

(Title) DIRECTOR, PORT COMMERCE DEPT.

(Seal)

ATTEST:

Secretary

AMERICAN STEVEDORING, INC.

By _____

(Title) President

(Corporate Seal)

APPROVED:
FORM TERMS

(a) Upon the execution of this Agreement by the Lessee and delivery thereof to the Port Authority, the Lessee shall deposit with the Port Authority (and shall keep deposited throughout the letting under this Agreement) either the sum of One Million Dollars and No Cents ($1,000,000.00) 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 Lessee, all of the terms, provisions, covenants and conditions of this Agreement 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 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. 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 Agreement 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 or 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 the sum specified above. 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 above-mentioned amount, 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 amount above stated, and such additional deposits shall be subject to all the conditions of this Section. After the expiration or earlier termination of the letting under this Agreement 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 Agreement, as this Agreement 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 Agreement 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.

(b) The Lessee may at any time during the term of the letting under this Agreement offer to deliver to the Port Authority, as security for all obligations of the Lessee under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York District, in favor of the Port Authority in the amount of One Million Dollars and No Cents ($1,000,000.00). The form and terms of such letter of credit, as well as the institution issuing it, shall be subject

to the prior and continuing approval of the Port Authority. Such letter of credit shall provide that it shall continue throughout the term of the letting under this Agreement and for a period of not less than six (6) months thereafter; such continuance may be by provision for automatic renewal or by substitution of a subsequent satisfactory letter. Upon notice of cancellation of a letter of credit the Lessee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in accordance with paragraph (a) of this Standard Endorsement 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) of this Standard Endorsement. 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 Agreement on the part of the Lessee. Upon acceptance of such letter of credit by the Port Authority, and upon request by the Lessee made thereafter, the Port Authority will return the security deposit, if any, theretofore made under and in accordance with the provisions of paragraph (a) of this Standard Endorsement. 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 Agreement. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Lessee, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to its full amount.

(c) For purposes of the provisions set forth in this Standard Endorsement, the Lessee hereby certifies that its I.R.S. Employer Identification No. is

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

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

On the 10th day of March in the year 2005, before me, the undersigned, a Notary Public in and for said state, personally appeared RICHARD M. LARRABEE DIRECTOR, PORT COMMERCE DEPT., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

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

STATE OF New Jersey)
) ss.
COUNTY OF Monmouth)

On the 1st day of November in the year 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared Keith A. Catucci, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

Port Authority Lease No. BP-286
Supplement No. 9

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of January 13, 2005, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and AMERICAN STEVEDORING, INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of December 10, 1993, the Port Authority and the Lessee entered into an agreement of lease (hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease") covering premises at the Red Hook Container Terminal in the Borough of Brooklyn, County of Kings, City and State of New York; and

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

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

1. Standard Endorsement No. L23.2A attached to Supplement No. 8 to the Lease and providing for a security deposit in the amount of One Million Dollars and No Cents ($1,000,000.00) shall be and be deemed deleted therefrom and Standard Endorsement No. L23.2B attached to this Agreement and providing for a security deposit in the amount of Two Million Dollars and No Cents ($2,000,000.00) shall be and be deemed substituted in lieu of said Standard Endorsement No. L23.2A attached to said Supplement No. 8. Notwithstanding any provision contained in said Standard Endorsement No. L23.2B attached hereto, the Lessee specifically agrees that the security to be deposited under said Standard Endorsement No. L23.2B and maintained thereunder throughout the remainder of the term of the letting shall be a letter of credit under the provisions of paragraph (b) of said Standard Endorsement No. L23.2B and not cash or bonds under the provisions of paragraph (a) of said Standard Endorsement No. L23.2B. Except in the first line of said Standard Endorsement No. L23.2B attached hereto, the words "this Agreement" shall be deemed deleted therefrom and the words "the Lease as herein amended" shall be deemed inserted in lieu thereof. The provisions of subparagraph (b) of paragraph 4 of Supplement No. 6 to the Lease applying the security deposited

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under the Lease to certain other agreements of lease between the Port Authority and the Lessee shall apply to the letter of credit deposited by the Lessee pursuant to the provisions of this paragraph and Standard Endorsement No. L23.2B attached to this Agreement.

2. In consideration of the increase in the security deposit pursuant to the provisions of paragraph 1 hereof and Standard Endorsement No. L23.2B attached hereto, and subject to the Lessee's full compliance with said provisions, the Lessee shall be entitled to a credit in the amount of Twenty Thousand Dollars and No Cents ($20,000.00) against the rental payable under the Lease as herein amended during the period commencing on April 1, 2006 and ending on March 31, 2007; provided, however, that the aforesaid rental credit shall be applied in twelve equal installments of One Thousand Six Hundred Sixty-six Dollars and Sixty-seven Cents ($1,666.67) against the twelve installments of rental payable on the first day of each calendar month during said period. Neither the whole nor any part of the rental credit shall be or become or shall constitute a debt due and owing from the Port Authority to the Lessee nor shall said amount be recoverable or applicable in any manner other than as specifically provided for above in this paragraph, including but not limited to a set-off or counterclaim in any action by the Port Authority against the Lessee for rental or other claims.

3. As hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect including, without limitation, the provisions of paragraph 8 of Supplement No. 8 to the Lease.

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

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

6. This Agreement, together with the Lease (to which it is supplementary) constitutes the entire agreement between the

Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of both the Port Authority and the Lessee. The Lessee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in the Lease or in this Agreement.

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

ATTEST:

SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____
RICHARD M. LARRABEE

(Title) DIRECTOR, PORT COMMERCE DEPT.

(Seal)

ATTEST:

Secretary

AMERICAN STEVEDORING, INC.

By _____

(Title) President

(Corporate Seal)

APPROVED:
FORM TERMS

(a) Upon the execution of this Agreement by the Lessee and delivery thereof to the Port Authority, the Lessee shall deposit with the Port Authority (and shall keep deposited throughout the letting under this Agreement) either the sum of Two Million Dollars and No Cents ($2,000,000.00) 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 Lessee, all of the terms, provisions, covenants and conditions of this Agreement 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 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. 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 Agreement 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 or 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 the sum specified above. 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 above-mentioned amount, 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 amount above stated, and such additional deposits shall be subject to all the conditions of this Section. After the expiration or earlier termination of the letting under this Agreement 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 Agreement, as this Agreement 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 Agreement 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.

(b) The Lessee may at any time during the term of the letting under this Agreement offer to deliver to the Port Authority, as security for all obligations of the Lessee under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York District, in favor of the Port Authority in the amount of Two Million Dollars and No Cents ($2,000,000.00). The form and terms of such letter of credit, as well as the institution issuing it, shall be subject

to the prior and continuing approval of the Port Authority. Such letter of credit shall provide that it shall continue throughout the term of the letting under this Agreement and for a period of not less than six (6) months thereafter; such continuance may be by provision for automatic renewal or by substitution of a subsequent satisfactory letter. Upon notice of cancellation of a letter of credit the Lessee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in accordance with paragraph (a) of this Standard Endorsement 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) of this Standard Endorsement. 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 Agreement on the part of the Lessee. Upon acceptance of such letter of credit by the Port Authority, and upon request by the Lessee made thereafter, the Port Authority will return the security deposit, if any, theretofore made under and in accordance with the provisions of paragraph (a) of this Standard Endorsement. 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 Agreement. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Lessee, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to its full amount.

(c) For purposes of the provisions set forth in this Standard Endorsement, the Lessee hereby certifies that its I.R.S. Employer Identification No. is

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

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

On the 10th day of March in the year 2005, before me, the undersigned, a Notary Public in and for said state, personally appeared RICHARD M. LARRABEE DIRECTOR PORT COMMERCE DEPT., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

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

STATE OF New Jersey)
) ss.
COUNTY OF MONMOUTH)

On the 7th day of Feb. in the year 2005, before me, the undersigned, a Notary Public in and for said state, personally appeared Keith A. Catucci, 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)

MLPF-11551.5 Lease No. LPN-248

AGREEMENT

between

THE PORT AUTHORITY

OF NEW YORK AND NEW JERSEY

and

AMERICAN STEVEDORING, INC.

Dated as of January 1, 1998

PORT DEPARTMENT
CONFORMED COPY

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Lease No. LPN-248

THIS AGREEMENT OF LEASE, made as of the 1st day of January, 1998, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority"), a body corporate and politic created by Compact between the States of New Jersey and New York, with the consent of the Congress of the United States of America, and having an office and place of business at One World Trade Center, New York, New York 10048; and AMERICAN STEVEDORING, INC. (hereinafter called the "Lessee"), a corporation organized and existing under the laws of the State of New York and having an office and place of business at 2107 North Fleet Street, Elizabeth, New Jersey 07201, whose representative is: Sabato F. Catucci.

WITNESSETH, THAT:

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

Section 1. Letting

The Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority, at Port Newark (sometimes hereinafter called the "Facility" or the "Marine Terminal"), in the City of Newark, in the County of Essex and the State of New Jersey, the following: the open area shown in stipple, the enclosed space shown in diagonal crosshatching and the water area shown in diagonal hatching, all as so shown on a sketch hereto attached, hereby made a part hereof, and marked "Exhibit A", together with the buildings, structures, fixtures, improvements and other property, if any, owned by the Port Authority located or to be located or constructed therein or thereon, the said open area, enclosed space and water area, buildings, structures, fixtures, improvements and other property of the Port Authority being hereinafter collectively called "the premises", and the water area shown in diagonal hatching being hereinafter sometimes called "the berthing area". The parties agree that the premises constitute non-residential property.

Section 2. Term

The term of the letting under this Agreement (hereinafter called the "Term") shall commence at 12:01 o'clock A.M. on January 1, 1998 (the "Commencement Date") and, unless sooner terminated, shall expire at 11:59 o'clock P.M. on August 31, 2001 (the "Expiration Date").

Section 3. Rental

(a) Except as specifically stated otherwise, for purposes of this Section and for all other purposes under this Agreement the following terms shall have the respective meanings provided below:

(1) "Lease Year" shall mean as the context requires the twelve-month period commencing with the Commencement Date (the "first Lease Year"), and each of the twelve-month periods thereafter occurring during the Term commencing on each anniversary of the Commencement Date occurring during the Term.

(2) "Non-container cargo" shall mean cargo not in cargo containers loaded onto or discharged from vessels berthing at the premises.

(3) "Revenue ton" shall mean a weight of 2,240 pounds or a measurement of 40 cubic feet, at the Port Authority's discretion.

(4) For purposes of the rental payable under this Section, "qualified containers" shall mean cargo containers loaded onto or discharged from vessels berthing at the premises (whether or not stuffed or stripped at the premises and whether or not so loaded or discharged by means of container cranes), including without limitation any specialized cargo containers; but shall not mean containers arriving on shipboard and departing on the same ship and the same voyage if such containers are merely unloaded from the ship at the premises and reloaded in the course of a restowing operation or are merely moved from one location to another location on the same ship in the course of a shifting operation. Containers discharged from vessels berthing at the premises and loaded onto vessels berthing at the premises in the course of a transshipment operation shall be deemed to be a single operation for purposes of the computation of the rental payable under this Section.

(5) "Exempt cargo" shall mean the following items when handled in break bulk at the premises: steel, steel products, and cargoes which are included within the definition of "excepted cargoes" in that certain agreement made by and between New York Shipping Association, Inc. and International Longshoremen's Association, AFL-CIO dated the 25th day of November, 1987 and denominated the "NYSA-ILA Assessment Agreement".

(b) Minimum Annual Rental

(1) The Lessee shall pay to the Port Authority each Lease Year a minimum rental (hereinafter called the "Minimum Annual Rental") during the Term as follows:

(i) The Minimum Annual Rental for the first Lease Year shall be Two Hundred Thousand Dollars and No Cents ($200,000.00);

(ii) The Minimum Annual Rental for the second Lease Year shall be the greater of (x) Two Hundred Fifty Thousand Dollars and No Cents ($250,000.00) or (y) the total revenue paid or payable to the Port Authority by the Lessee from operations at the premises during the first Lease Year in excess of One Hundred Thousand Dollars and No Cents ($100,000.00);

(iii) The Minimum Annual Rental for the third Lease Year shall be the greater of (x) Three Hundred Thousand Dollars and No Cents ($300,000.00) or (y) the total revenue paid or payable to the Port Authority by the Lessee from operations at the premises during the second Lease Year in excess of One Hundred Thousand Dollars and No Cents ($100,000.00); and

(iv) The Minimum Annual Rental for the fourth Lease Year shall be the greater of (x) Three Hundred Fifty Thousand Dollars and No Cents ($350,000.00) or (y) the total revenue paid or payable to the Port Authority by the Lessee from the operations at the premises during the third Lease Year in excess of One Hundred Thousand Dollars and No Cents ($100,000.00).

(2) The Minimum Annual Rental shall be payable in advance in monthly installments each equal to one-twelfth (1/12) of the applicable Minimum Annual Rental set forth in subparagraph (1) above on the Commencement Date and on the first day of each calendar month thereafter.

(3) If the last day of the Term is other than the last day of a calendar month, the applicable amount of Minimum Annual Rental for the portion of the month in which the Term ends shall be the amount of the applicable monthly installment of Minimum Annual Rental set forth in subparagraph (1) above, multiplied by a fraction of which the numerator shall be the number of days from the first day of the month in which the Term ends to the last day of the Term and the denominator shall be the full number of days in that calendar month.

(c) Additional Usage Rental

(1) In addition to the Minimum Annual Rental, during the Term the Lessee shall pay to the Port Authority each Lease Year (i) the dockage charge for vessels not primarily engaged in the transport of bananas berthing at the premises as set forth in FMC Schedule PA-10 (or any successor thereof) as such charge may

be amended from time to time during the Term; and (ii) an additional usage rental (hereinafter called the "Additional Usage Rental") equal to the amount, if any, by which the sum of the cumulative Monthly Throughput Usage Fee (as hereinafter defined in subparagraph (3) below) for that Lease Year exceeds the applicable Minimum Annual Rental. The computation of the Additional Usage Rental for each Lease Year shall be individual to such Lease Year and without relation to any other Lease year.

(2) On the 20th day of the first calendar month following the month in which the Commencement Date occurs, and on the 20th day of each calendar month thereafter during the Term, including the month commencing after the end of each Lease Year and the month commencing after the expiration of the Term, the Lessee shall render to the Port Authority a statement certified by a responsible fiscal officer of the Lessee setting forth the total number of qualified containers loaded onto or discharged from vessels berthing at the premises during the preceding month and the cumulative number of qualified containers loaded onto or discharged from vessels berthing at the premises from the first day of the Lease Year to which the statement applies through the last day of the preceding month, and the total number of revenue tons of non-container cargo loaded onto or discharged from vessels berthing at the premises during the preceding month and the cumulative number of revenue tons of non-container cargo loaded onto or discharged from vessels berthing at the premises from the first day of the Lease Year to which the statement applies through the last day of the preceding month. Each monthly statement shall be accompanied by a monthly vessel activity report to substantiate the statement, setting forth the total number of qualified containers loaded onto or discharged from vessels berthing at the premises during the month to which the report applies and the total number of revenue tons of non-container cargo loaded onto or discharged from vessels berthing at the premises during the month to which the report applies.

(3) The aforesaid monthly statement shall also set forth the computation of (a) the throughput usage fee ("Monthly Throughput Usage Fee") for the preceding month which is the sum of (i) the product obtained by multiplying One Dollar and Fifty Cents ($1.50) by the total number of revenue tons, as defined in this Section, of non-bananas cargo (including qualified containers) loaded onto or discharged from vessels berthing at the premises, and/or by the total revenue tons of cargo stuffed or stripped but not to be loaded onto or discharged from vessels berthing at the premises during the month to which the statement applies; (ii) the total of (x) the product obtained by multiplying Two Cents ($0.02) by the total number of boxes of bananas (up to six million (6,000,000) boxes of non-containerized bananas) loaded onto or discharged from vessels berthing at the premises during the month to which the statement applies and (y) the product obtained by

multiplying Two and a Quarter Cents ($0.0225) by the total number of boxes of bananas which are in excess of six million (6,000,000) boxes of non-containerized bananas loaded onto or discharged from vessels berthing at the premises during the month to which the statement applies; and (iii) the product obtained by multiplying Seventy Cents ($0.70) by the number of revenue tons, as defined in this Section, of exempt cargo loaded onto or discharged from vessels berthing at the premises during the month to which the statement applies, and (b) the cumulative Monthly Throughput Usage Fee from the first day of the then current Lease Year through the last day of the preceding month to which the statement applies.

(4) Whenever any monthly statement shows that the sum of the cumulative Monthly Throughput Usage Fee is in excess of the Minimum Annual Rental for that Lease Year (the "Monthly Excess Amount"), the Lessee shall pay to the Port Authority at the time of rendering the statement an amount equal to the Monthly Excess Amount, and thereafter on the 20th day of each month during that Lease Year, and the month following the end of the Lease Year, including the month following the last day of the Term, pay a sum equal to the appropriate Monthly Excess Amount for each subsequent month during that Lease Year.

(d) Upon any termination of the letting (even if stated to have the same effect as expiration), the Lessee shall within twenty (20) days after the effective date of termination render to the Port Authority a statement certified by a responsible fiscal officer of the Lessee setting forth the information and the final calculation of additional throughput rental required to be set forth in the statement rendered by the Lessee on the twentieth (20th) day of the month following the end of each Lease Year pursuant to the provisions of paragraph (c) of this Section, except that (i) the statement shall set forth the total number of qualified containers loaded onto or discharged from vessels berthing at the premises during the month in which the effective date of termination occurred and the cumulative number of qualified containers loaded onto or discharged from vessels berthing at the premises from the date of the commencement of the Lease Year in which the effective date of termination occurred through the effective date of termination and the total number of revenue tons of non-container cargo loaded onto or discharged from vessels berthing at the premises during the month in which the effective date of termination occurred and the total number of revenue tons of non-container cargo loaded onto or discharged from vessels berthing at the premises from the date of the commencement of the Lease Year in which the effective date of termination occurred through the effective date of termination, and (ii) the final calculation of the throughput rental shall be made for the period

from the first day of the Lease Year in which the effective date of termination shall occur through the effective date of termination. Any amount of the throughput rental determined to be owed to the Port Authority pursuant to such final calculation shall be paid by the Lessee at the time of rendering the statement.

Section 4. Rights of User

(a) The Lessee shall use the premises for the following purposes only, and for no other purpose whatsoever: (i) the loading and unloading of bananas, qualified containers, breakbulk cargo, ships' stores, supplies and gear on or from seagoing vessels and other craft permitted to be berthed in the berthing area; (ii) the receipt, handling, and storage incidental to the transportation of cargo (whether or not in cargo containers) transported or to be transported by seagoing vessels permitted to be berthed in the berthing area, and of ships' stores, supplies and gear for such vessels; (iii) the parking of motor vehicles and of trailers and semi-trailers owned or operated by the Lessee or by the employees of the Lessee or by persons doing business with it at the premises for the purposes set forth in this Section; (iv) the storage and repair of cargo containers, other cargo-handling equipment, and necessary amounts of dunnage used in the operations of the Lessee under this Agreement; and (v) the stuffing and stripping of containers at the premises. Notwithstanding the foregoing, for the purposes of this Agreement, the term "cargo" shall not be deemed to include bulk cargo.

(b) The Lessee shall have the right to berth in the berthing area seagoing vessels owned or leased by the Lessee and seagoing vessels for which the Lessee acts as stevedore or terminal operator, and operated by persons, firms or corporations which shall have the prior and continuing consent of the Port Authority, to be granted, withheld, and withdrawn in the sole discretion of the Port Authority, carrying or about to carry general cargo, and tugboats, barges, lighters and other harbor craft serving such seagoing vessels, for loading or discharge of cargo, ships' stores, supplies and gear. Such loading and discharge from seagoing vessels may be accomplished in the berthing area through the medium of barges, lighters, and other harbor craft moored inshore or offshore. The Lessee shall have the exclusive right to collect dockage and wharf usage charges from seagoing vessels and all other craft, subject to all the terms and provisions of this Agreement. The Lessee shall not use or permit the use of the berthing area except as hereinabove provided.

Section 5. Environmental Responsibilities

(a) Definitions

(i) "Environmental Damages" shall mean any one or more of the following: (i) the presence on, about or under the premises of any Hazardous Substance (as hereinafter defined) whether such presence occurred prior to or during the Term or resulted from any act or omission of the Lessee or others, and/or (ii) the disposal, release or threatened release of any Hazardous Substance from the premises, and/or (iii) the presence of any Hazardous Substance on, about or under other property at the Facility as a result of the Lessee's use and occupancy of the premises or a migration of a Hazardous Substance from the premises, and/or (iv) any personal injury, including wrongful death, or property damage arising out of or related to any such Hazardous Substance, and/or (v) the violation of any Environmental Requirements (as hereinafter defined) pertaining to any such Hazardous Substance, the premises and/or the activities thereon.

(ii) "Environmental Requirements" and "Environmental Requirement" shall mean all applicable present and future laws, statutes, enactments, resolutions, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, requirements and similar items of all Governmental Authorities (as hereinafter defined) and all applicable judicial, administrative and regulatory decrees, judgments and orders relating to the protection of human health or the environment, the foregoing to include, without limitation:

(1) All requirements pertaining to reporting, licensing, permitting, investigation and remediation of the 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; and

(2) All requirements pertaining to the protection of the health and safety of employees or the public.

(iii) "Hazardous Substances" and "Hazardous Substance" shall mean and include, without limitation, 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 byphenyls ("PCBs"), chemicals known to cause cancer or reproductive toxicity, petroleum and petroleum products and other substances which have been or in the future shall be declared to be hazardous or toxic, or the removal of which have been or in the future shall be required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which have been or in the future shall be restricted,

prohibited, regulated or penalized by any Environmental Requirement.

(iv) "Governmental Authority" and "Governmental Authorities" shall mean all governmental agencies, authorities, departments, commissions, boards, bureaus or instrumentalities of the United States, states and political subdivisions thereof, except that it shall not be construed to include The Port Authority of New York and New Jersey, the lessor under this Agreement.

(b) Without limiting the generality of any of the other terms and provisions hereof, the Lessee hereby expressly agrees to assume all responsibility for, and any and all risks of any kind whatsoever caused by, arising out of or in connection with, the conditions of the premises whether any such conditions existed prior to, on or after the effective date of the letting of the premises hereunder, including without limitation all Environmental Requirements and all Environmental Damages and, except for Environmental Damages arising from the sole acts of the Port Authority, the Lessee shall indemnify, hold harmless and reimburse the Port Authority, its Commissioners, officers, agents and employees from and against all such risks and responsibilities and all Environmental Damages and Environmental Requirements. If so directed, the Lessee shall at its own expense defend any suit based upon the foregoing, and in handling such it shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.

(c) In addition to and without limiting the generality of the obligations of the Lessee set forth above and elsewhere in this Agreement, the Lessee shall at its sole cost and expense and in accordance with and subject to the provisions of Section 20 hereof, upon notice from the Port Authority, promptly take all actions to completely remove and remediate all Hazardous Substances which result from the Lessee's use and occupancy of the premises and all other Hazardous Substances on, about or under the premises or which have migrated from the premises to any adjoining property, which any federal, state or local governmental agency or political subdivision or any Environmental Requirements or any violation thereof require to be remediated, or which are necessary to mitigate Environmental Damages, including, but not limited to, the investigation of the environmental condition of the area to be remediated, the preparation of feasibility studies, reports and remedial plans, and the performance of any cleanup, remediation, containment, operation, maintenance, monitoring or restoration work; the standard for any of the foregoing to be that which

requires the lowest level of a Hazardous Substance. Any such actions shall be performed in a good, safe and workmanlike manner and shall minimize any impact on activities off the premises. The Lessee shall promptly provide to the Port Authority all copies of test results and reports generated in connection with such actions. Promptly upon completion of such investigation and remediation, the Lessee shall seal or cap all monitoring wells and test holes, remove all associated equipment and restore the remediated property.

(d) Without limiting any other of the Lessee's obligations under this Agreement, the Lessee shall provide the Manager of the Facility at the cost and expense of the Lessee with such information, documentation, records, correspondence, notices, reports, test results, and certifications and any other information as the Port Authority shall request in connection with any Environmental Requirements or Environmental Damages, and as may be necessary for the preparation of any application, registration, statement, certification, notice, non-applicability affidavit, communication, negative declaration, clean-up plan or other information, documentation or communication required by the Environmental Requirements and the Lessee shall promptly swear to, sign or otherwise fully execute the same. The Lessee agrees that any of the foregoing may be filed by the Port Authority with the appropriate governmental body on behalf of the Lessee and at the Lessee's cost and expense. Further, the Lessee agrees unless directed otherwise by the Port Authority, to provide the Manager of the Facility with copies of all information, documentation, records, correspondence, notices, certifications, reports, test results and all other submissions provided by the Lessee to a governmental body at the same time such are provided to a governmental body and by a governmental body to the Lessee at the time the same are provided to the Lessee with respect to any Environmental Requirements.

(e) Without limiting the generality of any other term or provision of this Agreement, the obligations of the Lessee pursuant to this Section shall survive the expiration or termination of this Agreement.

Section 6. Ingress and Egress

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

The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way or any other area at, in or near the Facility presently or hereafter used as such, so long as a means of ingress and egress as provided above remains available to the Lessee. The Lessee hereby releases and discharges the Port Authority and 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 way or other area whether within or outside the Facility. The Lessee shall not do or permit anything to be done which will interfere with the free access and passage of others to space adjacent to the premises or in, along, across or through any streets, ways and walks near the premises.

Section 7. Governmental and Other Requirements

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

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

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

Section 8. Rules and Regulations

(a) The Lessee covenants and agrees to observe and obey (and to compel its officers, employees and others on the premises with its consent to observe and obey) the Rules and Regulations of the Port Authority now in effect, and such further reasonable rules and regulations (including amendments and supplements thereto) for the government of the conduct and operations of the Lessee as may from time to time during the letting be promulgated by the Port Authority for reasons of safety, health, or preservation of property, or for the maintenance of the good and orderly appearance of the premises, or for the safe or efficient operation of the

Facility. The Port Authority agrees that, except in cases of emergency, it will give notice to the Lessee of every such further rule or regulation at least five (5) days before the Lessee shall be required to comply therewith.

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

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

Section 9. Method of Operation

(a) In the performance of its obligations hereunder and in the use of the premises, the Lessee shall conduct its operations in an orderly and proper manner, so as not to annoy, disturb or be offensive to others near the premises or at the Facility, and within twenty-four (24) hours the Lessee shall remove the cause of any objection made by the Port Authority relative to the demeanor, conduct or appearance of any of the employees of the Lessee or of any others on the premises with the consent of the Lessee.

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

(c) The Lessee shall not do or permit to be done anything which may interfere with the effectiveness or

accessibility of the utility, mechanical, electrical and other systems installed or located anywhere at the Facility.

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

(e) The Lessee shall take all reasonable measures to eliminate vibrations tending to damage the premises or the Facility or any part thereof.

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

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

(h) The Lessee shall not overload any floor, roof, land surface, bulkhead, pavement, landing, pier or wharf at the Facility and shall repair, replace or rebuild any such, including but not limited to supporting members, damaged by overloading.

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

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

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

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

(l) The Lessee shall promptly raise and remove or cause to be raised and removed any and all objects of any kind, including vessels or other floating structures and equipment (whether or not intended to be floating), owned or operated by the Lessee, or by a corporation, company or other organization or person associated, affiliated or connected with the Lessee or for which the Lessee acts as agent, stevedore or terminal operator, (or of others going to or from the premises on business with the Lessee) which shall have sunk, settled or become partially or wholly submerged at the Facility.

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

Section 10. Signs

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

(b) Upon demand by the Port Authority, the Lessee shall remove, obliterate, or paint out any and all advertising, signs, posters, and similar devices placed by the Lessee on the premises

or elsewhere on the Facility and in connection therewith at the expiration or earlier termination of the letting, shall restore the premises and the Facility to the condition thereof prior to the placement of such advertising, sign, poster or device. In the event of a failure on the part of the Lessee so to remove, obliterate or paint out each and every such piece of advertising, sign, poster or device and so to restore the premises and the Facility, the Port Authority may perform the necessary work and the Lessee shall pay the costs thereof to the Port Authority on demand.

Section 11. Indemnity and Liability Insurance

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

(b) If so directed by the Port Authority, the Lessee shall at its own expense defend any suit based upon any such claim or demand (even if such suit, claim or demand is groundless, false or fraudulent) in which event 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 its provisions of any statutes respecting suits against the Port Authority

(c) The Lessee, in its own name as assured, shall maintain and pay the premiums on the following described policies of liability insurance:

(i) Commercial General Liability Insurance including but not limited to coverage for Premises-Operations, which coverage shall not exclude claims arising out of or in connection with operations conducted within fifty feet of railroad property, with a minimum combined single

limit coverage for bodily injury and property damage of $5,000,000 per occurrence. If the Lessee's operations entail the ownership, maintenance, operation, or use of any watercraft, whether owned, non-owned, or hired, the Lessee shall have any exclusion for such watercraft deleted or shall purchase equivalent coverage under a policy of Protection and Indemnity Insurance and shall provide the Port Authority with a certificate of insurance evidencing such coverage.

(ii) Commercial Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with its operations hereunder with a minimum combined single limit coverage for bodily injury and property damage of $2,000,000 per occurrence.

(iii) Workers' Compensation and Employers' Liability Insurance in accordance with the requirements of law. The Workers' Compensation Policy shall be specially endorsed to include coverage afforded by (aa) the U.S. Longshoremen's and Harbor Workers' Compensation Act and Coverage B - "Jones Act", maritime (including coverage for Masters or Members of the Crew of Vessels) and (bb) Coverage - B under the Federal Employers' Liability Act.

(d) With the exception of the Workers' Compensation and Employers' Liability Insurance Policy, each policy of insurance described in paragraph (c) of this Section shall include the Port Authority as an additional insured and each such policy shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority. Each such policy shall contain a contractual liability endorsement covering the indemnity obligations of the Lessee under this Section and Section 13 and such policies shall not contain any care, custody or control exclusions. Such insurance shall also contain an endorsement providing that the protection afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third party shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority and against the Port Authority by the Lessee, but said endorsement shall not limit, vary, change or affect the protections afforded the Port Authority as an additional insured.

(e) As to insurance of any type whatsoever required or permitted by any provision of this Agreement, a certified copy of each of the policies or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority

within fifteen (15) days after the Commencement Date. In the event any binder is delivered it shall be replaced with due diligence by a certified copy of the policy or by a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written advance notice thereof to the Port Authority. A binder evidencing each renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the letting hereunder, and a certificate or a certified copy of each such renewal policy shall be delivered to the Port Authority with due diligence. If at any time any policy shall be or become unsatisfactory to the Port Authority as to form or substance or minimum limits, or if any carrier issuing any one or more such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain one or more new and satisfactory policies in replacement.

Section 12. Maintenance and Repair

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

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

(c) Subject to the provisions of paragraph (f) of this Section and Section 13 of this Agreement, throughout the Term, the Lessee shall assume the entire responsibility for, and shall relieve the Port Authority from all responsibility from, all care, maintenance, repair and rebuilding whatsoever in the premises, whether such care, maintenance, repair, or rebuilding be ordinary or extraordinary, partial or entire, inside or outside, foreseen or unforseen, structural or otherwise; and without limiting the generality of the foregoing the Lessee shall maintain and make repairs and replacements, structural or otherwise to all improvements located on the premises and all other fixtures, machinery, or equipment now or hereafter belonging to or connected with said premises or the Lessee's operations being conducted thereon. The Lessee shall maintain all such improvements, fixtures, machinery and equipment at all times in good condition, and shall perform all necessary preventive maintenance thereto so that at the expiration or termination of the letting and all times during the letting, the same (or a reconstruction of all or any part thereof) will be in as good condition as at the commencement

thereof (or, in the case of improvements made during the letting hereunder, in as good condition as at the time of the installation or construction thereof), except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the buildings or other structures on the premises or adversely affect the efficient or the proper utilization of any part of the premises. The Lessee shall also make frequent periodic inspections of the premises and subject to Sections 13 and 16 of this Agreement shall make all repairs and replacements, and do all rebuilding, inside and outside, ordinary and extraordinary, partial and entire, foreseen and unforeseen, structural or otherwise, regardless of the cause of the condition requiring such repairs, rebuilding or replacements, which repairs, rebuilding and replacements by the Lessee shall be in quality and class not inferior to the original in materials and workmanship.

(d) Without limiting the obligations of the Lessee stated elsewhere in this Agreement, the Lessee shall be solely responsible to the Port Authority for loss or theft of or damage to any and all personal property, equipment and fixtures belonging to the Port Authority or for which it is responsible, located or to be located in or on the premises and shall promptly replace or repair the same within twenty (20) days after such loss, theft or damage; and the Lessee shall yield and deliver the same or replacements thereof to the Port Authority at the expiration or earlier termination of the letting under this Agreement in the same condition as at the commencement of the letting, reasonable wear not materially affecting the efficient use and functioning of the same excepted.

(e) Except under circumstances as to which paragraph (b) of this Section applies, upon receipt of notice that repair or replacement of such of the following as are located in or are a part of the premises is required: (1) the structure of the wharf, including wharf decking and wharf; (2) standard mooring devices; (3) underground sanitary and water lines leading to the buildings on the premises and underground storm drainage systems; (4) the ship-related fender system; and (5) sprinkler systems and paving the Port Authority will make such repairs and replacements to the extent necessary to keep such part of the premises in a reasonably good condition for the operations of the Lessee hereunder, but the Port Authority shall not be obligated to make any repairs or replacements to bring the premises to a better condition than that existing at the commencement of the letting. The Port Authority's responsibilities under this paragraph shall be limited to bearing the expense of repair or replacement, and without limiting the foregoing the Port Authority shall have no responsibility with respect to any repairs or replacements which are the obligation of the Lessee under any other provision of this Agreement. The Port Authority shall have no responsibility with respect to any repairs or replacements which are required because of any casualty whether or not insured or

insurable, except as expressly provided in Section 13 of this Agreement. If the Port Authority shall fail, after a reasonable period of time to perform its repair and replacement obligations under this paragraph, the Lessee, as its sole remedy, shall perform the work, and the Port Authority shall on demand pay the Lessee its actual certified cash expenditures to third parties therefor, or, at the option of the Port Authority, shall extend to the Lessee a credit against its rental obligations under this Agreement in an amount equal to such expenditures. Furthermore, prior to the commencement by the Port Authority of any work set forth in the Lessee's notice to the Port Authority, the Lessee shall take all precautions necessary to protect persons or property at the Facility, including the immediate performance by the Lessee of any work required to correct conditions which involve danger to persons or property, and the Port Authority will reimburse the Lessee for such work as provided in this paragraph. Without limiting any term or provision of this Agreement, the Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents, and representatives, from and against all claims and demands, including but not limited to claims and demands for death, claims and demands for personal injuries, and claims and demands for property damages, of any third persons whatsoever, including, but not limited to, the Lessee's officers, employees, agents, and representatives which may arise from the condition of the premises or any part thereof, or from the failure of the Lessee to notify the Port Authority of conditions requiring repair or replacement, or from the failure of the Lessee to make timely corrections of dangerous or potentially dangerous conditions in or on the premises. Except as set forth above, the Lessee hereby releases and discharges the Port Authority, its Commissioners, officers, employees, agents, and representatives from any liability for damages to the Lessee, consequential, or otherwise, in connection with any of the provisions of this paragraph concerning repairs or replacements to any portion of the premises, including without limitation thereto any failure on the part of the Port Authority for any reason whatsoever to make any repair or replacement, and including without limitation thereto any act or omission of the Port Authority, its officers, agents, employees, contractors or their employees, connected with the performance of such repairs or replacements.

(f) The obligation of the Lessee as set forth in paragraphs (b) and (c) of this Section in the event of damage or destruction covered by any contract of insurance under which the Port Authority is the insured is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that if at any time because of this release the insurance carrier of any policy covering the premises or any part thereof shall increase the premiums otherwise payable for fire, extended coverage or rental coverage applicable to the premises the Lessee shall pay to the

Port Authority an amount equivalent to such increase or increases on demand; and provided, further, that if at any time this release shall invalidate any such policy of insurance or reduce, limit, or void the rights of the Port Authority thereunder, or if because of this release, any such insurance carrier shall cancel such endorsement or refuse to renew the same or shall take any other action to alter, decrease or diminish the benefits of the Port Authority under the policy, then the release shall be void and of no effect.

Section 13. Casualty

(a) In the event that, as a result of a casualty insured against in favor of the Port Authority under the standard form of fire insurance policy and extended coverage endorsement, or under a policy of pier or wharf insurance, carried by it on (1) the wharf, including wharf decking and wharf foundation piles, (2) underground sanitary and water lines leading to the buildings on the premises or underground storm drainage systems or (3) the ship-related fender system, the same is damaged (without the fault of the Lessee, its officers, employees, or others on or at the premises with its consent) so as to render it untenantable for the purposes set forth in Section 4 hereof in whole or substantial part, then

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

(2) if, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, then the Port Authority shall have options: (i) to proceed with due diligence to repair or to rebuild as necessary; or (ii) to cancel this Agreement and terminate the letting as to the entire premises.

(b) "Substantial part" as applied to the wharf shall mean for the purpose of this Section at least fifty per cent (50%) of the usable wharf area.

The Port Authority shall not be obligated to obtain or maintain in force any insurance referred to in this Section, and, furthermore, if any such insurance is maintained and if any damage described in this paragraph (a) shall have been caused or contributed to by the fault of the Lessee, its officers, employees, or others on or at the premises with the Lessee's consent, then, notwithstanding the foregoing, the Port Authority shall have no obligation to repair such damage unless the proceeds of insurance covering such damage actually paid to the Port Authority by the insurance company are

at least equal in amount to the Port Authority's estimate of the cost of such repairs. Nothing herein shall be construed to imply as an obligation on the Port Authority to carry any such insurance. The Port Authority will notify the Lessee if the Port Authority cancels any fire, extended coverage, all-risk, or pier or wharf insurance, or if it does not renew a policy of such insurance, provided such insurance is in effect on the Commencement Date hereunder.

(c) The Port Authority and the Lessee hereby stipulate that neither the provisions of Titles 46:8-6 and 46:8-7 of the Revised Statutes of New Jersey nor those of any other similar statute shall extend or apply to this Agreement.

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

(e) In the event that as a result of a casualty, whether or not insured or insurable, any portion of the premises other than (1) the wharf, including wharf decking and wharf foundation piles, (2) underground sanitary and water lines leading to the buildings on the premises or underground storm drainage systems or (3) the ship-related fender system are damaged the Lessee shall rebuild the same with due diligence. With respect to all portions of the premises other than (1) the wharf, including wharf decking and wharf foundation piles, (2) underground sanitary and water lines leading to the buildings on the premises or underground storm drainage systems or (3) the ship-related fender system, the Lessee shall secure and maintain in its own name as assured and shall pay the premiums on the following policy of insurance in the limit set forth below, which policy shall be effective during the term of the letting under this Agreement:

(1) All risk property damage insurance covering the full replacement cost of any property owned, leased, or within the care, custody or control of the Lessee and now or in the future located on or constituting a part of the premises leased to the Lessee. Full replacement cost shall be determined by the Port Authority. No omission on the part of the Port Authority to make such determination shall relieve the Lessee of its obligations to maintain the appropriate insurance under this paragraph. Such insurance shall cover and insure against such hazards and risks as at least would be insured against under the Standard Form of Fire Insurance

policy in the State of New Jersey, or any successor thereto, and the broadest form of extended coverage endorsement prescribed as of the effective date of said insurance by the rating organization having jurisdiction, including without limitation hazards and risks of flood, earthquake, windstorm, cyclone, tornado, hail, explosion, riot, civil commotion, aircraft, vehicles and smoke, and, if the Port Authority so requests, also covering nuclear property losses and contamination and boiler and machinery hazards and risks (if said coverage regarding nuclear property losses and contamination is or becomes available).

(2) Unless otherwise directed by the Port Authority, the property damage insurance policy required by this paragraph shall name the Port Authority and the Lessee (with insurance clauses consistent with the provisions of this Agreement) as the insureds, as their respective interests may appear, and shall provide that loss, if any, shall be adjusted with and payable to the Port Authority. As to any insurance required by this paragraph, a certificate of insurance, or binders, shall be delivered by the Lessee to the Port Authority on or before the Commencement Date. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certificate of insurance. Each such policy shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving at least thirty (30) days' written advance notice thereto to the Port Authority and an endorsement to the effect that the insurance as to the interest of the Port Authority shall not be invalidated by any act or negligence of the Lessee or any other insured. Each policy of insurance shall have attached thereto an endorsement that the Port Authority will be given at least thirty (30) days' prior notice of any material change in the policy. A certificate of insurance with respect to a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the letting hereof. If at any time the policy required by this paragraph shall be or become unsatisfactory to the Port Authority as to form or substance, or if the carrier issuing such policy shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new and satisfactory policy in replacement.

The proceeds of insurance from coverages secured in accordance with this paragraph shall be made available to the Lessee against the cost of such rebuilding. The Lessee shall not be entitled to any abatement of the rentals payable hereunder at any time by reason of such casualty.

(e) In the event of damage to or a partial or total destruction of the premises, the Lessee shall within thirty (30) days after the occurrence commence to remove from the premises or from the portion thereof destroyed, all damaged property (and all debris thereof) including damaged buildings and structures, and all damaged property belonging to the Lessee or to any third person whatsoever, and thereafter shall diligently continue such removal, and if the Lessee does not perform its obligation hereunder, the Port Authority may remove such debris and dispose of the same and may remove such property to a public warehouse for deposit or may retain the same in its own possession and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, and 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 on demand. Without limiting any term or provision of this Agreement, the Lessee shall indemnify and save harmless the Port Authority, its officers, agents, employees, contractors and subcontractors, from and against any and all claims of third persons arising out of the exercise by the Port Authority of its right to remove property as hereinabove provided including all claims for conversion, all claims for damage or destruction of property, all claims for injuries to persons (including death), and all other claims for damages, consequential or otherwise.

Section 14. Assignment and Sublease

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

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

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

(d) The Lessee further covenants and agrees that it will not use or permit any person whatsoever to use the Facility or any portion thereof for any purpose other than as provided in Section 4 of this Agreement.

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 or conveyance"), the Lessee shall not be entitled to assert any claim to any compensation, award or part thereof made or to be made therein or therefor or any claim to any consideration or rental or any part thereof paid therefor, or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority for any such taking or conveyance, it being understood and agreed between the parties hereto that the Port Authority shall be entitled to all compensation or awards made or to be made or paid, and all such consideration or rental, free of any claim or right of the Lessee.

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

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

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

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

Section 16. Construction by the Lessee

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

Section 17. Additional Rent and Charges

(a) If the Port Authority has paid any sum or sums or has incurred any obligations or expense which the Lessee has agreed to pay or reimburse the Port Authority for, or if the Port Authority is required or elects to pay any sum or sums or incurs any obligations or expense by reason of the failure, neglect or

refusal of the Lessee to perform or fulfill any one or more of the conditions, covenants or agreements contained in this Agreement or as a result of an act or omission of the Lessee contrary to the said conditions, covenants and agreements, the Lessee shall pay to the Port Authority the sum or sums so paid or the expense so incurred, including all interest, costs, damages and penalties, and the same may be added to any installment of rent thereafter due hereunder, and each and every part of the same shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of any of the rentals set forth in this Agreement.

(b) For all purposes under this Section and in any suit, action or proceeding of any kind between the Port Authority and the Lessee, any receipt showing any payment of any 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 thereof, any time report of any employee of the Port Authority showing hours of work or labor allocated to such work, or any stock requisition of the Port Authority showing the issuance of materials for use in the performance thereof, shall likewise be prima facie evidence against the Lessee that the amount of such charge was necessary and reasonable.

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

Section 18. Rights of Entry Reserved

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

(b) Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, agents, representatives, and contractors, and on behalf of furnishers of utilities and other services, shall have the right, for its own benefit, for the benefit of the Lessee, or for the benefit of others than the Lessee at the Facility, to maintain existing and

future utility, mechanical, electrical and other systems and to enter upon the premises at all reasonable times to make such repairs, replacements or alterations as the Port Authority shall deem necessary or advisable and, from time to time, to construct or install over, in or under the premises new systems or parts thereof, and to use the premises for access to other parts of the Facility otherwise not conveniently accessible; provided, however, that in the exercise of such rights of access, repair, alteration or new construction the Port Authority shall not unreasonably interfere with the use and occupancy of the premises by the Lessee.

(c) In the event that any property of the Lessee shall obstruct the access of the Port Authority, its employees, agents or contractors to any of the existing or future utility, mechanical, electrical and other systems and thus shall interfere with the inspection, maintenance or repair of any such system, the Lessee shall move such property, as directed by the Port Authority, in order that the access may be had to the system or part thereof for its inspection, maintenance or repair, and, if the Lessee shall fail so to move such property after written 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 impose, or shall be construed to impose upon the Port Authority any obligations so to construct or maintain or to make repairs, replacements, alterations or additions, or shall create any liability for any failure so to do. The Lessee is and shall be in exclusive control and possession of the premises and the Port Authority shall not in any event be liable for any injury or damage to any property or to any person happening on or about the premises or for any injury or damage to the premises or to any property of the Lessee or of any other person located therein or thereon (other than those occasioned by the acts of the Port Authority).

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

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

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

Section 19. Limitation of Rights and Privileges Granted

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

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

(c) Nothing in this Agreement contained shall grant to the Lessee any rights whatsoever in the air space above the roof of any building or buildings or portion of any building or buildings, if any are included in the premises (except to the extent required in either case for the performance of any of the obligations of the Lessee hereunder), or more than twenty (20) feet above the present ground level of any open area included in the premises (except to the extent required for the operation of the container cranes on the premises and the movement and storage of containers). If any construction or installation is contemplated in this Agreement, the height thereof above ground shall be as determined solely by the Port Authority.

Section 20. Prohibited Acts

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

(b) The Lessee shall not dispose of nor permit any one to dispose of any waste material (whether liquid or solid) by means

of the toilets, manholes, sanitary sewers or storm sewers in the premises or on the Facility except after treatment in installations or equipment included in plans and specifications submitted to and approved by the Port Authority.

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

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

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

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

(g) The Lessee shall not keep or store in the premises, explosives, inflammable liquids or solids or oxidized materials or use any cleaning materials having a harmful corrosive effect on any part of the premises.

(h) 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.

(i) The Lessee shall not fuel or defuel equipment in the enclosed portions of the premises without prior approval of the Manager of the Facility.

(j) The Lessee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on or from the premises, and shall not

dispose of, release or discharge or permit anyone subject to its control or authority to dispose of, release or discharge any Hazardous Substance at the Facility. Any Hazardous Substance disposed of, released or discharged by the Lessee (or permitted by the Lessee to be disposed of, released or discharged) on or from the premises or at the Facility, shall upon notice by the Port Authority to the Lessee and subject to the provisions of Section 21 hereof, be completely removed, cleaned up and/or remediated by the Lessee. The obligations of the Lessee pursuant to this paragraph (j) shall survive the expiration or termination of this Agreement.

Section 21. Termination

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 22. Right of Re-entry

The Port Authority shall, as an additional remedy upon the giving of a notice of termination as provided in Section 21 of this Agreement, 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 other legal proceedings, or otherwise. Such re-entry, or regaining or resumption of possession, however, shall not in any manner affect,

alter or diminish any of the obligations of the Lessee under this Agreement, and shall in no event constitute an acceptance of surrender.

Section 23. Waiver of Redemption

The Lessee hereby waives any and all rights 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 24. 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 21 of this Agreement, or the interest of the Lessee shall have been cancelled pursuant thereto, or in the event that the Port Authority has re-entered, regained or resumed possession of the premises in accordance with the provisions of Section 22 of this Agreement, all of the obligations of the Lessee under this Agreement shall survive such termination or cancellation, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full Term, as originally fixed in Section 2 hereof, 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 has 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 or amounts of damages for the period of time subsequent to termination or cancellation (or re-entry, regaining or resumption of possession) shall be:

(1) the amount of all unfulfilled monetary obligations of the Lessee under this Agreement, including, without limitation thereto, all sums constituting additional rental under Section 17 of this Agreement, and all sums constituting the rentals under Section 3 of this Agreement, accrued prior to the effective date of termination, and the cost to and expenses of the Port Authority for fulfilling all other obligations of the Lessee which would have accrued or matured during the balance of the Term or on the expiration date originally fixed or within a stated time after expiration or termination; and

(2) an amount equal to the cost and the expenses of the Port Authority in connection with the termination,

cancellation, regaining, possession and restoring and reletting the premises, the Port Authority's legal expenses and costs, and the Port Authority costs and expenses for the care and maintenance of the premises during any period of vacancy, and any brokerage fees and commission in connection with any reletting; and

(3) on account of the Lessee's obligations under this Agreement with respect to the throughput rentals an amount equal to the amount of such rentals (taking into account all minimum rentals) which would have been paid by the Lessee during the balance of the Term if there had been no termination or cancellation (or re-entry, regaining or resumption of possession).

Section 25. Reletting by the Port Authority

The Port Authority, upon termination or cancellation pursuant to Section 21 of this Agreement, or upon any re-entry, regaining or resumption of possession pursuant to Section 22 of this Agreement, may occupy the premises or may relet the premises and shall have the right to permit any person, firm or corporation to enter upon the premises and use the same. Such reletting may be of part only of the premises or of the premises, and for a period of time the same as or different from the balance of the Term hereunder remaining, and on terms and conditions the same as or different from those set forth in this Agreement. The Port Authority shall also, upon termination or cancellation pursuant to Section 21 of this Agreement, or upon re-entry, regaining or resumption of possession pursuant to Section 22 of this Agreement, have the right to repair and to make structural or other changes in the premises, including changes which alter the character of the premises and the suitability thereof for the purposes of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder. In the event either of any reletting or of any actual use and occupancy by the Port Authority (the mere right to use and occupy not being sufficient however) there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the premises (or portion thereof) during the balance of the Term as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the premises as the Port Authority may itself during such period actually use and occupy, all reasonable expenses, reasonable costs and reasonable disbursements incurred or paid by the Port Authority in connection therewith. Neither any such letting nor any such other use or occupancy shall be or be construed to be an acceptance of a surrender. It is understood by the Port Authority and the Lessee that the Port Authority has no obligation to relet the premises or any portion thereof or to use or occupy the premises or any portion thereof itself, except to the extent as may be required by law.

Section 26. Remedies to Be Nonexclusive

All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any other remedy available to the Port Authority at law or in equity, and neither the exercise of any remedy, nor any provision in this Agreement for a remedy or an indemnity shall prevent the exercise of any other remedy.

Section 27. Surrender

(a) The Lessee covenants and agrees to yield and deliver peaceably to the Port Authority possession of the premises on the date of the cessation of the letting, whether such cessation be by termination, expiration or otherwise, promptly and in the condition required by the provisions of Section 12(c) hereof regarding the condition of the premises at the expiration or termination of the letting hereunder.

(b) Unless required for the performance by the Lessee of its obligations hereunder, the Lessee shall have the right at any time during the letting to remove from the premises, all its equipment, removable fixtures and other personal property, and all property of third persons for which the Lessee is responsible, and on or before the expiration or earlier termination of the letting it shall remove all of the same from the premises, repairing all damage caused by any removal. If the Lessee shall fail to remove such property on or before the termination or expiration of the letting, the Port Authority may remove such property to a public warehouse for deposit or may retain the same in its own possession and in either event may sell the same at public auction, the proceeds of which shall be applied: first to the expenses of removal, including repair required thereby, and of storage and sale; second, to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if the expenses of such removal, repair, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority upon demand. Without limiting any other term or provision of this Agreement, the Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, employees and contractors from all claims of third persons arising out of the Port Authority's removal and disposition of property pursuant to this Section, including claims for conversion, claims for loss of or damage to property, claims for injury to persons (including death), and claims for any other damages, consequential or otherwise.

Section 28. 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, shall be deemed an acceptance of a surrender of the letting or of this Agreement.

Section 29. Notices

(a) All notices, permissions, requests, consents and approvals given or required to be given to or by either the Port Authority or the Lessee, except as otherwise expressly provided herein, shall be in writing, and all such notices and requests shall be (i) personally delivered to the party or to the duly designated officer or representative of such party; or (ii) delivered to an office of such party, officer or representative during regular business hours; or (iii) delivered to the residence of such party, officer or representative at any time; or (iv) if directed to the Lessee, delivered to the premises at any time; or (v) forwarded to such party, officer or representative at the office or residence address by registered or certified mail, or delivered to such party at such address by "Federal Express" or similar courier service. The Lessee shall designate an office within the Port of New York District and an officer or representative whose regular place of business is at such office. Until further notice, the Port Authority hereby designates its Executive Director, and the Lessee designates the person whose name appears on the first page of this Agreement as their respective officers or representatives upon whom notices and requests may be served, and the Port Authority designates its office at One World Trade Center, New York, New York 10048, and the Lessee designates its office, the address of which is set forth in Page 1 of this Agreement, as their respective offices where notices and requests may be served.

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

Section 30. General

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

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

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

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

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

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

(c) Unless otherwise stated in this Agreement, in its use of the premises the Lessee shall act only for its own account and, without limiting the generality of the foregoing, shall not act as agent, representative, factor, broker, forwarder, bailee, or consignee without legal title to the subject matter of the consignment, except to the extent necessary for exercise of the rights of user granted by this Agreement.

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

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

(f) All payments required of the Lessee by this Agreement shall be made by mail to the Port Authority at P. O. Box

17309, Newark, New Jersey, 07194, or to such other address as may be substituted therefor.

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

(h) As used in Section 17, the phrase "utility, mechanical, electrical and other systems" shall mean and include (without limitation thereto) the following: machinery, engines, dynamos, boilers, elevators, escalators, incinerators and incinerator flues, systems for the supply of fuel, electricity, water, gas and steam, plumbing, heating, sewerage, drainage, ventilating, air-conditioning, communications, fire-alarm, fire-protection, sprinkler, telephone, telegraph and other systems, fire hydrants and fire hoses, and their respective wires, mains, switches, conduits, lines, tubes, valves, pipes, motors, cables, fixtures and other equipment.

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

(j) As used in this Agreement, the "Port Newark", "Facility" or "Marine Terminal" shall mean the land and premises in the City of Newark, in the County of Essex and State of New Jersey, title to which are easterly of the right-of-way of the Central Railroad of New Jersey and are shown upon the exhibit attached to the Basic Lease and marked "Exhibit A" (thereto), as contained within the limits of a line of crosses appearing on the said Exhibit A and marked (by means of the legend) "Boundary of Terminal Area in City of Newark," and lands contiguous thereto within the County of Essex which may have been heretofore or may hereafter be acquired by the Port Authority to use for marine terminal purposes.

(k) "Basic Lease" shall mean that certain agreement of lease respecting marine and air terminals entered into with the Port Authority by the City of Newark (New Jersey) under date of October 22, 1947, and recorded in the office of the Register of the County of Essex on October 30, 1947, in Book E-110 of Deeds, on pages 242 et seq. as the said agreement of lease has been heretofore or may be hereafter from time to time supplemented and amended.

(l) "City Channel" or "Port Newark Channel" shall mean the area at Port Newark bounded (i) on the south by the south or Channel bulkhead as the same may be shown on Exhibit A and as from time to time actually existing, westward to the west bulkhead as so shown and existing, and by the line of the said south or Channel

bulkhead extended eastward to the point of its intersection with the U.S. Pierhead line as approved by the Secretary of the Army under date of August 8, 1949; (ii) on the west by the west bulkhead as from time to time actually existing; (iii) on the north by the north bulkhead as from time to time actually existing and by the line of the easterly portion of the north bulkhead as extended parallel to the line of the Channel bulkhead as shown on Exhibit A, eastward to the point of its intersection with the U.S. Pierhead line approved as hereinbefore stated; and (iv) on the east by a straight line drawn from the said point of intersection of the U.S. Pierhead line with the north bulkhead line as extended to the said point of intersection of the U.S. Pierhead line with the Channel bulkhead line as extended.

(m) In the event that obstruction lights are now or in the future shall be installed on the premises, the Lessee agrees to furnish the Port Authority without charge, electricity for energizing such obstruction lights daily for a period commencing thirty (30) minutes before sunset and ending thirty (30) minutes after sunrise (as sunset and sunrise may vary from day to day throughout the year) and for such other periods as may be directed or requested by the Control Tower of Newark Airport.

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

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

(p) So long as the Lessee shall pay all rentals provided for in this Agreement and observing and performing all the terms, covenants and conditions on the Lessee's part to be observed and performed under this Agreement, the Lessee may peaceably and quietly have, hold and enjoy the premises during the Term free of any act or acts of the Port Authority, except as expressly permitted in this Agreement, it being understood that the Port Authority's liability hereunder shall obtain only so long as it remains the owner of the premises.

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

(r) Without in any way limiting the obligations of the Lessee as elsewhere stated in this Agreement, the Lessee shall be liable to the Port Authority for any damage done to the Facility or to any part thereof, or to any property of the Port Authority thereon through any act or omission of those in charge of any one or more vessels, steamers, tugboats, barges, lighters, or other floating equipment, or highway or other vehicles, or other transportation equipment while the same are at, coming to or leaving the premises, except for damages to the Facility (other than the premises) caused by any one or more of such vessels, steamers, tugboats, barges, lighters, or other floating equipment, or highway or other vehicles, or other transportation equipment as may be coming to or leaving the premises without previous knowledge on the part of the Lessee.

(s) The Lessee recognizes that height restrictions, due primarily to the proximity of Newark Airport to the premises, now exist and that they may at any time be changed, including changes that make them more onerous and restrictive. The Lessee and all persons, firms and corporations using the premises or any part thereof with the express or implied consent of the Lessee, shall at all times obey such height restrictions as may be posted from time to time or otherwise communicated to the Lessee by the Port Authority, whether or not through the Manager of the Facility.

(t) The Port Authority, for the benefit of itself and of others using the Facility with its consent, shall have the right of access and passage for vessels along, upon, and across the waters of the Berthing Area or any part thereof.

Section 31. Premises

(a) The Lessee acknowledges that it has not relied upon any representation or statement of the Port Authority or its Commissioners, officers, employees or agents as to the condition of the premises or the suitability thereof for the operations permitted on the premises by this Agreement. The Lessee, prior to the execution of this Agreement, has thoroughly examined the premises and has found the same to be suitable and satisfactory for the operations of the Lessee contemplated and permitted under this Agreement. Without limiting any obligation of the Lessee to

commence operations under this Agreement at the time and in the manner stated elsewhere in this Agreement, the Lessee agrees that no portion of the premises will be used initially or at any time during the letting which is in a condition unsafe or improper for the conduct of the operations of the Lessee, so that there is possibility of injury or damage to life or property, and the Lessee further agrees that before any use it will immediately correct any such unsafe or improper condition.

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

Section 32. Force Majeure

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

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

(c) No abatement, set-off, diminution or reduction of the rent or other charges payable by the Lessee, shall be claimed by or allowed to the Lessee for any inconvenience, interruption, cessation or loss of business or other loss caused, directly or indirectly, by any present or future law, rule, requirement, order, direction, ordinance or regulation of the United States of America, or of the state, county or city government, or of any other municipal, governmental or lawful authority whatsoever, or by priorities, rationing or curtailment of labor or materials, or by war or any matter or thing resulting therefrom, or by any other cause or causes beyond the control of the Port Authority, nor shall this Agreement be affected by any such causes.

Section 33. Brokerage

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

Section 34. Non-Liability of Individuals

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

Section 35. Services

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

(b) The Lessee shall promptly pay all water-bills covering its own consumption. In the event that any such water-bill or bills shall remain unpaid for a period of six (6) months after the same becomes due and payable, or in the event that any such bill remains unpaid at the date of expiration or earlier termination of the letting under this Agreement, the Port Authority may pay the same and any interest or penalties thereon, and the total payment or payments shall constitute an item of additional rental, payable to the Port Authority on demand.

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

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

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

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

(f) Without in any wise affecting the obligations of the Lessee elsewhere stated in this Agreement, the Lessee shall, subject to the provisions of Section 16 of this Agreement, provide, maintain and keep in good order, condition and repair any and all meters (to be located as designated by the Port Authority, other governmental authority or utility), ship-filling lines and other water-using equipment and facilities.

Section 36. Records

(a) The Lessee shall maintain in accordance with accepted accounting practice during the Term and for three years thereafter records and books of account (including, without limitation, bills of lading and manifests) recording all transactions in any way connected with or reflecting upon the payment of any rental by the Lessee pursuant to Sections 4, 5 or 7 hereof, and which records and books of account shall be kept at all times within the Port of New York District, and permit, in ordinary business hours during such time, the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account and also any of such records and books of account of any company which is owned or controlled by the Lessee, if said company performs services, similar to those performed by the Lessee, anywhere in the Port of New York District.

(b) Nothing contained in this Agreement shall be deemed to render any records, or any statement, of the Lessee required to be maintained or supplied hereunder conclusive as to any of the matters set forth therein. The Port Authority may at its sole discretion, in lieu of any records or books of account or statements of the Lessee, employ its own records and books of

account for the calculation of any amounts to be paid under this Agreement.

Section 37. Affirmative Action

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

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

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

(d) In the implementation of this Section the Port Authority may consider compliance by the Lessee with the provisions of any federal, state or local law concerning affirmative action equal employment opportunity which are at least equal to the

requirements of this Section, as effectuating the provisions of this Section. If the Port Authority determines that by virtue of such compliance with the provisions of any such federal, state or local law that the provisions hereof duplicate or conflict with such law the Port Authority may waive the applicability of the provisions of this Section to the extent that such duplication or conflict exists.

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

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

Section 38. Late Charges

If the Lessee should fail to pay any amount required under this Agreement when due to the Port Authority, including without limitation any payment of rental or any payment of utility fees or charges, or other charges or fees, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period hereinbelow described during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this Section, with respect to such unpaid amount. Each late charge shall be 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 rentals as set forth in this Agreement. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in Section 25 of this Agreement entitled "Termination" and Section

46 hereof or (ii) any obligations of the Lessee under this Agreement. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Agreement shall be payable instead at such legal maximum.

Section 39. Additional Right of Termination

Notwithstanding any other term or condition hereof, this Agreement may be terminated without cause, by the Port Authority upon thirty (30) days' written notice to the Lessee. Such termination shall not relieve the Lessee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of termination.

Section 40. Entire Agreement

The within Agreement consists of pages number 1 through 46, together with Exhibit A and Schedule E. It 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 written instrument 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 this Agreement.

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

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By

(Title) LILLIAN C. BORRONE DIRECTOR

(Seal)

ATTEST:

Secretary

AMERICAN STEVEDORING, INC.

By

(Title) President

(seal)

APPROVED:

FORM

TERMS

SCHEDULE E

PART I

Affirmative Action Guidelines - Equal Employment Opportunity

I. The Lessee agrees to comply with and the Lessee shall require the Contractor, as hereinafter defined, to comply with the provisions set forth hereinafter and the lease, as amended (including but not limited to Sections 39 of the lease and subaragraph (s) of Paragraph 7 of Supplement 1 of the lease), to which this schedule is attached (the lease as amended is herein called "the Agreement"). 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 agrees fully to comply with and shall require 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") fully to comply with the following conditions set forth in this Schedule as to each construction trade to be used on the construction work or any portion thereof (said conditions being herein called "Bid Conditions"). The Lessee hereby agrees to commit 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 agrees to 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 agrees to and shall require the Contractor to appoint an executive of its respective company to assume the responsibility for the implementation of the requirements, terms and conditions of the following Bid Conditions:

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

(1) Minority participation:	32%
(2) Female participation:	6.9%

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

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

(b) The Contractor shall provide written notification to the Lessee and the Lessee agrees to provide written notification to the Manager of the Equal Opportunity Programs Unit 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 shall be employed by the Contractor during the training period, and the Contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.

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

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

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

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

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

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

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

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

(7) Review, at least every six months the Contractor's EEO policy and affirmative action obligations hereunder with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-premises supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construciton 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 buisness.

(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 selection 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 supplies, 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 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. mechanic, 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.

(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

The Lessee agrees to 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 hereof and in accordance with the Agreement. For purposes hereof, Minority Business Enterprise (MBE) shall mean any business enterprise which is at least fifty-one percentum owned by or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, Women-owned Business Enterprise (WBE) shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by women and such ownership is real, substantial and continuing. A minority shall be as defined in paragraph II(c) of Part I of this Schedule E. "Meaningful participation" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

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

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

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

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

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

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

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

For the Port Authority

Initialled:

For the Lessee

FORM XLD - Ack., N.J. 51380

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

On this 23rd day of FEBRUARY, 1998, before me, the subscriber, a notary public of New York, personally appeared JILLIAN C. BORRONE the Director for Commerce of the Port Authority of New York and New Jersey, who I am satisfied is the person who has signed the within instrument; and I having first made known to ~~him~~ her the contents thereof, she did acknowledge that she signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Commissioners.

Marie M. Edwards
(notarial seal and stamp)

MARIE M. EDWARDS, NOTARY
Public, State of New York
No. 24-4959693
Qualified in Kings County
Commission Expires 1/6/2000

STATE OF New Jersey)
) ss.
COUNTY OF Union)

On this 29 day of January, 1998, before me, the subscriber, a Notary Public of New Jersey, personally appeared Keith Catucci the _____ President of AMERICAN STEVEDORING, INC. who I am satisfied is the person who has signed the within instrument; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Directors.

John S Perry
(notarial seal and stamp)

JOHN S. PERRY
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Feb. 21, 2001

Port Authority Lease No. LPN-248
Supplement No. 1

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of February 28, 1998 by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority") and AMERICAN STEVEDORING, INC. (hereinafter called the "Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of January 1, 1998, the Port Authority and the Lessee entered into an agreement of lease (hereinafter called the "Lease") covering certain premises at Port Newark, in the City of Newark, County of Essex and State of New Jersey; and

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

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

1. Additional Premises. In addition to the premises heretofore let to the Lessee under the Lease, the letting as to which shall continue in full force and effect, subject to and in accordance with all the terms, provisions, covenants and conditions of the Lease as amended by this Agreement, the Port Authority hereby lets to the Lessee and the Lessee hires and takes from the Port Authority, at Port Newark aforesaid, the open area shown in stipple, the enclosed space known as Shed 140 shown in diagonal crosshatching, and the water area shown in diagonal hatching, all as shown on the sketches attached hereto, hereby made a part hereof and marked "Exhibit A-1", "Exhibit A-2", and "Exhibit PS" together with the structures, fixtures, improvements and other property, if any, of the Port Authority located or to be located therein or thereon, the said open area, enclosed space and water area, and the said structures, fixtures, improvements and other property (all of which is sometimes hereinafter in this Agreement called the "Additional Premises") to be and become a part of the premises under the Lease at 12:01 o'clock A.M. on ~~March 1, 1998~~ let to the Lessee, subject to and in accordance with all of the terms, covenants and conditions of the Lease as herein amended, for a term expiring at 11:59 o'clock P.M. on August 31, 2001, unless sooner terminated. The parties hereby acknowledge that the Additional Premises constitute non-residential property. see S-2 7/1/98

PORT DEPARTMENT
CONFORMED COPY

2. Use. The Lessee shall use the Additional Premises solely for the transfer of cargo containers to and from barges and other watercraft transporting such containers to and from the Red Hook Marine Terminal and for no other purposes whatsoever.

3. "As Is". The Port Authority shall deliver the Additional Premises to the Lessee in its presently existing "as is" condition. The Lessee acknowledges that prior to the execution of this Agreement, it has thoroughly examined and inspected the Additional Premises and has found it in good order and repair and has determined it to be suitable for the Lessee's operations therein under the Lease as herein amended. The Lessee agrees to and shall take the Additional Premises in its "as is" condition and the Port Authority shall have no obligations under the Lease as herein amended for finishing work or preparation of any portion of the Additional Premises for the Lessee's use.

4. No Representation. The Lessee acknowledges that it has not relied upon any representation or statement of the Port Authority or its Commissioners, officers, employees or agents as to the suitability of the Additional Premises for the operations permitted thereon by the Lease as herein amended. Without limiting any obligation of the Lessee to commence operations under the Lease as herein amended at the time and in the manner stated elsewhere in this Agreement, the Lessee agrees that no portion of the Additional Premises will be used initially or at any time during the letting thereof under the Lease as herein amended which is in a condition unsafe or improper for the conduct of the Lessee's operations therein under the Lease as herein amended so that there is possibility of injury or damage to life or property.

5. Services. The Port Authority shall have no obligation to supply to the Lessee any services or utilities in the Additional Premises.

6. Basic Rental. In addition to all other annual rentals and fees payable under the Lease as herein amended, the Lessee shall pay a basic rental (hereinafter called the "basic rental") during the term set forth in Paragraph 1 above for the Additional Premises at the annual rate of Seven Hundred Eighty Thousand Dollars and No Cents ($780,000.00) payable in advance in equal monthly installments of Sixty-five Thousand Dollars and No Cents ($65,000.00) on April 1, 1998 and on the first day of each calendar month thereafter during such period.

7. Lessee's Demolition and Construction Work.

(a) The Lessee understands that demolition, construction and installation work is required in order to prepare the Additional Premises for its occupancy and operations, and the Lessee agrees to and shall perform the following work to prepare

the Additional Premises for the Lessee's operations therein (which work is hereinafter collectively called the "Lessee's Work"): (a) demolition of Shed 140 (the "Demolition Work") and (b) installation of lighting, paving, installation of scales, gates, fencing and relocation (the "Construction Work"). The Lessee's Work shall be paid for by the Port Authority as provided for in subparagraphs (p) and (q) of this Paragraph 7.

(b) With respect to the Lessee's Work the Lessee shall be the insurer of the Port Authority, and its Commissioners, officers, agents and employees against the following distinct and several risks, whether they arise from acts or omissions of the Lessee, any contractors of the Lessee, the Port Authority, third persons, or from acts of God or the public enemy, or otherwise, excepting only risks which result solely from affirmative wilful acts done by the Port Authority subsequent to commencement of the Lessee's Work:

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

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

(iii) The risk of claims and demands, just or unjust, by third persons against the Port Authority, and its Commissioners, officers, agents and employees, arising or alleged to arise out of the performance of the Lessee's Work. The Lessee shall indemnify the Port Authority, and its Commissioners, officers, agents and employees, against and from all such claims and demands, and for all loss and expense incurred by it and by them in the defense, settlement or satisfaction thereof including without limitation thereto, claims and demands for death, for personal injury or for property damage, direct or consequential.

(c) Prior to the commencement of any of the Lessee's Work, the Lessee shall submit to the Port Authority for its approval a construction application or construction applications (the "Construction Application") in the form supplied by the Port

Authority, and containing such terms and conditions as the Port Authority may include, setting forth in detail by appropriate plans and specifications the 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 Demolition Work and the Construction Work, and shall describe in detail the systems, improvements, fixtures and equipment to be installed by the Lessee. 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 Construction Work and the Demolition Work. The plans and specifications to be submitted by the Lessee shall be in sufficient detail for a contractor to perform the Construction Work and the Demolition Work, and shall bear the seal of a qualified architect or professional engineer who shall be responsible for the administration of the Lessee's 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 7, the Lessee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may find necessary. Following the Port Authority's receipt of the Lessee's Construction Application and complete plans and specifications, the Port Authority shall give its written approval or rejection thereof, or shall request such revisions or modifications thereto as the Port Authority may find necessary. The Lessee shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor, and the 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 subparagraphs (j) and (k) of this Paragraph 7 and such performance bonds as the Port Authority may specify. All of the Lessee's Work shall be performed by the Lessee in accordance with the Construction Application and final plans and specifications approved by the Port Authority, shall be subject to inspection by the Port Authority during the progress of the work and after the completion thereof, and the Lessee shall redo or replace at its own expense any work not done in accordance therewith. Upon final completion of all of the Lessee's Work the Lessee shall deliver to the Port Authority a certificate to such effect signed by a responsible fiscal officer of the Lessee and by the architect or engineer who sealed the Lessee's plans pursuant to the provisions

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

(d) Except as set forth in subparagraph (e) of this Paragraph 7, the Lessee shall not commence any portion of the Lessee's Work until the Construction Application and plans and specifications covering such work, referred to in subparagraph (c) of this Paragraph 7, have been finally approved by the Port Authority.

(e) If the Lessee desires to commence construction of portions of the Lessee's Work prior to the approval by the Port Authority of the complete Construction Application and plans and specifications covering all of such work pursuant to subparagraph (c) of this Paragraph 7 , the Lessee shall submit to the Port Authority a separate Construction Application for each portion of the Lessee's Work the Lessee so desires to commence (each such portion of the Lessee's 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 work (the final and complete plans, specifications, drawings, and data covering each such portion of the Lessee's work are hereinafter referred to as "the Partial Approval Work Plans" with respect to such portion of the Lessee's Work) setting forth in detail the work to be performed in connection with each such portion of the Lessee's Work. The Port Authority shall have full and complete discretion as to 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:

(1) 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 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.

(2) 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 City of Newark, which may pertain to the Partial Approval Work to be performed and which the Lessee is required to comply with pursuant to this Agreement.

(3) 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 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.

(4) No Partial Approval Work performed by the Lessee pursuant to the provisions of this paragraph shall affect or limit the obligations of the Lessee under any prior approvals it may have obtained with respect to the Lessee's Work.

(5) The fact that the Lessee has performed any item of Partial Approval Work and that the Port Authority has consented to the performance thereof shall not affect or limit the obligations of the Lessee under this Agreement with respect to the Lessee's Work. 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 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.

(6) In the event that in the opinion of the Port Authority the Lessee at any time during the performance of any portion of any item of Partial Approval Work under the approval granted by the Port Authority pursuant to this paragraph shall fail to comply with all of the provisions of this Agreement with respect to such work or shall fail to comply with the provisions of the Construction Application covering such work and the plans and specifications forming a part thereof, or shall fail to comply with any requirements, stipulations, or provisions imposed by the Port Authority in its approval of the performance of such item of Partial Approval Work, or if in the Port Authority's opinion the Lessee shall be in breach of any of the provisions of this Agreement covering such work or shall be in breach of any of the provisions of the Construction Application and plans and specifications covering the performance of such work, or shall be in breach of any requirements, stipulations, or provisions imposed by the Port Authority in its approval of the work, the Port Authority shall have the right to cause the Lessee to cease all or such part of such item of the Partial Approval Work as is being performed in violation of this Agreement, the Construction Application and plans and specifications, or the conditions of the Port Authority's approval. Upon written direction from the Port Authority, the Lessee shall promptly cease performance of the portion of the Partial Approval Work specified. The Lessee shall thereupon submit to the Port Authority for its written approval the Lessee's proposal for making modifications, corrections or changes in or to the item of Partial Approval Work that has been or is to be performed so that the same will comply with the provisions of this Agreement, the Construction Application and plans and specifications, or the conditions of the Port Authority's approval covering such work. The Lessee shall not commence construction of the portion of the Partial Approval Work that has been halted until it has received written approval of the proposed modifications, corrections or changes.

(7) It is hereby expressly understood and agreed that the Port Authority has no duty or obligation of any kind whatsoever to inspect or police the performance of any Partial Approval 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 Port Authority has not exercised its right to require the Lessee to cease performance of all or any part of the Partial Approval 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 work in accordance with the terms of this Agreement, the Construction Application and plans and specifications covering such work, or the conditions of the Port Authority's approval of such work, nor shall such fact be or be deemed to be a waiver by the Port Authority of any of the requirements of this Agreement with respect to such work, or any of the requirements of the Construction Application and plans and specifications covering such work, or any of the conditions of the Port Authority's approval of such work.

(f) Without limiting the generality of any of the provisions of this Agreement, the Lessee's Work (including any Partial Approval Work performed by the Lessee) shall be performed in such a manner that there will be at all times during construction a minimum of air pollution, water pollution or any other type of pollution, and a minimum of noise emanating from, arising out of, or resulting from construction. Subject to the provisions of this Agreement, the Lessee shall construct such reasonable structures, fences, equipment, devices and other facilities as may be necessary or appropriate to accomplish the objectives set forth in this paragraph, and, without limiting the generality of the foregoing, such construction shall be subject to the Port Authority's review and approval in accordance with the provisions of this Paragraph 7.

(g) Without limiting the generality of subparagraph (c) of this Paragraph 7 the Lessee shall be solely responsible for the plans and specifications used by it and for the adequacy or sufficiency of such plans, specifications and all the improvements, fixtures, and equipment depicted thereon or covered thereby, regardless of the consent thereto or approval thereof by the Port Authority or the incorporation therein of any Port Authority requirements or recommendations. The Port Authority shall have no obligation or liability in connection with the performance of any of the Lessee's Work or for the contracts for the performance thereof entered into by the Lessee. Any warranties extended or available to the Lessee in connection with the aforesaid work shall be for the benefit of the Port Authority as well as the Lessee. The Lessee shall conduct no public operations in the Additional Premises with respect to any improvements, fixtures or equipment constituting the Lessee's Work until the Port Authority shall have notified the Lessee in writing that the Lessee's Work has been completed or substantially completed to its satisfaction. In the event of any inconsistency between the provisions of this Agreement and those of the Construction Application referred to in subparagraph (c) of this Paragraph 7 the provisions of this Agreement shall control.

(h) Without limiting or affecting any other term or provision of this Agreement, the Lessee shall be solely responsible for the design, adequacy and operation of all utility, mechanical, electrical, communications and other systems installed in the Additional Premises by the Lessee and all other improvements, additions, fixtures, finishes, decorations and equipment made or installed by the Lessee in the Additional Premises and shall do all preventive maintenance and make all repairs, replacements, rebuilding (ordinary or extraordinary, structural or non-structural) and painting necessary to keep such systems, 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 and tear which does not (i) adversely affect the efficient or proper utilization of any part of the Additional Premises, or (iii) adversely affect the appearance of any part of the Additional Premises or the premises.

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

(j) In addition to all policies of insurance otherwise required by this Agreement, the Lessee shall procure and maintain or cause to be procured and maintained in effect during the performance of the Lessee's Work:

(i) Commercial General Liability Insurance including but not limited to coverage for Products Liability-Completed Operations and for Broad Form Property Damage and Independent Contractor coverage, with a contractual liability endorsement covering the obligations assumed by the Lessee under subparagraph (b) of this Paragraph 7, which coverage shall not exclude claims arising out of or in connection with work performed within fifty feet of railroad property, and which are customarily insured under such a policy, with a minimum combined single limit coverage for bodily injury and property damage of $5 million. Said insurance shall also include coverage for explosion, collapse and underground property damage hazards.

(ii) Protection and Indemnity Insurance, if the Lessee's work involves the ownership, maintenance, operation,

use, loading or unloading of watercraft, with a minimum combined single limit coverage for bodily injury and property damage of $5 million.

(iii) Commercial Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with said construction with a minimum combined single limit coverage for bodily injury and property damage of $2 million.

(iv) Workers' Compensation and Employers' Liability Insurance in accordance with the requirements of law. The Workers' Compensation Policy shall be specially endorsed to include coverage afforded by the U.S. Longshoremen's and Harbor Workers' Compensation Act and Coverage B - "Jones Act", maritime (including coverage for Masters or Members of the Crew of Vessels).

(k) In addition to the insurance required pursuant to the provisions of subparagraph (j) of this Paragraph 7, the Lessee shall procure or cause to be procured prior to the commencement of any work Builder's Risk Insurance (All Risk) covering loss or damage (including any loss or damage resulting from flood or earthquake) to any structures, improvements, fixtures and equipment and furnishing and materials on the Additional Premises during said construction, whether or not attached to the land, in an amount equal to the full replacement cost. Such insurance shall name the Port Authority as an insured and such policy shall provide that the loss shall be adjusted with the Port Authority, and that the proceeds thereof shall be paid to the Port Authority and shall be made available to the Lessee for and applied strictly and solely to the payment of the cost of the repair, replacement, rebuilding or other performance of the Lessee's Work.

(l) With the exception of the Workers' Compensation and Employers' Liability Insurance policy each policy of insurance described in subparagraph (j) of this Paragraph 7 shall include the Port Authority as an additional insured, and no such policy shall contain any care, custody or control exclusions, or any exclusion for bodily injury to or sickness, disease or death of any employee of the Lessee or of any of its contractors which would conflict with or in any way impair the coverages resulting from the Port Authority's status as an additional insured or the coverage under the contractual liability endorsement described in subdivision (i) of subparagraph (j) of this Paragraph 7. Such insurance shall also contain an endorsement providing that the protection afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third party shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority and against the Port Authority by the Lessee, but said endorsement shall not limit, vary, change or affect the protections

afforded the Port Authority as an additional insured. Such insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, 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.

(m) Unless otherwise set forth herein, each policy of insurance described in subparagraphs (j) and (k) of this Paragraph 7 shall be subject to the applicable provisions of Section 11 of the Lease as herein amended.

(n) Title to and property in all improvements and fixtures placed, constructed or installed in or on the Additional Premises, including all such improvements and fixtures as shall constitute the Lessee's Work, shall vest in the Port Authority upon placement, construction or installation thereof and title to and property in any and all equipment and trade fixtures removable without substantial injury to the Additional Premises placed in or installed upon the Additional Premises shall vest in the Lessee upon the installation thereof. No equipment or trade fixtures shall be removed by the Lessee prior to the expiration date of the letting under the Lease as herein amended unless replaced with identical property of equal or greater value. Without limiting any other term of the Lease as herein amended, and notwithstanding the foregoing provisions, upon notice given by the Port Authority either prior to or within sixty (60) days after expiration or earlier termination of the letting of the Additional Premises under the Lease as herein amended the Lessee shall remove from the Additional Premises any improvements, fixtures, trade fixtures, or equipment as the Port Authority may specify in its notice, and shall repair any damage to the Additional Premises caused by such removal.

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

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

(p) Upon performance by the Lessee of the Lessee's Work in accordance with the provisions of this Paragraph 7, the Port Authority will pay to the Lessee: [A] a sum (which sum is hereinafter referred to as the "Construction Work Reimbursement Amount") equal to the lesser of: (1) the reasonable cost, as hereinafter defined, of the Construction Work or (2) One Million Five Hundred Thousand Dollars and No Cents ($1,500,000.00); and [B] a sum (which sum is hereinafter referred to as the "Demolition Work Reimbursement Amount") equal to the lesser of: (1) the reasonable cost, as hereinafter defined, of the Demolition Work or (2) Six Hundred Thousand Dollars and No Cents ($600,000.00). To the extent permitted by sound accounting practice, the sum of the following items of cost incurred by the Lessee in performing the Construction Work and the Demolition Work shall constitute the cost thereof for the purposes of this Agreement:

(1) The Lessee's payments to contractors;

(2) The Lessee's payments for supplies and materials;

(3) The Lessee's payments to persons, firms or corporations other than construction contractors or suppliers of materials, for services rendered or rights granted in connection with demolition, construction or relocation, not including services of the types mentioned in items (4), (5) and (6) of this paragraph;

(4) The Lessee's payments of premiums for performance bonds and for the insurance the Lessee is required to maintain in effect in accordance with the provisions of subparagraphs (j) and (k) of this Paragraph 7 during the period of construction only;

(5) The Lessee's payments for engineering services in connection with the Lessee's Work, and during the period of the construction only;

(6) The Lessee's payments for architectural, planning and design services in connection with the Lessee's Work;

(7) The sum of the costs approved under items (4), (5) and (6) of this paragraph shall not exceed 20% of the sum of the costs approved under items (1), (2) and (3) of this subparagraph; if in fact there is any such excess, such excess shall not be a part of the cost incurred by the Lessee in the performance of the Construction Work or the Demolition Work for the purposes of this Paragraph 7.

No payment or payments on account of administrative or other overhead costs and no payment to employees of the Lessee shall be included in the cost of the work whether or not allocated to the cost of the work by the Lessee's own accounting practices. No payment to a firm or corporation wholly or partially owned by or in common ownership with the Lessee shall be included in the cost of the work.

(q) On or about the tenth day of the first calendar month following the commencement of the Lessee's Work the Lessee shall certify to the Port Authority by written certification subscribed by a responsible fiscal officer of the Lessee: (i) the amount of the Construction Work and the Demolition work performed by the Lessee in the preceding month, the cost of the work relating to the Construction Work and the Demolition Work described separately in the certificate, the amount of such cost incurred by the Lessee during such month, and the amount paid by the Lessee on account of such cost, if any, relating to the Construction Work or the Demolition; (ii) that except for the amount, if any, stated in such certificate to be due for services and materials, there is no outstanding indebtedness known to the persons signing such certificate, after due inquiry, then due on account of the purchase of any equipment or fixtures described in the certificate or for labor, wages, materials, supplies or services in connection with any work described therein which, if unpaid, might become the basis of a vendor's, mechanic's, laborer's or materialmen's statutory or similar lien or alleged lien upon such work or upon the Additional Premises or any part thereof, or upon the Lessee's leasehold interest therein, nor are any of the equipment, or fixtures described in such certificate secured by any liens, mortgages, security interests or other encumbrances. Nothing contained herein shall be deemed or construed as a submission by the Port Authority to the application to itself of any such lien; and (iii) that the work for which the amount set forth in the certificate is due has been performed in accordance with the Lessee's approved plans and specifications and the provisions of this Agreement. Such certificate shall also contain a certification by the Lessee and by the architect or engineer who sealed the Lessee's plans pursuant to the provisions of subparagraph (c) of this Paragraph 7 certifying that all of the work described in the certificate has been performed in accordance with the final plans and specifications approved by the Port Authority and in accordance

with the provisions of this Agreement. Following its receipt of the Lessee's certificate, the Port Authority shall remit to the Lessee an amount equal to the cost incurred by the Lessee for the portion of the Construction Work and the Demolition Work performed by the Lessee in the preceding month as shown in the certificate less ten percent (10%) thereof and also less the amount of any claims made against the Port Authority by subcontractors, materialmen or workmen, if any, in connection with any of the work described in the certificate. On or about the tenth day of each month thereafter during the period of the performance of the Construction Work and the Demolition Work the Lessee shall deliver a similar certificate to the Port Authority signed by a responsible fiscal officer of the Lessee which certificate shall certify the amounts of the Construction Work and the Demolition Work performed by the Lessee in the preceding month, the cost of the Construction Work and the Demolition Work described in the certificate performed by the Lessee in the preceding month, the amounts of such respective cost incurred by the Lessee during such month, the amounts paid by the lessee on account of such respective cost, the cumulative amounts of such respective cost incurred by the Lessee on account of the Construction Work and the Demolition Work described separately in the certificate from the date of the commencement of the Construction Work and the Demolition Work, and the cumulative amounts of all payments made on account of such respective cost from the date of the commencement of the Construction Work and the Demolition Work, and such certificate shall also contain the statements set forth in subdivisions (ii) and (iii) of this paragraph (q) both with respect to the work described in the certificate and all work previously performed by the Lessee. Each such certificate shall also contain a certification by the Lessee and by the architect or engineer who sealed the Lessee's plans pursuant to the provisions of subparagraph (c) of this Paragraph 7 certifying that all of the work described in the certificate has been performed in accordance with the final plans and specifications approved by the Port Authority and in accordance with the provisions of this Agreement. Following its receipt of such certificate the Port Authority shall remit to the Lessee an amount equal to the cost incurred by the Lessee for the portion of the Construction Work and the Demolition Work performed by the Lessee in the preceding month as shown in the certificate less ten percent (10%) thereof and less the amount of claims, if any, made against the Port Authority by subcontractors, materialmen or workmen on account of any of the Construction Work or the Demolition Work described separately in the certificate. Upon final completion of all of the Lessee's Work to be performed by the Lessee as set forth in the Lessee's approved plans and specifications, the Lessee shall submit to the Port Authority a final certification signed by a responsible fiscal officer thereof that all work has been completed, which certificate shall certify separately the final cost of all of the Construction Work and the Demolition Work performed by the Lessee, the cumulative payments

made by the Lessee on account of such costs relating to the Construction work and the Demotion Work, and shall also certify the items set forth in subdivisions (ii) and (iii) of this subparagraph (q) with respect to all of the Construction Work and the Demolition Work. In addition, the architect or engineer who sealed the Lessee's plans and specifications pursuant to the provisions of subparagraph (c) of this Paragraph 7 shall certify that all of the work has been performed in accordance with the final plans and specifications for the work approved by the Port Authority and in accordance with the provisions of this Agreement. After examination and approval of such certificate, and such supporting documents and records as the Port Authority shall deem necessary to substantiate the certificate, the Port Authority shall finally inspect the Construction Work and the Demolition Work and after such inspection the Port Authority shall notify the Lessee if all of the work has been performed in accordance with the approved plans and specifications and the provisions of this Agreement. If all of the work has been completed in accordance with the approved plans and specifications, and the provisions of this Agreement, the Port Authority will pay to the Lessee on account of the cost of [1] the Construction Work the difference between the sum obtained by adding together all prior payments made by the Port Authority to the Lessee on account of the cost of the Construction Work and the Construction Work Reimbursement Amount, and [2] the Demolition Work the difference between the sum obtained by adding together all prior payments made by the Port Authority to the Lessee on account of the Demolition Work and the Demolition Work Reimbursement Amount. If the sum of all of the previous payments made by the Port Authority to the Lessee on account of the cost of the Lessee's work exceeds the Construction Work Reimbursement Amount and the Demolition Reimbursement Amount respectively, the Lessee shall pay to the Port Authority the amount of such excess or excesses on demand. No payment made by the Port Authority to the Lessee pursuant to the provisions of this paragraph, including, without limitation, any payment made to the Lessee following the Port Authority's receipt of the Lessee's final certification of costs, shall be deemed final until the costs of the Construction Work and the Demolition Work have been finally determined by the Port Authority. Any payment made to the Lessee following the Port Authority's receipt of the Lessee's final certification of costs shall not be deemed a final determination of the costs of the Construction Work and the Demolition Work. Such final determination shall occur only after the Port Authority has examined and approved the Lessee's final certificate of costs and such records and other documentation of the Lessee as the Port Authority shall deem necessary to substantiate such costs. The Lessee shall permit the Port Authority by its agents, employees and representatives at all reasonable times prior to a final determination of the costs of the Construction Work and the Demolition Work to examine and audit the records and other documentation of the Lessee which pertain to and will substantiate

such costs. In no event whatsoever shall the cost of any portion of the Construction Work and the Demolition Work as finally determined and computed in accordance with the provisions of subparagraph (p) of this Paragraph 7 and in accordance with the provisions of this subparagraph include any expenses, outlays or charges whatsoever by or for the account of the Lessee for or in connection with any improvements, equipment or fixtures or the performance of any work unless such are actually and completely installed in and or made to the Additional Premises nor shall cost include the costs of any equipment, fixture or improvements which are secured by liens, mortgages, other encumbrances or conditional bills of sale.

(r) The Port Authority's entire obligation under this Agreement to make payments to the Lessee on account of the cost of the Construction Work and the Demolition Work shall be limited in amount to the Construction Work Reimbursement Amount and the Demolition Reimbursement Amount. 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.

(s) Without limiting any of the terms and conditions hereof, the Lessee understands and agrees that it shall put into effect prior to the commencement of the Lessee's Work an affirmative action program and Minority Business Enterprise (MBE) program and Women-owned Business Enterprise (WBE) program in accordance with the provisions of Section 37 of the Lease as herein amended, including but not limited to the provisions of Schedule E attached to the Lease as herein amended. The provisions of Schedule E shall be applicable to the Lessee's contractor or contractors and subcontractors at any tier of construction as well as to the Lessee, and the Lessee agrees to include the provisions of Schedule E in all of its construction contracts so as to make the provisions and undertakings set forth in Schedule E the direct obligation of the construction contractor or contractors and subcontractors at any tier of construction. The Lessee agrees to and shall require its contractors and subcontractors to furnish to the Port Authority such data, including but not limited to compliance reports, relating to the operation and implementation of the affirmative action, MBE, and WBE programs of the Lessee and its contractor, contractors, and subcontractors at any tier of construction called for under the provisions of this paragraph and Schedule E as the Port Authority may request at any time and from time to time and the Lessee agrees to and shall also require that its contractors and subcontractors at any tier of construction make and put into effect such modifications and additions thereto as may be directed by the Port Authority pursuant to the provisions of

this paragraph and Schedule E to effectuate the goals of affirmative action, MBE, and WBE programs.

(t) In addition to and without limiting any terms and provisions hereof, the Lessee shall provide in all of its contracts and subcontracts covering the Lessee's Work, or any portion thereof, that:

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

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

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

(4) The contractor will include the provisions of subdivisions (1) through (3) of this paragraph in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work in connection with the contract;

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

8. Berthing. Subject to the provisions of Paragraph 2 above, the Lessee shall have no right to berth vessels or other craft in the berthing area except in accordance with and subject

to the Port Authority's tariff, as incorporated in FMC Schedule PA-10, as amended from time to time, including, without limitation, payment to the Port authority with respect to each vessel or other craft of dockage and wharfage charges as set forth therein from time to time.

9. Partial Surrender. In the event the Lessee exercises its right to terminate the lease of Red Hook Container Terminal in Brooklyn, New York because the barges are no longer in services, the Lessee hereby acknowledges and agrees that it will surrender the Additional Premises upon 30-day prior written notice from the Port Authority.

10. Additional Right of Termination. Effective as of the date hereof, the provisions of Section 39 of the Lease shall be deemed deleted and substituted in its entirety to read as follows:

"The Port Authority and the Lessee each shall have the right to terminate the Lease as herein amended and the letting hereunder, without cause, at any time, on thirty (30) days' advance notice to the other party. However, the Lessee shall have no such termination right nor shall any such termination notice given by the Lessee be of any force or effect if either on the date of its giving of such notice to the Port Authority or the effective date thereof the Lessee either shall be in default of any term or provision of the Lease as herein amended, or has been served with a notice of default by the Port Authority as to which any applicable period to cure has passed, or has been served with a notice of termination by the Port Authority. In the event of termination pursuant hereto, the Lease as herein amended and the letting hereunder shall cease and expire as if the effective date stated in said notice were the date originally set forth herein for the expiration of the Lease as herein amended. Termination shall not relieve the Lessee of any liabilities or obligations which shall have accrued on or prior to the effective date of termination or which shall mature on such date."

11. Effectiveness. Except as hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

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

13. No Personal Liability. Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Lessee with any liability, or held liable to the Lessee under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach, or attempted or alleged breach thereof.

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

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

ATTEST:

SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By

(Title) LILLIAN C. BORRONE DIRECTOR, (Seal)

ATTEST:

Secretary

AMERICAN STEVEDORING, INC.

By

(Title) President

(Corporate Seal)

APPROVED:
FORM
TERMS

FORM XLD - Ack., N.J. 51380

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

On this 23RD day of FEBRUARY, 1998, before me, the subscriber, a notary public of New York, personally appeared Lillian C. Borrone the Port Commerce Director of the Port Authority of New York and New Jersey, who I am satisfied is the person who has signed the within instrument; and I having first made known to him the contents thereof, she did acknowledge that she signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Commissioners.

Marie M. Edwards
(notarial seal and stamp)

MARIE M. EDWARDS, NOTARY
Public, State of New York
No. 24-4959693
Qualified in Kings County
Commission Expires 1/6/2000

STATE OF New Jersey)
) ss.
COUNTY OF Union)

On this 29 day of January, 1998 before me, the subscriber, a Notary public of New Jersey, personally appeared Keith Catuccl the _____ President of AMERICAN STEVEDORING, INC. who I am satisfied is the person who has signed the within instrument; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Directors.

John S. Perry
(notarial seal and stamp)

JOHN S. PERRY
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Feb. 21, 2001

Port Authority Lease No. LPN-248
Supplement No. 2

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of April 15, 1999 by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority") and AMERICAN STEVEDORING, INC. (hereinafter called the "Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of January 1, 1998, the Port Authority and the Lessee entered into an agreement of lease (hereinafter called the "Lease") covering certain premises at Port Newark, in the City of Newark, County of Essex and State of New Jersey; and

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

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

1. Additional Premises Commencement Date. Paragraph 1 of Supplement No. 1 to the Lease, entitled "Additional Premises", shall be and be deemed to be amended so as to delete the date "March 1, 1998" therein and replace the same with the date "September 1, 1998"

2. Additional Premises Basic Rental Commencement Date. Paragraph 6 of Supplement No. 1 to the Lease, entitled "Basic Rental", shall be and be deemed to be amended so as to delete the date "April 1, 1998" therein and replace the same with the date "~~March~~ July 1, 1999".

3. New Additional Premises. In addition to the premises heretofore let to the Lessee under the Lease, the letting as to which shall continue in full force and effect, subject to and in accordance with all the terms, provisions, covenants and conditions of the Lease as amended by this Agreement, the Port Authority hereby lets to the Lessee and the Lessee hires and takes from the Port Authority, at Port Newark aforesaid, the open area shown in stipple and 126 linear feet of water area shown in diagonal hatching, all as shown on the sketches attached hereto, hereby made a part hereof and marked "Exhibit PS-1" and "Exhibit A-3", respectively, together with the structures, fixtures, improvements and other property, if any, of the Port Authority located or to be located therein or thereon, the said open area and water area, and the said structures, fixtures, improvements and other property (all of which is sometimes hereinafter in this Agreement called the "New Additional Premises") to be and become a part of the premises under the Lease at 12:01 o'clock A.M. on September 1, 1998 let to the Lessee, subject to and in accordance with all

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of the terms, covenants and conditions of the Lease as herein amended, for a term expiring at 11:59 o'clock P.M. On August 31, 2001, unless sooner terminated. The parties hereby acknowledge that the New Additional Premises constitute non-residential property.

4. Use. The Lessee shall use the New Additional Premises solely for the transfer of cargo containers to and from barges and other watercraft transporting such containers to and from the Red Hook Marine Terminal and for no other purposes whatsoever.

5. "As Is". The Port Authority shall deliver the New Additional Premises to the Lessee in its presently existing "as is" condition. The Lessee acknowledges that prior to the execution of this Agreement, it has thoroughly examined and inspected the New Additional Premises and has found it in good order and repair and has determined it to be suitable for the Lessee's operations therein under the Lease as herein amended. The Lessee agrees to and shall take the New Additional Premises in its "as is" condition and the Port Authority shall have no obligations under the Lease as herein amended for finishing work or preparation of any portion of the New Additional Premises for the Lessee's use.

6. No Representation. The Lessee acknowledges that it has not relied upon any representation or statement of the Port Authority or its Commissioners, officers, employees or agents as permitted thereon by the Lease as herein amended. Without limiting any obligation of the Lessee to commence operations under the Lease as herein amended at the time and in the manner stated elsewhere in this Agreement, the Lessee agrees that no portion of the New Additional Premises will be used initially or at any time during the letting thereof under the Lease as herein amended which is in a condition unsafe or improper for the conduct of the Lessee's operations therein under the Lease as herein amended so that there is possibility of injury or damage to life or property.

7. Services. The Port Authority shall have no obligation to supply to the Lessee any services or utilities in the New Additional Premises.

8. Basic Rental. In addition to all other annual rentals and fees payable under the Lease as herein amended, the Lessee shall pay a basic rental (hereinafter called the "basic rental") during the term set forth in Paragraph 3 above for the New Additional Premises at the annual rate as follows:

(a) during the period from ~~March~~ July 1, 1999 to and including August 31, 2000, both dates inclusive, at the annual rate of One Hundred Thirty-Seven Thousand Two Hundred Fourteen Dollars and No Cents ($137,214.00) payable in advance in equal monthly installments of Eleven Thousand Four Hundred Thirty-Four Dollars and Fifty Cents ($11,434.50) on the Rent Commencement Date (as defined in this paragraph 8) and on the first day of each calendar month thereafter during such period; and

(b) during the period from September 1, 2000 to and including August 31, 2001,

both dates inclusive, at the annual rate of One Hundred Forty One Thousand Three Hundred Thirty Dollars and Forty-two Cents ($141,330.42) payable in advance in equal monthly installments of Eleven Thousand Seven Hundred Seventy-Seven Dollars and Fifty-four Cents ($11,777.54) on September 1, 2000 and on the first day of each calendar month thereafter during such period.

For purposes of this paragraph, the Rent Commencement Date shall mean the earlier of (1) ~~March~~ July 1, 1999 and (2) the date of delivery by the Port Authority to the Lessee of a certificate of final completion with respect to the Construction Work pursuant to paragraph 7 of Supplement No. 1 to the Lease as herein amended.

9. Abatement for New Additional Premises.

(a) If at any time the Lessee shall become entitled to an abatement of basic rental under the provisions of this Agreement or otherwise with respect to the New Additional Premises, such abatement shall be computed as follows:

(1) During the period from the Rent Commencement Date through and including August 31, 2000, for each square foot of usable open area the use of which is denied to the Lessee, there shall be an abatement at the annual rate of Seventy Cents ($.70) per square foot; and

(2) During the period from September 1, 2000 through and including August 31, 2001, for each square foot of usable open area the use of which is denied to the Lessee, there shall be an abatement at the annual rate of Seventy-Two Cents ($.72) per square foot.

(b) If an exemption amount is fixed in this Agreement, it shall be reduced in the same proportion as the total basic rental is abated.

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

10. Berthing. (a) Subject to the provisions of paragraph 4 above, the Lessee shall have no right to berth vessels or other craft in the berthing area except in accordance with and subject to the Port Authority's tariff, as incorporated in FMC Schedule PA-10, as amended from time to time, including, without limitation, payment to the Port Authority with respect to each vessel or other craft of dockage and wharfage charges as set forth therein from time to time.

(b) Subparagraph (b) of Section 4 of the Lease, entitled "Rights of User", shall be and be deemed amended to add at the end of such paragraph the following:

> "Notwithstanding anything to the contrary stated in this subparagraph (b), at all times when the berthing area is not being used by the Lessee for the uses permitted in this subparagraph (b) the Port Authority shall have the right to tie up seagoing vessels and other craft in the berthing area and directly collect dockage and wharf usage charges from such vessels and other craft as applicable. Prior to the use of the berthing area by the Lessee, the Lessee shall provide the Port Authority with seventy-two (72) hours' prior notice of its intent to so use the berthing area, such notice to be provided by filing with the Port Authority a berth application in the form approved by the Port Authority for such purpose."

11. Lessee's Demolition and Construction Work. The first, unnumbered paragraph of Paragraph 7(p) of Supplement No. 1 to the Lease shall be and be deemed revised so as to read in its entirety as follows:

> "(p) Upon performance by the Lessee of the Lessee's Work in accordance with the provisions of this Paragraph 7, the Port Authority will pay to the Lessee: [A] a sum (which sum is hereinafter referred to as the "Construction Work Reimbursement Amount") for the reasonable cost of the Construction Work and [B] a sum (which sum is hereinafter referred to as the "Demolition Work Reimbursement Amount") for the reasonable cost of the Demolition Work which sums together, in the aggregate, shall no exceed Three Million Seven Hundred Thousand Dollars and No Cents ($3,700,000.00). To the extent permitted by sound accounting practice, the sum of the following items of cost incurred by the Lessee in performing the Construction Work and the Demolition Work shall constitute the cost thereof for the purposes of this Agreement:"

12. Effectiveness. Except as hereby amended, all the terms, provisions, covenants and conditions of the Lease shall continue in full force and effect.

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

14. No Personal Liability. Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Lessee with any liability, or held liable to the Lessee under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach, or attempted or

alleged breach thereof.

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

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

ATTEST:

ASSISTANT SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

(Title) LILLIAN C. BORRONE DIRECTOR

(Seal)

ATTEST:

Secretary

AMERICAN STEVEDORING, INC.

By _____

(Title) President

(Corporate Seal)

APPROVED:

FORM

TERMS

FORM XLD - Ack., N.J. 51380

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

On this 15th day of June, 1999, before me, the subscriber, a notary public of New York, personally appeared Lillian Borrone the Director of the Port Authority of New York and New Jersey, who I am satisfied is the person who has signed the within instrument; and I having first made known to ~~him~~ her the contents thereof, ~~he~~ she did acknowledge that ~~he~~ she signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Commissioners.

Marie M. Edwards
(notarial seal and stamp)

MARIE M. EDWARDS, NOTARY
Public, State of New York
No. 24-4959693
Qualified in Kings County
Commission Expires 1/6/2000

STATE OF New Jersey)
) ss.
COUNTY OF Union)

On this 26 day of May, 1999, before me, the subscriber, a notary public, personally appeared Keith Gtucci the _____ President of **AMERICAN STEVEDORING, INC.** who I am satisfied is the person who has signed the within instrument; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of its Board of Directors.

John S Perry
(notarial seal and stamp)

JOHN S. PERRY
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Feb. 21, 2001

Port Authority Lease No. LPN-248
Supplement No. 5

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of the 31st day of August 2001, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, (hereinafter called "the Port Authority") and AMERICAN STEVEDORING, INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, the Port Authority and the Lessee heretofore and as of January 1, 1998 entered into an agreement of lease identified by the above Port Authority Lease Number covering certain premises at Port Newark in the City of Newark, County of Essex and State of New Jersey (which agreement of lease as the same has been heretofore supplemented and amended, is hereinafter called "the Lease"); and

WHEREAS, the Port Authority and the Lessee desire to extend the term of the letting under the Lease, and to otherwise amend the same in certain other respects;

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

1. The term of the letting under the Lease is hereby extended for the period ending on the 30th day of April, 2004, unless sooner terminated or extended. The parties specifically agree that the term of the letting under the Lease as herein amended and extended shall in no event be further extended beyond the period ending on the 30th day of April, 2004.

2. (a) "Lease Year," as used in the Lease as herein amended and extended, shall mean as the context requires, the twelve month period commencing on the first day of January, 2002 (the first Lease Year"), and each of the twelve-month periods commencing on the first day of January thereafter occurring during the term of the letting under the Lease, as herein amended and extended.

(b) During the period from January 1, 2002 through the balance of the term of the letting under the Lease, as herein amended and extended, the Lessee shall pay to the Port Authority each Lease Year occurring during such period for the portion of the premises defined in Section 1 of the Lease as "the premises" a minimum rental (hereinafter called the "Minimum Annual Rental") as follows:

(i) The Minimum Annual Rental for the first Lease Year shall be the greater of (x) Three Hundred Seventy-five Thousand Dollars and No Cents ($375,000.00) or (y) the total revenue paid or payable to the Port Authority by the

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Lessee from operations at the premises during the first Lease Year in excess of One Hundred Thousand Dollars and No Cents ($100,000.00).

(ii) The Minimum Annual Rental for the second Lease Year shall be the greater of (x) Four Hundred Thousand Dollars and No Cents ($400,000.00) or (y) the total revenue paid or payable to the Port Authority by the Lessee from operations at the premises during the second Lease Year in excess of One Hundred Thousand Dollars and No Cents ($100,000.00).

(iii) The Minimum Annual Rental for the third Lease Year shall be the greater of (x) Four Hundred Twenty-five Thousand Dollars and No Cents ($425,000.00) or (y) the total revenue paid or payable to the Port Authority by the Lessee from operations at the premises during the third Lease Year in excess of One Hundred Thousand Dollars and No Cents ($100,000.00).

(c) The Minimum Annual Rental shall be payable in advance in monthly installments each equal to one-twelfth (1/12th) of the applicable Minimum Annual Rental set forth in subparagraph (b) above on January 1, 2002 and on the first day of each calendar month thereafter.

(d) If the last day of the term of the letting under the Lease, as herein amended and extended, is other than the last day of a calendar month, the applicable amount of Minimum Annual Rental for the portion of the month in which the term of the letting under the Lease, as herein amended and extended, ends shall be the amount of the applicable monthly installment of Minimum Annual Rental set forth in subparagraph (b) above, multiplied by a fraction of which the numerator shall be the number of days from the first day of the month in which the term of the letting under the Lease, as herein amended and extended, ends to the last day of the term of the letting under the Lease, as herein amended and extended, and the denominator shall be the full number of days in that calendar month.

(e) During the period from January 1, 2002 through the balance of the term of the letting under the Lease, as herein amended and extended, and in addition to the Minimum Annual Rental payable by the Lessee for the portion of the premises defined in Section 1 of the Lease as "the premises," the Lessee shall continue to pay to the Port Authority each Lease Year occurring during such period the charges, rentals and fees set forth in paragraphs (c) and (d) of Section 3 of the Lease in accordance with the terms, conditions and provisions of said paragraphs (c) and (d) of Section 3 of the Lease.

3. During the period from September 1, 2001 through the balance of the term of the letting under the Lease, as herein extended, the Lessee shall continue to pay to the Port Authority a basic rental for the portion of the premises defined in paragraph 1 of Supplemental Agreement No. 1 to the Lease as the "Additional Premises," in the same amount and in the same manner as set forth in paragraph 6 of Supplemental Agreement No. 1 to the Lease.

4. (a) During the period from September 1, 2001 through the balance of the term of the letting under the Lease, as herein extended, and in lieu of the basic rental heretofore payable by the Lessee under the Lease for the portion of the premises defined in paragraph [De los Reyes, Maria] 3 of Supplemental Agreement No. 2 to the Lease as the "New Additional Premises," the Lessee shall pay a basic rental to the Port Authority for the New Additional Premises during the period commencing on September 1, 2001 and ending on August 31, 2003 at the rate of One Hundred Fifty-seven Thousand Five Hundred Dollars and No Cents ($157,500.00) per annum, payable in advance in equal monthly installments of Thirteen Thousand One Hundred Twenty-five Dollars and No Cents ($13,125.00) each on the first day of September, 2001, and on the first day of each and every calendar month thereafter occurring throughout such period; and during the period commencing on September 1, 2003 and ending on April 30th, 2004 at the rate of One Hundred Seventy-eight Thousand Eight Hundred Seventy-five Dollars and No Cents ($178,875.00) per annum, payable in advance in equal monthly installments of Fourteen Thousand Nine Hundred Six Dollars and Twenty-five Cents ($14,906.25) each on the first day of September, 2003, and on the first day of each and every calendar month thereafter occurring throughout the balance of the term of the letting under the Lease, as herein extended.

(b) Notwithstanding anything to the contrary contained in paragraph 9 of Supplemental Agreement No. 2 to the Lease:

(i) During the period from September 1, 2001 through and including August 31, 2003, for each square foot of usable open area the use of which is denied to the Lessee, there shall be an abatement at the annual rate of Eighty Cents ($.80) per square foot; and

(ii) During the period from September 1, 2003 through and including April 30, 2004, for each square foot of usable open area the use of which is denied to the Lessee, there shall be an abatement at the annual rate of Ninety-one Cents ($.91) per square foot.

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

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

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

8. This Agreement and the Lease which it amends constitute 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 Agreement.

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 RICHARD M. LARRABEE

(Title) DIRECTOR, PORT COMMERCE DEPT.

(Seal)

ATTEST:

Secretary

AMERICAN STEVEDORING, INC.

By

(Title) President

(Corporate Seal)

APPROVED:

FORM

TERMS

MLPF-10672 Ack. NJ

For the Port Authority

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

On this 7th day of Nov. , 2002, before me, the subscriber, a notary public of New York, personally appeared RICHARD M. LARRABEE DIRECTOR, PORT COMMERCE DEPT the Port Authority of New York and New Jersey, who I am satisfied is the person who has signed the within instrument: and, I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of the Board of Commissioners.

MILLIE DOMINGUEZ
Notary Public - State of New York
NO. 01DO6051706
Qualified in Bronx County
My Commission Expires 12/4/03

Millie Dominguez
(notarial seal and stamp)

For the Lessee

STATE OF New Jersey)
)ss:
COUNTY OF Essex)

On this 24th day of Oct , 2002, before me, the subscriber, a notary public of New Jersey personally appeared Keith Eaton , the President of American Steamship who I am satisfied is the person who has signed the within instrument; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of the authority of the Board of Directors.

Michele Leahey
(notarial seal and stamp)

MICHELE LEAHEY
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES APRIL 6, 2006

Port Authority Lease No. LPN-248
Supplement No. 6

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of April 30, 2004 by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority") and AMERICAN STEVEDORING, INC. (hereinafter called "the Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of January 1, 1998, the Port Authority and the Lessee entered into an agreement of lease (hereinafter, as the said agreement of lease has been heretofore amended, modified and supplemented, called "the Lease") covering premises at Port Newark, in the City of Newark, County of Essex and State of New Jersey; and

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

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

1. The term of the letting under the Lease is hereby extended for the period ending at 11:59 o'clock P.M. on March 31, 2007, unless sooner terminated. The parties specifically agree that the term of the letting under the Lease as herein amended shall in no event be further extended beyond the period ending at 11:59 o'clock P.M. on March 31, 2007.

2. The Lessee shall pay basic rental for the portion of the premises shown on Exhibit A annexed to the Lease during the term of the extension as follows:

(a) During the period from January 1, 2004 through August 31, 2004, the Lessee shall pay Minimum Annual Rental in the amount equal to the greater of (x) Two Hundred Eighty-three Thousand Three Hundred Thirty-three Dollars and Thirty-three Cents ($283,333.33) or (y) the product obtained by multiplying (i) the total revenue paid or payable to the Port Authority by the Lessee from operations at the premises during the period from January 1, 2003 through December 31, 2003 in excess of One Hundred Thousand Dollars and No Cents ($100,000.00) by (ii) 0.666667. The parties acknowledge that the Minimum Annual Rental set forth in the immediately preceding sentence is

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the Minimum Annual Rental provided for in paragraph 1((b)(iii) of Supplement No. 5 to the Lease prorated for the eight months in the period from January 1, 2004 through August 31, 2004 and as said paragraph 1((b)(iii) is amended by paragraph 7 of this Agreement. The Minimum Annual Rental shall be payable in advance in monthly installments each equal to one-twelfth (1/12th) of the applicable Minimum Annual Rental set forth above in this subparagraph.

(b) During the period from January 1, 2004 through August 31, 2004, and in addition to the Minimum Annual Rental payable by the Lessee pursuant to the provisions of subparagraph (a) of this paragraph, the Lessee shall continue to pay to the Port Authority the charges, rentals and fees set forth in paragraphs (c) and (d) of Section 3 of the Lease in accordance with the terms, conditions and provisions of said paragraphs (c) and (d) of Section 3 of the Lease.

(c) During the period from September 1, 2004 through March 31, 2007, in lieu of the rentals payable under the provisions of subparagraphs (a) and (b) of this paragraph, the Lessee shall pay basic rental as follows: (i) during the period from September 1, 2004 through August 31, 2005, at the annual rate of Four Hundred Sixty-eight Thousand Dollars and No Cents ($468,000.00) payable in advance in equal monthly installments of Thirty-nine Thousand Dollars and No Cents ($39,000.00) on September 1, 2004 and on the first day of each calendar month thereafter during said period; (ii) during the period from September 1, 2005 through August 31, 2006, at the annual rate of Four Hundred Eighty-two Thousand Forty Dollars and No Cents ($482,040.00) payable in advance in equal monthly installments of Forty Thousand One Hundred Seventy Dollars and No Cents ($40,170.00) on September 1, 2005 and on the first day of each calendar month thereafter during said period; and (iii) during the period from September 1, 2006 through March 31, 2007, at the annual rate of Four Hundred Ninety-six Thousand Five Hundred One Dollars and Twenty Cents ($496,501.20) payable in advance in equal monthly installments of Forty-one Thousand Three Hundred Seventy-five Dollars and Ten Cents ($41,375.10) on September 1, 2006 and on the first day of each calendar month thereafter during said period.

3. The Lessee shall pay basic rental for the portions of the premises shown on Exhibit A-1 and Exhibit A-2 annexed to Supplement No. 1 to the Lease during the period from May 1, 2004 through March 31, 2007 at the annual rate of Seven Hundred Eighty Thousand Dollars and No Cents ($780,000.00) payable in advance in equal monthly installments of Sixty-five Thousand Dollars and No

Cents ($65,000.00) on May 1, 2004 and on the first day of each calendar month thereafter during such period.

4. The Lessee shall pay basic rental for the portion of the premises shown on Exhibit A-3 annexed to Supplement No. 2 to the Lease during the term of the extension as follows: (a) during the period from May 1, 2004 through August 31, 2004, at the annual rate of One Hundred Seventy-eight Thousand Eight hundred Seventy-five Dollars and No Cents ($178,875.00) payable in advance in equal monthly installments of Fourteen Thousand Nine Hundred Six Dollars and Twenty-five Cents ($14,906.25) on May 1, 2004 and on the first day of each calendar month thereafter during said period; (b) during the period from September 1, 2004 through August 31, 2005, at the annual rate of One Hundred Seventy-five Thousand Five hundred Dollars and No Cents ($175,500.00) payable in advance in equal monthly installments of Fourteen Thousand Six Hundred Twenty-five Dollars and No Cents ($14,625.00) on September 1, 2004 and on the first day of each calendar month thereafter during said period; (c) during the period from September 1, 2005 through August 31, 2006, at the annual rate of One Hundred Eighty Thousand Seven hundred Sixty-five Dollars and No Cents ($180,765.00) payable in advance in equal monthly installments of Fifteen Thousand Sixty-three Dollars and Seventy-five Cents ($15,063.75) on September 1, 2005 and on the first day of each calendar month thereafter during said period; and (d) during the period from September 1, 2006 through March 31, 2007, at the annual rate of One Hundred Eighty-six Thousand One Hundred Eighty-seven Dollars and Ninety-five Cents ($186,187.95) payable in advance in equal monthly installments of Fifteen Thousand Five Hundred Fifteen Dollars and Sixty-six Cents ($15,515.66) on September 1, 2006 and on the first day of each calendar month thereafter during said period.

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

6. (a) Effective December 9, 2004, the following sentence shall be and be deemed inserted as paragraph (c) of Section 4 of the Lease entitled "Rights of User":

> "(c) Notwithstanding any provision of paragraph (a) or (b) of this Section 4, the Lessee shall not, without the express, prior written consent of the Port Authority, to be granted, withheld, and withdrawn in the sole discretion of the Port Authority, either (a) berth in the berthing area any seagoing

vessel carrying or about to carry municipal or commercial solid waste or (b) handle at the premises any municipal or commercial solid waste whether or not housed in cargo containers."

(b) Effective December 9, 2004, the following two sentences shall be and be deemed inserted as the final sentences of paragraph 2 of Supplement No. 1 to the Lease entitled "Use":

"Notwithstanding any provision of set forth in the immediately preceding sentence, the Lessee shall have the right to berth in the water area of the Additional Premises only those barges and other watercraft operated by persons, firms or corporations which shall have the prior and continuing consent of the Port Authority, to be granted, withheld, and withdrawn in the sole discretion of the Port Authority. In addition, the Lessee shall not, without the express, prior written consent of the Port Authority, to be granted, withheld, and withdrawn in the sole discretion of the Port Authority, either (a) berth in the water area of the Additional Premises any barges or other watercraft carrying or about to carry municipal or commercial solid waste or (b) handle at the Additional Premises any municipal or commercial solid waste whether or not housed in cargo containers."

(c) Effective December 9, 2004, the following two sentences shall be and be deemed inserted as the final sentences of paragraph 4 of Supplement No. 2 to the Lease entitled "Use":

"Notwithstanding any provision of set forth in the immediately preceding sentence, the Lessee shall have the right to berth in the water area of the New Additional Premises only those barges and other watercraft operated by persons, firms or corporations which shall have the prior and continuing consent of the Port Authority, to be granted, withheld, and withdrawn in the sole discretion of the Port Authority. In addition, the Lessee shall not, without the express, prior written consent of the Port Authority, to be granted, withheld, and withdrawn in the sole discretion of the Port Authority, either (a) berth in the water area of the New Additional Premises any barges or other watercraft carrying or about to carry municipal or commercial solid waste or (b) handle at the New Additional Premises any municipal or commercial solid waste whether or not housed in cargo containers."

7. Effective from and after September 1, 2004, the following sentence appearing in paragraph (b) of Section 4 of the Lease shall be and be deemed deleted therefrom:

> "The Lessee shall have the exclusive right to collect dockage and wharf usage charges from seagoing vessels and all other craft, subject to all the terms and provisions of this Agreement."

and the following sentence shall be and be deemed substituted in lieu thereof:

> "The Lessee shall pay dockage and wharfage in accordance with the Port Authority's tariff, as incorporated in FMC SCHEDULE PA-10, as the same or any successor tariff may be amended from time to time, with respect to all seagoing vessels and other craft permitted to be berthed in the berthing area under the provisions of this paragraph (b)."

8. The following clarifications shall be made to Supplement No. 5 to the Lease (hereinafter called "the Supplement"): (a) the word "first" appearing in the fourth line of paragraph 2(b)(i) of the Supplement shall be and be deemed deleted therefrom and the phrase "period from January 1, 2001 through December 31, 2001" shall be and be deemed substituted in lieu thereof; (b) the word "second" appearing in the fourth line of paragraph 2(b)(ii) of the Supplement shall be and be deemed deleted therefrom and the word "first" shall be and be deemed substituted in lieu thereof; and (c) the word "third" appearing in the fourth line of paragraph 2(b)(iii) of the Supplement shall be and be deemed deleted therefrom and the word "second" shall be and be deemed substituted in lieu thereof.

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

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

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

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

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

ATTEST:

SECRETARY

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By _____
RICHARD M. LARRABEE

(Title) DIRECTOR, PORT COMMERCE DEPT.

(Seal)

ATTEST:

Secretary

AMERICAN STEVEDORING, INC.

By _____

(Title) President

(Corporate Seal)

APPROVED:
FORM TERMS

(a) If at any time the Lessee shall become entitled to an abatement of basic rental under the provisions of the Lease as herein amended or otherwise, such abatement shall be computed as follows:

(1) For each square foot of usable open area the use of which is denied to the Lessee, at the annual rate of $0.81*

(2) For each square foot of usable covered area the use of which is denied to the Lessee, at the annual rate of $0.81*

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

(c) If an exemption amount is fixed in the Lease as herein amended, it shall be reduced in the same proportion as the total basic rental is abated.

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

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

* for the portion of the premises shown on Exhibit A during the period from May 1, 2004 through August 31, 2004; at the annual rate of $0.91 for the portion of the premises shown on Exhibit A-3 during the period from May 1, 2004 through August 31, 2004; at the annual rate of $0.90 for the portions of the premises shown on Exhibit A and Exhibit A-3 during the period from September 1, 2004 through August 31, 2005; at the annual rate of $0.92 for the portions of the premises shown on Exhibit A and Exhibit A-3 during the period from September 1, 2005 through August 31, 2006; at the annual rate of $0.95 for the portions of the premises shown on Exhibit A and Exhibit A-3 during the period from September 1, 2006 through March 31, 2007; and at the annual rate of $0.89 for the portions of the premises shown on Exhibit A-1 and Exhibit A-2 during the period from May 1, 2004 through March 31, 2007. The rates set forth above shall apply to open area and covered space and there shall be a single abatement for the Lessee's loss of use of covered space and the open area constituting its footprint.

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

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

On the 10th day of March in the year 2005, before me, the undersigned, a Notary Public in and for said state, personally appeared RICHARD M. LARRABEE DIRECTOR, PORT COMMERCE DEPT., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Lucy Ambrosino
(notarial seal and stamp)

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

STATE OF New Jersey)
) ss.
COUNTY OF Monmouth

On the 15th day of November in the year 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared Keith A. Catucci, 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.

Joyce M. Gallo
(notarial seal and stamp)

L-PN-281

AGREEMENT

Between

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

AND

AMERICAN STEVEDORING, INC.

Dated as of April 30, 2008

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Lease No. L-PN-281

THIS AGREEMENT OF LEASE, made as of April 30, 2008, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority"), a body corporate and politic created by Compact between the States of New Jersey and New York, with the consent of the Congress of the United States of America, and having an office and place of business at 225 Park Avenue South, New York, New York 10003; and AMERICAN STEVEDORING, INC. (hereinafter called "the Lessee"), a corporation organized and existing under the laws of the State of New York and having an office and place of business at 70 Hamilton Avenue, Brooklyn, New York 11231, whose representative is: Sabato F. Catucci.

WITNESSETH, THAT:

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

Section 1. Letting

The Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority, at Port Newark (sometimes hereinafter called "the Facility" or the "marine terminal"), in the City of Newark, in the County of Essex and the State of New Jersey, the following:

The open area shown in large diagonal crosshatching (hereinafter called "the Barge Terminal Premises") and the open area and building shown in small diagonal crosshatching (hereinafter called "the Open Area Premises"), and the water area shown in white, all as so shown on a sketch hereto attached, hereby made a part hereof, and marked "Exhibit A", together with the buildings, structures, fixtures, improvements and other property, if any, of the Port Authority located or to be located or constructed therein or thereon, the said Barge Terminal Premises and the said Open Area Premises, enclosed spaces, and water area, buildings, structures, fixtures, improvements and other property of the Port Authority being hereinafter collectively called "the premises", and the water area shown in diagonal hatching being hereinafter sometimes called "the berthing area". The parties agree that the premises constitute non-residential property.

Section 2. Term

The term of the letting under this Agreement shall commence at 12:01 o'clock A.M. on May 1, 2008 and shall expire, if not sooner terminated, at 11:59 o'clock P.M. on April 30, 2018; provided, however, that, as a condition precedent to the effectiveness of this Agreement and the letting hereunder, and as a condition precedent to the effectiveness of the other three agreements being entered into contemporaneously herewith by the Lessee as identified in Section 38 hereof, the Lessee shall have first surrendered the area identified in Section 48 hereof, entitled "Surrendered Area", in full compliance with said Section. The Lessee further acknowledges and agrees that its fulfillment of its obligations under the provisions of said Section 48 is a special consideration and material inducement to the Port Authority, and is of such importance to the Port Authority, that the Port Authority would in no event have entered into this Agreement were it not for the full and timely fulfillment of these obligations of the Lessee.

Section 3. Rentals

(a) The Lessee shall pay a basic rental to the Port Authority for the Barge Terminal Premises during the term of the letting under this Agreement at the respective annual rate set forth under the heading "ANNUAL RENT" in the schedule attached hereto, hereby made a part hereof and marked "Schedule A", with the annual rent to be payable in equal monthly installments on the first day of each month occurring during the "LEASE YEAR" indicated on Schedule A in the respective amount set forth in Schedule A under the heading "MONTHLY RENT".

(b) The Lessee shall pay a basic rental to the Port Authority for the Open Area Premises during the term of the letting under this Agreement at the respective annual rate set forth under the heading "ANNUAL RENT" in the schedule attached hereto, hereby made a part hereof and marked "Schedule B", with the annual rent to be payable in equal monthly installments on the first day of each month occurring during the "LEASE YEAR" indicated on Schedule B in the respective amount set forth in. Schedule B under the heading "MONTHLY RENT"

Section 4. Abatement

(a) If at any time during the term of the letting under this Agreement the Lessee shall become entitled to an abatement of basic rental, whether pursuant to the terms of this Agreement, or otherwise, such abatement shall be computed as follows: for each square foot of usable area the use of which is denied the Lessee, at the annual rate of $.895 for the Barge

Terminal Premises and at the annual rate of $.95 for the Open Area Premises for the period from the May 1, 2008 to April 30, 2009, both dates inclusive, the rate thereafter to be adjusted during the term of the letting proportionately to the adjustment in basic rental in accordance with the provisions of paragraph (b) of Section 3 hereof.

(b) Except as provided in this Section, no abatement of rental shall be claimed by or allowed to the Lessee.

Section 5. Rights of User

(a) The Lessee shall use the premises for the following purposes only, and for no other purpose whatsoever: the transfer of cargo containers to and from the Red Hook Marine Terminal in Brooklyn and for the incidental handling of other containerizes and non-containerized waterborne cargoes to and from the premises.

(b) The Lessee shall have the right to berth in the berthing area seagoing vessels for which the Lessee acts as stevedore or terminal operator, and operated by persons, firms or corporations which shall have the prior and continuing consent of the Port Authority, to be granted, withheld, and withdrawn in the sole discretion of the Port Authority, carrying or about to carry general cargo, and tugboats, barges, lighters and other harbor craft serving such seagoing vessels, for loading or discharge of cargo, ships' stores, supplies and gear. Such loading and discharge from seagoing vessels may be accomplished in the berthing area through the medium of barges, lighters, and other harbor craft moored inshore or offshore. The Lessee shall have the exclusive right to collect dockage and wharf usage charges from seagoing vessels and all other craft, subject to all the terms and provisions of this Agreement. The Lessee shall not use or permit the use of the berthing area except as hereinabove provided.

(c) Notwithstanding any provision of this Section, the Lessee shall not, without the express, prior written consent of the Port Authority, to be granted, withheld, and withdrawn in the sole discretion of the Port Authority, use the premises for the transportation, storage, distribution or other handling of any municipal or commercial solid waste whether or not housed in cargo containers.

Section 6. Ingress and Egress

The Lessee shall have the right of ingress and egress between the premises and the city streets outside the Facility. Such right shall be exercised by means of such pedestrian or

vehicular ways, to be used in common with others having rights of passage within the Facility, as may from time to time be designated by the Port Authority for the use of the public. The use of any such way shall be subject to the rules and regulations of the Port Authority which are now in effect or which may hereafter be promulgated for the safe and efficient operation of the Facility. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way or any other area at, in or near the Facility presently or hereafter used as such, so long as a means of ingress and egress as provided above remains available to the Lessee. The Lessee hereby releases and discharges the Port Authority and 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 way or other area whether within or outside the Facility; provided, that, a reasonably equivalent means of ingress and egress remains available. The Lessee shall not do or permit anything to be done which will interfere with the free access and passage of others to space adjacent to the premises or in, along, across or through any streets, ways and walks near the premises.

Section 7. Governmental and Other Requirements

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

(b) The Lessee shall promptly observe, comply with and execute all laws and ordinances and governmental rules, regulations, requirements, orders and similar items now or at any time during the occupancy of the premises by the Lessee which as a matter of law are applicable to or which affect (i) the premises, (ii) the operations of the Lessee at the premises or the Facility, (iii) the use and occupancy of the premises and/or (iv) any hazardous substance which has migrated from the premises. The Lessee, at its sole cost and expense, shall make any and all structural and non-structural improvements, repairs or alterations of the premises and perform all remediation work and clean up of hazardous substances required in order to fully satisfy the compliance obligations set forth in this Agreement.

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

submission by the Port Authority to the application to itself of such requirements or any of them.

Section 8. Rules and Regulations

(a) The Lessee covenants and agrees to observe and obey (and to compel its officers, employees and others on the premises with its consent to observe and obey) the Rules and Regulations of the Port Authority now in effect, and such further reasonable rules and regulations (including amendments and supplements thereto) for the government of the conduct and operations of the Lessee as may from time to time during the letting be promulgated by the Port Authority for reasons of safety, health, or preservation of property, or for the maintenance of the good and orderly appearance of the premises, or for the safe or efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it will give notice to the Lessee of every such further rule or regulation at least ten (10) days before the Lessee shall be required to comply therewith.

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

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

Section 9. Method of Operation

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

(b) The Lessee shall not allow any garbage, debris or other waste materials (whether solid or liquid) to collect or

accumulate on the premises and the Lessee shall remove from the premises and from the Facility all garbage, debris and other waste materials (whether solid or liquid) arising out of its operations hereunder. Any such material which may be temporarily stored shall be kept in suitable waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and in any case to be designed and constructed to contain safely the waste material placed by the Lessee therein. Said receptacles shall be provided and maintained by the Lessee and shall be kept covered except when being filled or emptied. The Lessee shall use extreme care when effecting removal of all such material, shall effect such removal at such times and by such means as are first approved by the Port Authority, and shall in no event make use of any facilities or equipment of the Port Authority for the removal of such material except with the prior consent of the Port Authority.

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

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

(e) The Lessee shall take all reasonable measures to eliminate vibrations tending to damage the premises or the Facility or any part thereof.

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

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

(h) The Lessee shall not overload any floor, roof, land surface, bulkhead, pavement, landing, pier or wharf at the Facility and shall repair, replace or rebuild any such, including but not limited to supporting members, damaged by overloading.

(i) The Lessee shall permit the use of the premises (not excluding the berthing area) at any time and from time to time for the installation, maintenance and operation of such navigation lights as may be required by the United States Coast

Guard or other governmental authority having jurisdiction, and the Lessee shall furnish such electricity as may be required for use by navigation lights which may be so installed.

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

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

(l) The Lessee shall promptly raise and remove or cause to be raised and removed any and all objects of any kind, including vessels or other floating structures and equipment (whether or not intended to be floating), owned or operated by

the Lessee, or by a corporation, company or other organization or person associated, affiliated or connected with the Lessee or for which the Lessee acts as agent, stevedore or terminal operator, (or of others going to or from the premises on business with the Lessee) which shall have sunk, settled or become partially or wholly submerged at the Facility. In addition, the Lessee shall promptly raise and remove or cause to be raised and removed any and all objects of any kind, including vessels or other floating structures and equipment (whether or not intended to be floating), which shall have sunk, settled or become partially or wholly submerged in the berthing area. The provisions of the immediately preceding sentence shall be applicable whether or not the aforesaid object is owned by the Lessee or is connected in any way with the Lessee or its occupancy of or operations at the premises, and the Port Authority shall have no obligation to raise or remove any such object unless its presence in the berthing area is the result of the sole negligence or willful act of the Port Authority.

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

Section 10. Signs

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

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

Section 11. Indemnity and Liability Insurance

(a) The Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and

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

(b) If so directed by the Port Authority, the Lessee shall at its own expense defend any suit based upon any such claim or demand (even if such suit, claim or demand is groundless, false or fraudulent) in which event 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 its provisions of any statutes respecting suits against the Port Authority.

(c) The Lessee, in its own name as assured, shall maintain and pay the premiums on the following described policies of liability insurance:

(i) Commercial General Liability Insurance including but not limited to coverage for Premises-Operations and Products Liability-Completed Operations, with a minimum combined single limit coverage for bodily injury and property damage of $5,000,000.00. Said insurance shall also include coverage for explosion, collapse and underground property damage hazards. If the Lessee's operations entail the ownership, maintenance, operation, or use of any watercraft, whether owned, non-owned, or hired, the Lessee shall have any exclusion for such watercraft deleted or shall purchase equivalent coverage under a policy of Protection and Indemnity Insurance and shall provide the Port Authority with a certificate of insurance evidencing such coverage.

(ii) Commercial Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in

connection with its operations hereunder with a minimum combined single limit coverage for bodily injury and property damage of $2,000,000.00.

(iii) Workers' Compensation and Employers' Liability Insurance in accordance with the requirements of law. The Workers' Compensation Policy shall be specially endorsed to include coverage afforded by (aa) the U.S. Longshoremen's and Harbor Workers' Compensation Act and Coverage B - "Jones Act, maritime (including coverage for Masters or Members of the Crew of Vessels) and (bb) Coverage - B under the Federal Employers' Liability Act.

(d) With the exception of the Workers' Compensation and Employers' Liability Insurance Policy, each policy of insurance described in paragraph (c) of this Section shall include the Port Authority as an additional insured (including, without limitation, for purposes of premises operations and completed-operations) and each such policy shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority. Each such policy shall contain a contractual liability endorsement covering the indemnity obligations of the Lessee under this Section and such policies shall not contain any care, custody or control exclusions. Such insurance shall also contain an endorsement providing that the protection afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third party shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority and against the Port Authority by the Lessee, but said endorsement shall not limit, vary, change or affect the protections afforded the Port Authority as an additional insured.

(e) As to insurance of any type whatsoever required or permitted by any provision of this Agreement, a certified copy of each of the policies or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within fifteen (15) days after the execution of this Agreement by the Port Authority and the Lessee and the delivery to the Lessee of a fully executed copy thereof (which date is hereinafter called "the Commencement Date"). In the event any binder is delivered it shall be replaced with due diligence by a certified copy of the policy or by a certificate. Each such copy or

certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving thirty (30) days' written advance notice thereof to the Port Authority. A binder evidencing each renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the letting hereunder, as the letting may be from time to time extended, and a certificate or a certified copy of each such renewal policy shall be delivered to the Port Authority with due diligence. If at any time any policy shall be or become unsatisfactory to the Port Authority as to form or substance or as to coverages or minimum limits, or if any carrier issuing any one or more such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain one or more new and satisfactory policies in replacement. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

Section 12. Maintenance and Repair

(a) The Lessee shall at all times keep the premises clean, and in an orderly condition and appearance, together with all the fixtures, equipment and personal property of the Lessee located in or on the premises. Without limiting the generality of the immediately preceding sentence or any obligations of the Lessee with respect to the premises, the Lessee agrees that upon the commencement of the letting it shall place the premises in good operating condition and shall keep such premises in good operating condition throughout the term of the letting.

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

(c) Subject to the provisions of paragraph (f) of this Section and Section 13 of this Agreement, throughout the term of the letting under this Agreement, the Lessee shall assume the entire responsibility for, and shall relieve the Port Authority from all responsibility from, all care, maintenance, repair and rebuilding whatsoever in the premises, whether such care, maintenance, repair, or rebuilding be ordinary or extraordinary, partial or entire, inside or outside, foreseen or unforeseen, structural or otherwise; and without limiting the generality of the foregoing the Lessee shall maintain and make repairs and replacements, structural or otherwise to all improvements located on the premises and all other fixtures, machinery, or equipment now or hereafter belonging to or connected with said premises or

the Lessee's operations being conducted thereon, including without limitation thereto all maintenance, repair and replacement of the following items: (1) paving, which shall mean maintenance paving, crack sealing, weed removal, repair of damaged or overstressed surfaces, manholes, catch basins, underground storm water pipes, and grate support systems. In addition, the Lessee shall be responsible for maintenance repairs, and damages, that are required above the structural concrete chamber of catch basins and manholes. Such repairs shall include the concrete brick collar, concrete collar, brick collar, asphalt concrete pavement, Portland cement concrete pavement, the frame and grate or manhole cover and silt bucket when and where applicable. For the purpose of manhole and catch basin repair, the top of the structural chamber shall be the top of the concrete slab that covers the vertical walls of the underground manhole structure, and for the purpose of catch basin and manhole repair, the top of the structural chamber shall be the top of the (cast-in-place or pre-cast) vertical walls of the underground catch basin and manhole structure; (2) scales; (3) (4) lights, light poles and light pole foundations; (5) sprinkler systems; (6) gas and electric from the meter (utility companies are responsible up to the meter); (7) water pits; (8) container cranes; (9 the electrical system, equipment and fixtures, including, without limitation, lighting fixtures, switches, outlets, receptacles and other electrical devices and accessories, and all relamping and fuse replacement; (10) the plumbing system, fixtures and equipment, and all finished plumbing; (11) buildings and all parts thereof; (12) fencing, (13) signs; (14) fire extinguishers; and (15) all painting. The Lessee shall maintain all such improvements, fixtures, machinery and equipment at all times in good condition, and shall perform all necessary preventive maintenance thereto so that at the expiration or termination of the letting and all times during the letting, the same (or a reconstruction of all or any part thereof) will be in as good condition as at the commencement of the term of the letting thereof (or, in the case of improvements made during the letting hereunder, in as good condition as at the time of the installation or construction thereof), except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the buildings or other structures on the premises or adversely affect the efficient or the proper utilization of any part of the premises or the environmental condition thereof. The Lessee shall make frequent periodic inspections of the premises and subject to Section 13of this Agreement shall make all repairs and replacements, and do all rebuilding, inside and outside, ordinary and extraordinary, partial and entire, foreseen and unforeseen, structural or otherwise, regardless of the cause of the condition requiring such repairs, rebuilding or replacements, which repairs,

rebuilding and replacements by the Lessee shall be in quality and class not inferior to the original in materials and workmanship.

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

(e) (1) Upon sixty (60) days' notice from the Lessee that the berthing area of Pier 6 has shallowed to the depth of thirty-three (33) feet below mean low water, the Port Authority, at its own expense, shall proceed (to the extent permitted by governmental authorities having jurisdiction) to dredge such part of the berthing area specified in the said notice (or such portion thereof as may be necessary), either directly or through a contractor, to a depth of thirty-five (35) feet below mean low water. The term "mean low water" as used in this subparagraph shall mean mean low water as most recently at the time of execution of this Agreement determined by observations of the United States Coast and Geodetic Survey. Notwithstanding the foregoing, any dredging required under this paragraph (e)(1) shall be only such as shall produce (or leave in place) such depths and slopes as may be required in the opinion of the Port Authority for underwater support of structures, which opinion shall be controlling.

(2) Notwithstanding any other provision of this Section, in the event that the Port Authority shall determine that the Estimated Cubic Yard Cost, as hereinafter defined, will exceed Eighty Dollars and No Cents ($80.00) (which amount is hereinafter called "the Base Cost"), the Port Authority shall not be obligated to perform the dredging work set forth in paragraph (e)(1) of this Section unless the Lessee shall pay for any amount of the Estimated Cubic Yard Cost which shall exceed the Base Cost. "The Estimated Cubic Yard Cost" shall mean the total cost of dredging the portion of the berthing area described in the Lessee's notice given to the Port Authority under the aforesaid paragraph (e)(1) calculated in terms of the cost of such work per

cubic yard of dredged material, with such estimate to include the cost of transporting and disposal of any dredged material and a Port Authority overhead charge of fifteen percent (15%) of all such other costs. In the event that the Port Authority shall determine that the Estimated Cubic Yard Cost of any such dredging will exceed the Base Cost, the Port Authority shall so notify the Lessee and the Lessee shall have the right to elect to have the dredging performed subject to its obligation to pay for any such excess cost. In the event that the Lessee shall not elect to pay such excess cost of the dredging, the Port Authority shall be relieved of its obligation to perform such dredging until such time, if ever, that it shall determine that the Estimated Cubic Yard Cost of such dredging does not exceed the Base Cost. The Base Cost shall be subject to adjustment during the term of the letting under this Agreement in accordance with the provisions of paragraph (e)(3) of this Section.

(3) As used in this subparagraph:

(i) "Index" shall mean the Construction Cost Index published by ENR Magazine.

(ii) "Base Period" shall mean the calendar month of April 2008.

(iii) "Adjustment Period" shall mean, as the context requires, the calendar month of April 2009 and the calendar month of April in each calendar year which thereafter occurs during the term of the letting under this Agreement.

(iv) "Anniversary Date" shall mean, as the context requires, May 1, 2009 and each anniversary of such date which thereafter occurs during the term of the letting under this Agreement.

(v) "Percentage Change" shall mean the percentage of change in the Index on each Anniversary Date equal to a fraction the numerator of which shall be the difference between (aa) the Index for the Adjustment Period immediately preceding such Anniversary Date and (bb) the Index for the Adjustment Period immediately preceding the Anniversary Date which immediately precedes such Anniversary Date, and the denominator of which shall be the Index for the Adjustment Period immediately preceding the Anniversary Date which immediately precedes such Anniversary Date.

Commencing on each Anniversary Date and for the period commencing with such Anniversary Date and continuing through the day preceding the next Anniversary Date, or the expiration date of the term of the letting under this Agreement, as the case may be,

the Base Cost set forth in paragraph (e)(2) of this Section shall be adjusted by adding to or subtracting from the Base Cost, as the case may be, the product obtained by multiplying the Base Cost by the Percentage Change for such Anniversary Date. For purposes of any adjustment under this subparagraph, the Base Cost employed in the calculation described in the immediately preceding sentence shall be the Base Cost as previously adjusted under this paragraph.

In the event the Index shall hereafter be converted to a different standard reference base or otherwise revised or ENR Magazine shall cease to publish the Index, then for the purposes hereof there shall be substituted for the Index such other appropriate index or indices properly reflecting changes in construction costs in a manner similar to that established in the Index used in the latest adjustment as the Port Authority may in its discretion determine. If after an adjustment in the Base Cost shall have been fixed for any period, the Index used for computing such adjustment shall be changed or adjusted, then the adjustment of the Base Cost for that period shall be recomputed accordingly.

(4) Notwithstanding any other provision of this Section, the Port Authority shall not be obligated to perform the dredging work set forth in subparagraph (1) of this paragraph as to any part of the portion of the berthing area described in the Lessee's notice given to the Port Authority under the aforesaid subparagraphs as long as any vessel or other floating structure, equipment or other personal property (whether or not intended to be floating) is sunk, settled or partially or wholly submerged in such part of the berthing area. The provisions of this subparagraph shall be applicable whether or not the aforesaid object is owned by the Lessee or is connected in any way with the Lessee or its occupancy of or operations at the premises. The Port Authority shall have no obligation to raise or remove any such object unless its presence in the berthing area is the result of the sole negligence or willful act of the Port Authority.

(f) Except under circumstances as to which paragraph (b) of this Section applies, upon receipt of notice that repair or replacement of such of the following as are located in or are a part of the premises is required: (1) the structure of the wharf, fender systems (but not backing logs or bumpers), and standard mooring devices; (2) the water distribution system (i) up to the closer of twenty (20) feet from the exterior building walls of the building being serviced or the valve connection thereto and (ii) up to the closer of the ships' water pits or the single meter on the premises or closest meter on the premises servicing said water pit (but in no event the ships' water pits

themselves); and (3) the underground sanitary systems; the Port Authority will make such repairs and replacements to the extent necessary to keep such part of the premises in a reasonably good condition for the operations of the Lessee hereunder, but the Port Authority shall not be obligated to make any repairs or replacements to bring the premises to a better condition than that existing at the commencement of the letting. The Port Authority's responsibilities under this paragraph shall be limited to bearing the expense of repair or replacement, and without limiting the foregoing the Port Authority shall have no responsibility with respect to any repairs or replacements which are the obligation of the Lessee under any other provision of this Agreement. The Port Authority shall have no responsibility with respect to any repairs or replacements which are required because of any casualty whether or not insured or insurable, except as expressly provided in Section 17 of this Agreement. If the Port Authority shall fail, after a reasonable period of time to perform its repair and replacement obligations under this paragraph, the Lessee, as its sole remedy, shall perform the work, and the Port Authority shall on demand pay the Lessee its actual certified cash expenditures to third parties therefor, or, at the option of the Port Authority, shall extend to the Lessee a credit against its rental obligations under this Agreement in an amount equal to such expenditures. Furthermore, prior to the commencement by the Port Authority of any work set forth in the Lessee's notice to the Port Authority, the Lessee shall take all precautions necessary to protect persons or property at the Facility, including the immediate performance by the Lessee of any work required to correct conditions which involve danger to persons or property, and the Port Authority will reimburse the Lessee for such work as provided in this paragraph. The Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents, and representatives, from and against all claims and demands, including but not limited to claims and demands for death, claims and demands for personal injuries, and claims and demands for property damages, of any third persons whatsoever, including, but not limited to, the Lessee's officers, employees, agents, and representatives which may arise from the condition of the premises or any part thereof, or from the failure of the Lessee to notify the Port Authority of conditions requiring repair or replacement, or from the failure of the Lessee to make timely corrections of dangerous or potentially dangerous conditions in or on the premises. Except as set forth above, the Lessee hereby releases and discharges the Port Authority, its Commissioners, officers, employees, agents, and representatives from any liability for damages to the Lessee, consequential, or otherwise, in connection with any of the provisions of this paragraph concerning repairs or replacements to any portion of the premises, including without limitation thereto any failure on the part of the Port Authority

for any reason whatsoever to make any repair or replacement, and including without limitation thereto any act or omission of the Port Authority, its officers, agents, employees, contractors or their employees, connected with the performance of such repairs or replacements.

(g) The obligation of the Lessee as set forth in paragraphs (b) and (c) of this Section in the event of damage or destruction covered by any contract of insurance under which the Port Authority is the insured is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that if at any time because of this release the insurance carrier of any policy covering the premises or any part thereof shall increase the premiums otherwise payable for fire, extended coverage or rental coverage applicable to the premises the Lessee shall pay to the Port Authority an amount equivalent to such increase or increases on demand; and provided, further, that if at any time this release shall invalidate any such policy of insurance or reduce, limit, or void the rights of the Port Authority thereunder, or if because of this release, any such insurance carrier shall cancel such endorsement or refuse to renew the same or shall take any other action to alter, decrease or diminish the benefits of the Port Authority under the policy, then the release shall be void and of no effect.

Section 13. Casualty

(a) In the event that as a result of a casualty, whether or not insured or insurable, the premises are damaged the Lessee shall rebuild the same with due diligence. Without in any way limiting the obligations of the Lessee set forth in the first sentence of this paragraph, with respect to all portions of the premises, the Lessee shall secure and maintain in its own name as assured and shall pay the premiums on the following policy of insurance in the limit set forth below, which policy shall be effective during the term of the letting under this Agreement:

(1) All risk property damage insurance covering the full replacement cost of any property owned, leased, or within the care, custody or control of the Lessee and now or in the future located on or constituting a part of the premises, except for any personal property owned by the Port Authority. Full replacement cost shall be determined by the Port Authority. No omission on the part of the Port Authority to make such determination shall relieve the Lessee of its obligations to maintain the appropriate insurance under this paragraph. Such insurance shall cover and insure against such hazards and risks as at least would be insured against under the Standard Form of Fire Insurance policy in

the State of New Jersey, or any successor thereto, and the broadest form of extended coverage endorsement prescribed as of the effective date of said insurance by the rating organization having jurisdiction, including without limitation hazards and risks of flood, earthquake, windstorm, cyclone, tornado, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, and boiler and machinery hazards and risks, and, if the Port Authority so requests, also covering nuclear property losses and contamination (if said coverage regarding nuclear property losses and contamination is or becomes available).

(2) Unless otherwise directed by the Port Authority, the property damage insurance policy required by this paragraph shall name the Port Authority and the Lessee (with insurance clauses consistent with the provisions of this Agreement) as the insureds, as their respective interests may appear, and shall provide that loss, if any, shall be adjusted with and payable to the Port Authority. As to any insurance required by this paragraph, a certificate of insurance, or binders, shall be delivered by the Lessee to the Port Authority on or before the Commencement Date. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certificate of insurance. Each such policy shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving at least thirty (30) days' written advance notice thereto to the Port Authority and an endorsement to the effect that the insurance as to the interest of the Port Authority shall not be invalidated by any act or negligence of the Lessee or any other insured. Each policy of insurance shall have attached thereto an endorsement that the Port Authority will be given at least thirty (30) days' prior notice of any material change in the policy. A certificate of insurance with respect to a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the effective period hereof. If at any time the policy required by this paragraph shall be or become unsatisfactory to the Port Authority as to form or substance, or if the carrier issuing such policy shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new and satisfactory policy in replacement.

The proceeds of insurance from coverages secured in accordance with this paragraph shall be made available to the Lessee and shall be applied by the Lessee strictly and solely to the repair, replacement, or rebuilding of the premises as provided in this Agreement. The Lessee shall not be entitled to any abatement of

the rentals payable hereunder at any time by reason of such casualty.

(b) The Port Authority and the Lessee hereby stipulate that neither the provisions of Title 46:8-6 and Title 46:8-7 of the Revised Statutes of New Jersey nor those of any other similar statute shall extend or apply to this Agreement.

(c) In the event of damage to or a partial or total destruction of the premises, the Lessee shall within thirty (30) days after the occurrence commence to remove from the premises or from the portion thereof destroyed, all damaged property (and all debris thereof) including damaged buildings and structures, and all damaged property belonging to the Lessee or to any third person whatsoever, and thereafter shall diligently continue such removal, and if the Lessee does not perform its obligation hereunder, the Port Authority may remove such debris and dispose of the same and may remove such property to a public warehouse for deposit or may retain the same in its own possession and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, and 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 on demand. Without limiting any term or provision of this Agreement, the Lessee shall indemnify and save harmless the Port Authority, its officers, agents, employees, contractors and subcontractors, from and against any and all claims of third persons arising out of the exercise by the Port Authority of its right to remove property as hereinabove provided including all claims for conversion, all claims for damage or destruction of property, all claims for injuries to persons (including death), and all other claims for damages, consequential or otherwise.

Section 14. Assignment and Sublease

(a) The Lessee covenants and agrees that it will not sell, convey, transfer, assign, mortgage or pledge this Agreement or any part thereof, or any rights created thereby or the letting thereunder or any part thereof, 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 the Lessee assigns, sells, conveys, transfers, mortgages, pledges or sublets in violation of paragraphs (a) or (b) of this Section or if the premises are occupied by any

person, firm or corporation other than the Lessee, the Port Authority may collect rent from any assignee, sublessee, or anyone who claims a right to this Agreement or to the letting or who occupies the premises, and shall apply the net amount collected to the rental herein reserved; and no such collection shall be deemed a waiver by the Port Authority of the covenants contained in paragraphs (a) and (b) of this Section, nor an acceptance by the Port Authority of any such assignee, sublessee, claimant or occupant as tenant, nor a release of the Lessee by the Port Authority from the further performance by the Lessee of the covenants contained in this Agreement.

(d) The Lessee further covenants and agrees that it will not use or permit any person whatsoever to use the Facility or any portion thereof for any purpose other than as provided in Section 5 of this Agreement.

(e) The provisions of this Section shall not be construed so as to prohibit the Lessee from permitting its subsidiaries to operate at the premises on its behalf, in performing the operations expressly permitted under this Agreement and, in this connection, the Lessee represents and warrants to the Port Authority that (i) it has not directly or indirectly, in whole or in part, assigned or sublet, and shall not during the term of this Agreement assign or sublet, to any of its subsidiaries the premises or any portion thereof, or this Agreement or any rights hereunder, (ii) no subsidiary of the Lessee has or shall have any property interest in or to the premises, (iii) any and all usage of the premises by any of the Lessee's subsidiaries at the premises shall be strictly for the purpose as provided in Section 5 of this Agreement and (iv) no use of the premises or any part thereof by any of the Lessee's subsidiaries shall entitle any of the same to any rights as a third party beneficiary of this Agreement.

Section 15. Condemnation

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

all compensation or awards made or to be made or paid, and all such consideration or rental, free of any claim or right of the Lessee; provided, however, that this paragraph shall not be construed to prevent the Lessee from making a possible claim against the condemning party for an award for moving or relocation expenses, for trade fixtures and for other fixtures and improvements owned by the Lessee to the extent that such fixtures and improvements are owned by the Lessee and have been paid for by the Lessee, if such claims are then permitted by law and if such award is made separately from the award which the Port Authority will be entitled to in the condemnation proceeding, and will not reduce the amount thereof, but this provision shall not be deemed a recognition by the Port Authority of the validity of any such claims.

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

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

(d) In the event that the taking or conveyance covers a part only of the premises, or in the event that the letting is terminated pursuant to paragraph (b) of this Section with respect to a part only of the premises, then the letting as to such part shall, as of the date possession thereof is taken by such agency or agencies, or as of the effective date of such termination,

cease and determine in the same manner and with the same effect as if the term of the letting had on that date expired, and the basic rental shall be abated as provided in Section 49 hereof and the Container Throughput Rental and Minimum Rental shall be abated proportionately.

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

Section 16. Construction by the Lessee

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

Section 17. Additional Rent and Charges

(a) If the Port Authority has paid any sum or sums or has incurred any obligations or expense which the Lessee has agreed to pay or reimburse the Port Authority for, or if the Port Authority is required or elects to pay any sum or sums or incurs any obligations or expense by reason of the failure, neglect or refusal of the Lessee to perform or fulfill any one or more of

the conditions, covenants or agreements contained in this Agreement or as a result of an act or omission of the Lessee contrary to the said conditions, covenants and agreements, the Lessee shall pay to the Port Authority the sum or sums so paid or the expense so incurred, including all interest, costs, damages and penalties, and the same may be added to any installment of rent thereafter due hereunder, and each and every part of the same shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of any of the rentals set forth in this Agreement. No payment made by the Lessee to the Port Authority under this Section shall be or be deemed a waiver by the Lessee of any right to contest its making of such payment.

(b) Should the Port Authority elect to use its operating and maintenance staff in performing any work and to charge the Lessee with the cost thereof, any time report of any employee of the Port Authority showing hours of work or labor allocated to such work, or any stock requisition of the Port Authority showing the issuance of materials for use in the performance thereof, shall be prima facie evidence against the Lessee that the amount of such charge was necessary.

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

Section 18. Rights of Entry Reserved

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

(b) Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, agents, representatives, and contractors, and on behalf of furnishers of utilities and other services, shall have the right, for its own benefit, for the benefit of the Lessee, or for the benefit of others than the Lessee at the Facility, to maintain existing and future utility, mechanical, electrical and other systems and to enter upon the premises at all reasonable times to make such repairs, replacements or alterations as the Port Authority shall

deem necessary or advisable and, from time to time, to construct or install over, in or under the premises new systems or parts thereof, and to use the premises for access to other parts of the Facility otherwise not conveniently accessible; provided, however that in the exercise of such rights of access, repair, alteration or new construction the Port Authority shall not unreasonably interfere with the use and occupancy of the premises by the Lessee.

(c) In the event that any property of the Lessee shall obstruct the access of the Port Authority, its employees, agents or contractors to any of the existing or future utility, mechanical, electrical and other systems and thus shall interfere with the inspection, maintenance or repair of any such system, the Lessee shall move such property, as directed by the Port Authority, in order that the access may be had to the system or part thereof for its inspection, maintenance or repair, and, if the Lessee shall fail so to move such property after written 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 impose, or shall be construed to impose upon the Port Authority any obligations so to construct or maintain or to make repairs, replacements, alterations or additions, or shall create any liability for any failure so to do. The Lessee is and shall be in exclusive control and possession of the premises and the Port Authority shall not in any event be liable for any injury or damage to any property or to any person happening on or about the premises or for any injury or damage to the premises or to any property of the Lessee or of any other person located therein or thereon (other than those occasioned by the acts of the Port Authority).

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

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

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

Section 19. Limitation of Rights and Privileges Granted

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

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

(c) Nothing in this Agreement contained shall grant to the Lessee any rights whatsoever in the air space above the roof of any building or buildings or portion of any building or buildings, if any are included in the premises (except to the extent required in either case for the performance of any of the obligations of the Lessee hereunder), or more than twenty (20) feet above the present ground level of any open area included in the premises (except to the extent required for the operation of the container cranes on the premises and the movement and storage of containers). If any construction or installation is contemplated in this Agreement, the height thereof above ground shall be as determined solely by the Port Authority.

Section 20. Prohibited Acts

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

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

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

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

(e)(1) The Port Authority, by itself or by contractors, lessees or permittees, shall have the exclusive right to install, maintain and receive the revenues from all coin-operated or other vending machines or devices installed by it and operated on the premises for the sale of merchandise of all types or for the rendering of services, provided, however, that no such machine or device shall be installed except upon the request of the Lessee. If the Port Authority does not install and maintain any such machine that the Lessee may reasonably request, the Lessee shall have the right to do so, provided, however, (1) that the Lessee shall pay or cause to be paid to the Port Authority each month for each machine upon the same basis for the preceding month as any concessionaire, permittee or licensee of the Port Authority then operating machines at the Facility for the sale of similar merchandise or the rendering of similar services, and (2) that in the event the Lessee exercises such right the Port Authority, at any time thereafter, may substitute for the Lessee's machines other machines selling similar merchandise or services operated by the Port Authority or by its licensee, permittee or concessionaire, and thereupon the Lessee shall remove its machines.

(2) The Lessee shall have the right to operate a cafeteria for over-the-counter sales to employees of the Lessee of food, non-alcoholic beverages and other merchandise normally sold in such an establishment at no profit to the Lessee and either directly by the Lessee or by an independent contractor who has received a permit from the Port Authority.

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

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

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

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

(j) The Lessee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any hazardous substance on or from the premises, and shall not dispose of, release or discharge or permit anyone subject to its control or authority to dispose of, release or discharge any hazardous substance at the Facility. Any hazardous substance disposed of, released or discharged by the Lessee (or permitted by the Lessee to be disposed of, released or discharged) on or from the premises or at the Facility, shall upon notice by the Port Authority to the Lessee and subject to the provisions of Section 17 hereof, be completely removed, cleaned up and/or remediated by the Lessee. The obligations of the Lessee pursuant to this paragraph shall survive the expiration or termination of this Agreement.

Section 21. Termination

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

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

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

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

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

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

(6) If the Lessee is a partnership, the said partnership shall be dissolved as the result of any act or omission of its partners or any of

them, or by operation of law or the order or decree of any court having jurisdiction, or for any other reason whatsoever; or

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

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

(9) Any lien shall be filed against the premises because of any act or omission of the Lessee and shall not be discharged or bonded within thirty (30) days; or

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

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

then upon the occurrence of any such event or at any time thereafter during the continuance thereof, the Port Authority may

by five (5) days' written notice terminate the letting and the rights of the Lessee under this Agreement, such termination to be effective upon the date specified in such notice. Such right of termination and the exercise thereof shall be and operate as a conditional limitation.

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

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

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

Section 22. Right of Re-entry

The Port Authority shall, as an additional remedy upon the giving of a notice of termination as provided in Section 25 of this Agreement, 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 other legal proceedings, or otherwise. Such re-entry, or regaining or resumption of possession, however, shall not in any manner affect, alter or diminish any of the obligations of the Lessee under this Agreement, and shall in no event constitute an acceptance of surrender.

Section 23. Waiver of Redemption

The Lessee hereby waives any and all rights 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 24. 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 21 of this Agreement or the interest of the Lessee shall have been cancelled pursuant thereto, or in the event that the Port Authority has re-entered, regained or resumed possession of the premises in accordance with the provisions of Section 22 of this Agreement, all of the obligations of the Lessee under this Agreement shall survive such termination or cancellation, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of the letting, as originally fixed in Section 2 hereof, subject to the provisions of Section 25 hereof, 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 has 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 or amounts of damages for the period of time subsequent to termination or cancellation (or re-entry, regaining or resumption of possession) shall be:

(1) the amount of all unfulfilled monetary obligations of the Lessee under this Agreement, including, without limitation thereto, all sums constituting additional rental under Section 17 of this Agreement, and all sums constituting the rentals under Section 3 of this Agreement, accrued prior to the effective date of termination, and the cost to and expenses of the Port Authority for fulfilling all other obligations of the Lessee which would have accrued or matured during the balance of the term or on the expiration date originally fixed or within a stated time after expiration or termination; and

(2) an amount equal to the cost and the expenses of the Port Authority in connection with the termination, cancellation, regaining, possession and restoring and reletting the premises, the Port Authority's legal expenses and costs, and the Port Authority costs and expenses for the care and maintenance of the premises during any period of vacancy, and any brokerage fees and commission in connection with any reletting.

Section 25. Reletting by the Port Authority

The Port Authority, upon termination or cancellation pursuant to Section 21 of this Agreement, or upon any re-entry, regaining or resumption of possession pursuant to Section 22 of this Agreement, may occupy the premises or may relet the premises and shall have the right to permit any person, firm or corporation to enter upon the premises and use the same. Such reletting may be of part only of the premises or of the premises, and for a period of time the same as or different from the balance of the Term hereunder remaining, and on terms and conditions the same as or different from those set forth in this Agreement. The Port Authority shall also, upon termination or cancellation pursuant to Section 21 of this Agreement, or upon re-entry, regaining or resumption of possession pursuant to Section 25 of this Agreement, have the right to repair and to make structural or other changes in the premises, including changes which alter the character of the premises and the suitability thereof for the purposes of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder. In the event either of any reletting or of any actual use and occupancy by the Port Authority (the mere right to use and occupy not being sufficient however) there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the premises (or portion thereof) during the balance of the Term as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the premises as the Port Authority may itself during such period actually use and occupy, all reasonable expenses, reasonable costs and reasonable disbursements incurred or paid by the Port Authority in connection therewith. Neither any such letting nor any such other use or occupancy shall be or be construed to be an acceptance of a surrender. It is understood by the Port Authority and the Lessee that the Port Authority has no obligation to relet the premises or any portion thereof or to use or occupy the premises or any portion thereof itself, except to the extent as may be required by law.

Section 26. Remedies to Be Nonexclusive

All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any other remedy available to the Port Authority at law or in equity, and neither the exercise of any remedy, nor any provision in this Agreement for a remedy or an indemnity shall prevent the exercise of any other remedy.

Section 27. Surrender

(a) The Lessee covenants and agrees to yield and deliver peaceably to the Port Authority possession of the premises on the date of the cessation of the letting, whether such cessation be by termination, expiration or otherwise, promptly and in the condition required by the provisions of Section 12(c) hereof regarding the condition of the premises at the expiration or termination of the letting hereunder.

(b) Unless required for the performance by the Lessee of its obligations hereunder, the Lessee shall have the right at any time during the letting to remove from the premises, all its equipment, removable fixtures and other personal property, and all property of third persons for which the Lessee is responsible, and on or before the expiration or earlier termination of the letting it shall remove all of the same from the premises, repairing all damage caused by any removal. If the Lessee shall fail to remove such property on or before the termination or expiration of the letting, the Port Authority may remove such property to a public warehouse for deposit or may retain the same in its own possession and in either event may sell the same at public auction, provided, however, that the Port Authority shall have given the Lessee twenty (20) days' notice of the Port Authority's intent to sell such property at public auction, the proceeds of which shall be applied: first to the expenses of removal, including repair required thereby, and of storage and sale; second, to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if the expenses of such removal, repair, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority upon demand. Without limiting any other term or provision of this Agreement, the Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, employees and contractors from all claims of third persons arising out of the Port Authority's removal and disposition of property pursuant to this Section, including claims for conversion, claims for loss of or damage to property, claims for injury to persons (including death), and claims for any other damages, consequential or otherwise.

Section 28. 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, shall be deemed an acceptance of a surrender of the letting or of this Agreement.

Section 29. Notices

(a) All notices, permissions, requests, consents and approvals given or required to be given to or by either the Port Authority or the Lessee, except as otherwise expressly provided herein, shall be in writing, and all such notices and requests shall be (i) personally delivered to the party or to the duly designated officer or representative of such party; or (ii) delivered to an office of such party, officer or representative during regular business hours; or (iii) delivered to the residence of such party, officer or representative at any time; or (iv) if directed to the Lessee, delivered to the premises at any time to the offices of the terminal manager; or (v) forwarded to such party, officer or representative at the office or residence address by registered or certified mail, or delivered to such party at such address by "Federal Express" or similar courier service. The Lessee shall designate an office within the Port of New York District and an officer or representative whose regular place of business is at such office. Until further notice, the Port Authority hereby designates its Executive Director, and the Lessee designates the person whose name appears on the first page of this Agreement as their respective officers or representatives upon whom notices and requests may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Lessee designates its office, the address of which is set forth in Page 1 of this Agreement, as their respective offices where notices and requests may be served.

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

Section 30. General

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

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

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

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

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

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

(c) Unless otherwise stated in this Agreement, in its use of the premises the Lessee shall act only for its own account and, without limiting the generality of the foregoing, shall not act as agent, representative, factor, broker, forwarder, bailee, or consignee without legal title to the subject matter of the consignment, except to the extent necessary for exercise of the rights of user granted by this Agreement.

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

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

(f) All payments required of the Lessee by this Agreement shall be made by mail to the Port Authority at P. O. Box 17309, Newark, New Jersey, 07194, or to such other address as may be substituted therefor.

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

(h) As used in Sections 9 and 18 hereof, the phrase "utility, mechanical, electrical and other systems" shall mean and include (without limitation thereto) the following: machinery, engines, dynamos, boilers, elevators, escalators, incinerators and incinerator flues, systems for the supply of fuel, electricity, water, gas and steam, plumbing, heating, sewerage, drainage, ventilating, air-conditioning, communications, fire-alarm, fire-protection, sprinkler, telephone, telegraph and other systems, fire hydrants and fire hoses, and their respective wires, mains, switches, conduits, lines, tubes, valves, pipes, motors, cables, fixtures and other equipment.

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

(j) As used in this Agreement, "letting" shall include any extension of the letting under this Agreement, whether made by agreement or by operation of law, and "Manager of the Facility" or "Manager" shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said Manager or in the Superintendent of the Facility by this Agreement; but until further notice from the Port Authority to the Lessee, it shall mean the Manager (or

the Acting Manager) Port Authority Marine Terminals-New Jersey for the time being, or his duly designated representative or representatives.

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

(l) The rights of the Port Authority in the Facility are those acquired by it pursuant to the Basic Lease, hereinafter defined in this Agreement, and no greater rights are granted or intended to be granted to the Lessee hereunder than the Port Authority has power thereunder to grant. The letting shall in any event terminate simultaneously with the termination or expiration of the Basic Lease. The Lessee shall have no surviving obligations to pay any then unpaid rents to the Port Authority in the event of a termination of the letting under this Agreement as a result of a termination or expiration of the Basic Lease.

(m) Nothing herein contained shall prevent the Port Authority from entering into an agreement with The City of Newark pursuant to which the Basic Lease is surrendered, canceled or terminated; provided, that, The City of Newark, at the time of such agreement, assumes the obligations of the Port Authority under this Agreement.

(n) As used in this Agreement, "Facility", "Port Newark" or "marine terminal" shall mean the land and premises in the City of Newark, in the County of Essex and State of New Jersey, which are easterly of the right-of-way of the Central Railroad of New Jersey and are shown upon the exhibit attached to the Basic Lease and marked "Exhibit A" (thereto), as contained within the limits of a line of crosses appearing on the said Exhibit A and marked (by means of the legend) "Boundary of Terminal Area in City of Newark", and lands contiguous thereto within the County of Essex which may have been heretofore or may hereafter be acquired by the Port Authority to use for marine terminal purposes.

(o) "Basic Lease" shall mean that agreement of lease respecting marine and air terminals entered into with the Port Authority by the City of Newark (New Jersey) under date of October 22, 1947, and recorded in the Office of the Register of the County of Essex on October 30, 1947, in Book E-110 of Deeds,

on pages 242 et seq. as the said agreement of lease has been heretofore or may be hereafter from time to time supplemented and amended.

(p) In the event that obstruction lights are now or in the future shall be installed on the premises, the Lessee agrees to furnish the Port Authority without charge, electricity for energizing such obstruction lights daily for a period commencing thirty (30) minutes before sunset and ending thirty (30) minutes after sunrise (as sunset and sunrise may vary from day to day throughout the year) and for such other periods as may be directed or requested by the Control Tower of Newark Airport.

(q) So long as the Lessee shall pay all rentals provided for in this Agreement and shall observe and perform all the terms, covenants and conditions on the Lessee's part to be observed and performed under this Agreement, the Lessee may peaceably and quietly enjoy the premises, during the term of the letting, without hindrance or molestation by anyone claiming by, through or under the Port Authority, subject, nevertheless, to the terms, covenants and conditions of this Agreement, it being understood that the Port Authority's liability hereunder shall obtain only so long as it remains the owner of the premises.

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

(s) Without in any way limiting the obligations of the Lessee as elsewhere stated in this Agreement, the Lessee shall be liable to the Port Authority for any damage done to the Facility or to any part thereof, or to any property of the Port Authority thereon through any act or omission of those in charge of any one or more vessels, steamers, tugboats, barges, lighters, or other floating equipment, or highway or other vehicles, or other transportation equipment while the same are at, coming to or leaving the premises, except for damages to the Facility (other than the premises) caused by any one or more of such vessels, steamers, tugboats, barges, lighters, or other floating equipment, or highway or other vehicles, or other transportation equipment as may be coming to or leaving the premises without previous knowledge on the part of the Lessee.

Section 31. Premises

(a) The Port Authority shall deliver the premises to the Lessee in its presently existing "as is" condition. The Lessee agrees to and shall take the premises in its "as is" condition and the Port Authority shall have no obligations under this Agreement for finishing work or preparation of any portion of the premises for the Lessee's use.

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

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

Section 32. Force Majeure

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

the Port Authority shall not be liable unless the failure, delay or interruption shall result from failure on the part of the Port Authority to use reasonable care to prevent or reasonable efforts to cure such failure, delay or interruption.

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

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

Section 33. Brokerage

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

Section 34. Non-Liability of Individuals

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

Section 35. Services

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

(b) The Lessee shall promptly pay all water-bills covering its own consumption, including but not limited to water delivered and sold by the Lessee to vessels berthing at the premises. In the event that any such water-bill or bills shall remain unpaid for a period of six (6) months after the same becomes due and payable, or in the event that any such bill remains unpaid at the date of expiration or earlier termination of the letting under this Agreement, the Port Authority may pay the same and any interest or penalties thereon, and the total payment or payments shall constitute an item of additional rental, payable to the Port Authority on demand.

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

(d) If any federal, state, municipal or other governmental body, authority or agency, or any public utility or other entity providing any service, assesses, levies, imposes, makes or increases any charge, fee, rent or assessment on the Port Authority, for any service, system or utility now or in the future supplied to or available at the premises or to any tenant, lessee, occupant or user thereof, or to the structures or buildings, which, or a portion or portions of which, are included in the premises, the Lessee shall, at the option of the Port Authority exercised at any time and from time to time by notice to the Lessee, pay, in accordance with any such notice, such charge, fee, rent or assessment or such increase thereof (or the portion thereof allocated by the Port Authority to the premises or to the operations of the Lessee under this Agreement) either directly to the governmental body, authority or agency, or to the public utility or other entity, or directly to the Port Authority, as such notice may direct. All such payments shall constitute items of additional rental.

(e) No failure, delay or interruption in any service or services, whether such service or services shall be supplied by the Port Authority or by others, shall relieve or be construed to relieve the Lessee of any of its obligations hereunder, or shall be or be construed to be an eviction of the Lessee, or

shall constitute grounds for any diminution or abatement of the rental or rentals payable under this Agreement, or grounds for any claim by the Lessee for damages, consequential, or otherwise.

(f) Without in any wise affecting the obligations of the Lessee elsewhere stated in this Agreement, the Lessee shall, subject to the provisions of Section 17 of this Agreement, provide, maintain and keep in good order, condition and repair any and all meters (to be located as designated by the Port Authority, other governmental authority or utility), ship-filling lines and other water-using equipment and facilities.

Section 36. Affirmative Action

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

(b) It is hereby agreed that the Lessee, in connection with its continuing operation, maintenance and repair of the premises, or any portion thereof, and in connection with every award or agreement for concessions or consumer services at the premises, shall throughout the term of the letting hereunder commit itself to and use good faith efforts to implement an extensive program of Affirmative Action, including specific affirmative action steps to be taken by the Lessee, to ensure maximum opportunities for employment and contracting by minorities and women. In meeting the said commitment the Lessee agrees to submit its said extensive Affirmative Action program, including the specific affirmative action steps to be taken by the Lessee to meet its aforesaid commitment, within sixty (60) days after the commencement of the term of the letting hereof to the Port Authority for its review and approval. The Lessee shall incorporate in its said program such revisions and changes as the Port Authority and the Lessee may agree upon from time to time. The Lessee throughout the term of the letting hereunder shall document its efforts in implementing the said program, shall keep the Port Authority fully advised of the Lessee's progress in implementing the said program and shall supply to the Port Authority such information, data and documentation with respect thereto as the Port Authority may from time to time and at any time request, including but not limited to annual reports. The

obligations imposed on the Lessee under this paragraph shall not be construed to impose any greater requirements on the Lessee than those which may be imposed on the Lessee under applicable law.

(c) "Minority" as used herein shall include: (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin); (2) Hispanic (all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American culture or origin, regardless of race); (3) 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 (4) 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) In the implementation of this Section the Port Authority may consider compliance by the Lessee with the provisions of any federal, state or local law concerning affirmative action equal employment opportunity which are at least equal to the requirements of this Section, as effectuating the provisions of this Section. If the Port Authority determines that by virtue of such compliance with the provisions of any such federal, state or local law that the provisions hereof duplicate or conflict with such law the Port Authority may waive the applicability of the provisions of this Section to the extent that such duplication or conflict exists.

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

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

Section 37. Right of Termination - Ownership and Control

(a) The Lessee hereby represents, knowing that the Port Authority is relying on the accuracy of such representation, that it is a privately held corporation organized and existing under the laws of the State of New York, with 100 shares of common stock constituting all of its outstanding securities and that "Exhibit B", attached hereto and hereby made a part hereof, sets forth all the individuals, corporations, partnerships or other entities, including those with a beneficial interest in the securities in the Lessee, who are the owners of all its

outstanding securities, the number of shares owned by each of them, and the percentage interest which such share ownership represents of the total issued and outstanding securities of the Lessee. The Lessee further represents that there are no other individuals, corporations, partnerships or other entities having a direct or indirect beneficial ownership of any portions of the Lessee.

(b) The Lessee recognizes the fact that a transfer of securities in the Lessee or of a substantial part thereof, or any other act or transaction involving or resulting in a change in the ownership or distribution of such securities or with respect to the identity of the parties in control of the Lessee or the degree thereof, is for practical purposes a transfer or disposition of the rights obtained by the Lessee through this Agreement. The Lessee further recognizes that because of the nature of the obligations of the Lessee hereunder, the qualifications and identity of the Lessee and its security holders are of particular concern to the Port Authority. The Lessee also recognizes that it is because of such qualifications and identity that the Port Authority is entering into this Agreement and, in doing so, is willing to accept and rely on the Lessee for the faithful performance of all obligations and covenants hereunder. Therefore, the Lessee represents and agrees for itself, its present owners and any successor in interest thereof, respectively, that without the prior written approval of the Port Authority, there shall be no transfer of any securities in the Lessee by its present owners to any other person; nor shall the present owners suffer any transfer of such securities to be made; nor shall there be or be suffered to be made by the Lessee or by any owner of securities therein, any other change in the ownership of such securities or in the relative distribution thereof, or with respect to the identity of the parties in control of the Lessee or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of additional new securities or classification of securities or otherwise; and the Lessee further represents and agrees for itself and its present owners, and any successor in interest thereof, respectively, that the direct ownership and control of the Lessee shall be and remain as represented in paragraph (a) of this Section. Notwithstanding any provision set forth above in this Section, the provisions of this Section shall not apply to the transfer of any securities in the Lessee to the children of Sabato F. Catucci; his or their respective estates; or the beneficiaries of his or their respective estates (limited to spouses and/or children and/or grandchildren).

(c) The Lessee acknowledges the Lessee's assurance of faithful performance of these provisions is a special inducement for the Port Authority to enter into this Agreement. Noncompliance on the part of the Lessee with the provisions contained in this Section shall be and be deemed an event of default under Section 21 of this Agreement, and the Port Authority shall have the right to terminate this Agreement and the letting hereunder pursuant to the provisions of said Section 21 hereof.

(d) The foregoing right of termination shall be in addition to all other rights of termination the Port Authority has under this Agreement and the failure of the Port Authority to exercise its right of termination under this Section 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.

(e) The phrase "direct or indirect beneficial ownership" shall include without limiting the generality thereof the direct or indirect power through contract, arrangement, understanding, relationship or otherwise to dispose of or to direct the disposal of, or to vote or to direct the voting of, any voting security of an entity.

(f) The term "security" shall include any stock, any bond which carries voting rights, or rights or options to subscribe to, purchase, convert or transfer into or otherwise acquire equity securities, or any other obligation of a corporation the holder of which has any voting rights including but not limited to the right to vote for the election of members of the board of directors of said corporation and shall include any security convertible into a voting security and any right, option or warrant to purchase a voting security.

(g) The Lessee shall promptly advise the Port Authority of any change in the representations made in paragraph

Section 38. Cross Default

The Lessee acknowledges that the Port Authority and the Lessee are entering into the following agreements as of the date first set forth above: (1) an agreement of lease covering premises at the Red Hook Marine Terminal and bearing Port Authority lease number BP-307 (hereinafter called "Lease BP-307"); (2) an agreement of lease covering premises at the Brooklyn-Port Authority Marine Terminal and bearing Port Authority lease number BP-308 (hereinafter called "Lease BP-308"); and (3) an agreement of lease covering premises at the Brooklyn-Port Authority Marine Terminal and bearing Port

Authority lease number BP-309 (hereinafter called "Lease BP-309"). If any event described in Lease BP-307, Lease BP-308 or Lease BP-309 as a ground for termination or event of default, including without limitation thereto the events set forth in the respective section of Lease BP-307, Lease BP-308 and Lease BP-309 entitled "Termination", shall occur, such event shall be a ground for termination under this Agreement in the same manner and to the same extent as if it had been explicitly included in subparagraphs (1) through (11) of paragraph (a) of Section 21 of this Agreement.

Section 39. Security

The Lessee and the Port Authority hereby agree that all sums deposited by the Lessee as security under Lease BP-307 shall be held and used by the Port Authority as security for the full, faithful and prompt performance of and compliance with, on the part of the Lessee, all of the terms, provisions, covenants and conditions of this Agreement, Lease BP-307, Lease BP-308 and Lease BP-309. All security deposited under Lease BP-307 shall be considered as if deposited under this Agreement, Lease BP-307, Lease BP-308 and Lease BP-309 and no part of the security deposited under BP-307 shall be repaid until this Agreement, Lease BP-307, Lease BP-308 and Lease BP-309 shall have expired and except in accordance with the provisions of the last of the said agreements to expire. The provisions of paragraph (b) of Section 41 of Lease BP-307 shall apply to the Lessee's obligations under this Agreement and shall be incorporated in this Agreement as if set forth therein in haec verba.

Section 40. Late Charges

If the Lessee should fail to pay any amount required under this Agreement when due to the Port Authority, including without limitation any payment of rental or any payment of utility fees or charges, or other charges or fees, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period hereinbelow described during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the

result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time there for 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 rentals as set forth in this Agreement. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in Section 21 of this Agreement entitled "Termination" or (ii) any obligations of the Lessee under this Agreement. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Agreement shall be payable instead at such legal maximum.

Section 41. Sustainable Design

The Lessee agrees that in the performance of any work that is subject to Section 16 of this Agreement entitled "Construction by the Lessee", it will comply with the Port Authority's policy on sustainable design as set forth in the sustainable design guidelines promulgated by the Port Authority Engineering Department from time to time.

Section 42. Port Authority Costs Following Termination

Without limiting the generality of any provision of this Agreement, in the event the Port Authority exercises its right of termination under the provisions of Section 21 of this Agreement entitled "Termination", the Lessee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such termination, including without limitation any re-entry, regaining or resumption of possession, the collection of all amounts due to the Port Authority, the restoration of the premises (on failure of the Lessee to have it restored), the preparation of the premises for use and occupancy by a succeeding lessee, the care and maintenance of the premises during any period of non-use of the premises; the foregoing shall include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the premises and putting

the premises in order.

Section 43. Double Rent For Holdover

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

Section 44. Audit Fee

In the event that upon conducting an examination and audit under the provisions of this Agreement (and as it may be hereinafter amended), the Port Authority determines that unpaid amounts are due to the Port Authority by the Lessee (the "Audit Findings"), the Lessee 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 Lessee under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rentals to be paid. Nothing in this Special Endorsement is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (ii) any obligations of the Lessee under this Agreement.

Section 45. Waiver of Jury Trial

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

Section 46. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute the agreement of the parties.

Section 47. Environmental Responsibilities

(a) As used in this Agreement, the following terms shall have the meanings set forth below:

(1) "Environmental Damage" and "Environmental Damages" shall mean any one or more of the following: (i) the presence on, about or under the premises of any Hazardous Substance whose presence occurred during the "Term" (as such term is defined in paragraph (j) of this Section and which "Term" shall for purposes of this Section include periods prior to the letting under this Agreement during which the Lessee was in occupation of the premises) or resulted from any act or omission of the Lessee or others during the Term, and/or (ii) the disposal, release or threatened release of any Hazardous Substance from the premises during the Term or thereafter if the Hazardous Substance came to be present on, about or under the premises during the Term, and/or (iii) the presence of any Hazardous Substance on, about or under other property at the Facility or elsewhere as a result of the Lessee's use and occupancy of the premises or a migration of a Hazardous Substance from the premises during the Term or thereafter if the Hazardous Substance came to be present on, about or under the premises during the Term, and/or (iv) any personal injury, including wrongful death, property damage and/or natural resource damage arising out of or related to any such Hazardous Substance, and/or (v) the violation of any Environmental Requirements pertaining to any such Hazardous Substance, the premises and/or the activities thereon.

(2) "Environmental Requirement" and "Environmental Requirements" shall mean all applicable present and future laws, statutes, enactments, resolutions, regulations,

rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, requirements and similar items of all Governmental Authorities and all applicable judicial, administrative and regulatory decrees, judgments and orders relating to the protection of human health or the environment, the foregoing to include, without limitation:

(i) All requirements pertaining to reporting, licensing, permitting, investigation, remediation and mitigation of the 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; and

(ii) All requirements pertaining to the protection of the health and safety of employees or the public.

(3) "Hazardous Substance" and "Hazardous Substances" shall mean and include, without limitation, 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 byphenyls ("PCBs"), chemicals known to cause cancer or reproductive toxicity, petroleum and petroleum products and other substances which have been or in the future shall be declared to be hazardous or toxic, or the regulation or removal of which have been or in the future shall be required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which have been or in the future shall be restricted, prohibited, regulated or penalized by any Environmental Requirement.

(4) "Governmental Authority" and "Governmental Authorities" shall mean all governmental agencies, authorities, departments, commissions, boards, bureaus or instrumentalities of the United States, states and political subdivisions thereof, except that it shall not be construed to include The Port Authority of New York and New Jersey, the lessor under this Agreement.

(b) Without limiting the generality of any of the other terms and provisions of this Agreement, the Lessee hereby expressly agrees to assume all responsibility for, and any and all risks of any kind whatsoever caused by, arising out of or in connection with, the conditions of the premises from and after the commencement of the Term, including without limitation all Environmental Requirements and all Environmental Damages and,

except for Environmental Damages arising from the sole negligent acts of the Port Authority, the Lessee shall indemnify, hold harmless and reimburse the Port Authority, its Commissioners, officers, agents and employees from and against all such risks and responsibilities and all Environmental Damages and Environmental Requirements (including, without limitation, all fines, penalties, payments in lieu of penalties, and legal expenses incurred by the Port Authority in connection therewith). If so directed, the Lessee shall at its own expense defend any suit based upon the foregoing, and in handling such it shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.

(c) In addition to and without limiting the generality of the obligations of the Lessee set forth above and elsewhere in this Agreement, the Lessee shall at its sole cost and expense and in accordance with and subject to the provisions of Section 16 of the Lease, upon notice from the Port Authority, promptly take all actions to completely remove and remediate: (1) any Hazardous Substance present on, about or under the premises whose presence occurred during the Term or resulted from any act or omission of the Lessee or others during the Term, (2) any Hazardous Substance disposed of or released from the premises during the Term or thereafter if the Hazardous Substance came to be present on, about or under the premises during the Term, and (3) any Hazardous Substance present on, about or under other property at the Facility or elsewhere whose presence resulted from the Lessee's use and occupancy of the premises or which migrated from the premises to such other property during the Term or thereafter if the Hazardous Substance came to be present on, about or under the premises during the Term, which any Governmental Authority or any Environmental Requirements or any violation thereof require to be removed and/or remediated, or which in the sole opinion of the Port Authority are necessary to mitigate Environmental Damages, including, but not limited to, the investigation of the environmental condition of the area to be remediated, the preparation of feasibility studies, reports and remedial plans, and the performance of any cleanup, remediation, mitigation, containment, operation, maintenance, monitoring or restoration work; the standard for any of the foregoing shall be that which requires the lowest level or presence of a particular Hazardous Substance under the laws of the United States or the State of New Jersey, with the strictest to be applied, and which does not require any restriction on the possible use of the premises or such other property. The Lessee agrees that with respect to any

of its obligations set forth above in this paragraph it will not make any claim against the Port Authority and/or the City of Newark for contribution under any Environmental Requirement. Any actions required under this paragraph shall be performed in a good, safe and workmanlike manner and shall minimize any impact on activities off the premises. The Lessee shall promptly provide to the Port Authority all copies of test results and reports generated in connection with such actions. Promptly upon completion of such investigation and remediation, the Lessee shall seal or cap all monitoring wells and test holes, remove all associated equipment and restore the remediated property.

(d) Without limiting any other of the Lessee's obligations under this Agreement, the Lessee shall provide the Manager of the Facility at the cost and expense of the Lessee with such information, documentation, records, correspondence, notices, reports, test results, and certifications and any other information as the Port Authority shall request in connection with any Environmental Requirements or Environmental Damages, and as may be necessary for the preparation of any application, registration, statement, certification, notice, non-applicability affidavit, communication, negative declaration, clean-up plan or other information, documentation or communication required by the Environmental Requirements and the Lessee shall promptly swear to, sign or otherwise fully execute the same. The Lessee agrees that any of the foregoing may be filed by the Port Authority with the appropriate Governmental Authority on behalf of the Lessee and at the Lessee's cost and expense. Further, the Lessee agrees unless directed otherwise by the Port Authority, to provide the Manager of the Facility with copies of all information, documentation, records, correspondence, notices, certifications, reports, test results and all other submissions provided by the Lessee to a Governmental Authority at the same time such are provided to a Governmental Authority and by a Governmental Authority to the Lessee at the time the same are provided to the Lessee with respect to any Environmental Requirements.

(e) Notwithstanding any other provision of this paragraph, all of the Lessee's obligations, undertakings and responsibilities under this paragraph shall apply to any Environmental Damage involving any Hazardous Substance whose presence on, about or under the premises occurred prior to the commencement of the Term if any clean-up, remediation or other response action, or indemnification or other action under this paragraph is required with respect to such Environmental Damage as a result of (1) any violation by the Lessee or the Lessee's Representative, as hereinafter defined, of any Environmental Requirements pertaining to such Hazardous Substance, the premises and/or the activities thereon, or any failure by the Lessee or the Lessee's Representative to observe and comply with any Port

Authority requirements, directives and procedures regarding any Hazardous Substance on, about or under the premises, including without limitation those set forth in any design guidelines, best management practices, agreements (including voluntary agreements) with Governmental Authorities, or construction guidelines which have been or may be established by the Port Authority for the Facility and submitted to the Lessee, and/or (2) any negligent act or omission by the Lessee or the Lessee's Representative with respect to such Hazardous Substance. For purposes of this paragraph, "Lessee's Representative" shall mean its officers, employees, agents, representatives, contractors, customers, guests, invitees, or other persons who are doing business with the Lessee or are on the premises with the Lessee's consent.

(f) Without limiting the Port Authority's remedies that it may have under this Agreement or at law or in equity, the Port Authority shall have the right during the term of the letting under this Agreement and subsequent to the termination or expiration thereof to such equitable relief, including restraining injunctions and declaratory judgments, as may be required to enforce compliance by the Lessee with its environmental obligations under this paragraph. In the event the Lessee fails to comply with or perform any of its obligations hereunder, the Port Authority at any time during the term of the letting under this Agreement and subsequent to the termination or expiration thereof may elect (but shall not be required) to perform such obligations and the Lessee shall pay to the Port Authority upon demand its costs thereof, including all overhead costs as determined by the Port Authority.

(g) Notwithstanding any other provision of this paragraph, and without limiting the generality of subparagraph (e) of this paragraph, the Lessee's obligations, undertakings and responsibilities under this paragraph shall not apply to any Environmental Damage involving any Hazardous Substance which migrated or shall migrate onto the premises during the Term (hereinafter called the "Migrated Hazardous Substance"), except that such obligations, undertakings and responsibilities under this paragraph shall apply to any Environmental Damage involving any Migrated Hazardous Substance if any clean-up, remediation or other response action, or indemnification or other action under this paragraph is required with respect to such Environmental Damage as a result of (1) any violation by the Lessee or the Lessee's Representative of any Environmental Requirements pertaining to such Migrated Hazardous Substance, the premises and/or the activities thereon, or any failure by the Lessee or the Lessee's Representative to observe and comply with any Port Authority requirements, directives and procedures regarding any Hazardous Substance on, about or under the premises, including without limitation those set forth in any design guidelines, best

management practices, agreements (including voluntary agreements) with Governmental Authorities, or construction guidelines which have been or may be established by the Port Authority for the Facility and submitted to the Lessee, and/or (2) any act or omission of the Lessee or the Lessee's Representative with respect to such Migrated Hazardous Substance.

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

(i) Without limiting the generality of any other term or provision of this Agreement, the obligations of the Lessee under this paragraph shall survive the expiration or termination of this Agreement.

(j) The Port Authority and the Lessee acknowledge and agree that the Term of the letting for purposes of this Section commenced on January 1, 1998.

Section 48. Surrendered Area

(a) The Port Authority and the Lessee acknowledge and agree that they have heretofore entered into an agreement of lease identified as Lease No. LPN-248, dated as of January 1, 1998, covering premises in the City of Newark, in the County of Essex and the State of New Jersey (hereinafter called "Lease LPN-248") and that the Lease has expired by its terms. Pursuant to Lease LPN-248, the Lessee occupied certain area south of Marsh Street as shown in cross-hatching on a sketch attached hereto, hereby made a part hereof, and marked "Exhibit C" (hereinafter "Surrendered Area").

(b) On or prior to April 30, 2008 ("Surrender Date"), and as a condition precedent to the effectiveness of this Agreement and the letting hereunder, the Lessee shall grant, bargain, sell, surrender and yield up unto the Port Authority,

its successors and assigns, forever, the Surrendered Area and the term with respect thereto, under Lease LPN-248 or otherwise, and by these presents shall give, grant and surrender to the Port Authority, its successors and assigns, all the rights, rights of extension, licenses, privileges and options of the Lessee granted with respect to the Surrendered Area, all to the intent and purpose that the said letting and the said rights of extension, licenses, privileges and options may be wholly merged, extinguished and determined on the Surrender Date.

(c) The Lessee hereby covenants and warrants on behalf of itself, its successors and assigns that (i) it has not done or suffered and will not do or suffer anything whereby the Surrendered Area has been or shall be encumbered as of the Surrender Date in any way whatsoever; (b) the Lessee is and will remain until the Surrender Date the sole and absolute occupant of the Surrendered Area and of any rights, rights of extension, licenses, privileges and options granted with respect thereto and that the same are and will remain until the Surrender Date free and clear of all liens and encumbrances of whatsoever nature; and (iii) the Lessee has full right and power to make this Agreement.

(d) All promises, covenants, agreements and obligations of the Lessee with respect to the Surrendered Area, under Lease LPN-248 or otherwise, which under the provisions thereof would have matured upon the date originally fixed in Lease LPN-248 for the expiration of the term thereof, or upon the termination of Lease LPN-248 prior to the said date, or within a stated period after expiration or termination, shall notwithstanding such provisions, mature upon the Surrender Date and shall survive the execution and delivery of this Agreement.

(e) The Lessee shall release and discharge the Port Authority from any and all obligations of every kind, past, present or future on the part of the Port Authority to be performed with respect to the Surrendered Area.

(f) The Lessee hereby agrees to terminate its occupancy of the Surrendered Area and to deliver actual, physical possession of the Surrendered Area to the Port Authority, on or before the Surrender Date and to restore the Surrendered Area to the condition required by Lease LPN-248. The Lessee further agrees that it shall remove from the Surrendered Area, prior to the Surrender Date, any and all equipment, inventories, removable fixtures and other personal property, if any, of the Lessee or for which the Lessee is responsible. If the Lessee shall fail to remove such property on or before the termination or expiration of the letting, the Port Authority may remove such property to a public warehouse for deposit or may retain the same in its own possession and in either event may sell the same at public

auction, provided, however, that the Port Authority shall have given the Lessee twenty (20) days' notice of the Port Authority's intent to sell such property at public auction, the proceeds of which shall be applied: first to the expenses of removal, including repair required thereby, and of storage and sale; second, to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if the expenses of such removal, repair, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority upon demand. Without limiting any other term or provision of this Agreement, the Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, employees and contractors from all claims of third persons arising out of the Port Authority's removal and disposition of property pursuant to this Section, including claims for conversion, claims for loss of or damage to property, claims for injury to persons (including death), and claims for any other damages, consequential or otherwise.

Section 49. Ethical Standards; Lessee Conduct; Automatic Termination of Agreement

(a) Ethical Standards.

(1) The Lessee for itself and on behalf of any Affiliate (as herein defined) of the Lessee and as to each member of the Board of Directors and each officer of the Lessee and/or of such Affiliate hereby certifies under the penalties applicable to perjury, represents, warrants and covenants with full knowledge that the Port Authority will rely hereon in entering into this Agreement that at no time hereafter including the term of this Agreement shall the Lessee or any Affiliate thereof (a) take any action with respect to any employee or former employee of the Port Authority or immediate family member of either (i.e., spouse, child, parent or brother or sister) which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated as of July 18, 1994 promulgated by the Port Authority, a copy of which is available upon request to the Secretary of the Port Authority, (b) offer, give or agree to give anything of value either to a Port Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority, or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing, in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority of duties involving transactions with the Lessee on behalf of the Port Authority, whether or not such duties are related to this Agreement or any other Port Authority contract or matter, or (c) make an offer of employment or use confidential

information in a manner prescribed by the said Code of Ethics and Financial Disclosure. Any such conduct shall be deemed a material breach of this Agreement. As used herein "anything of value" shall include but not be limited to any (1) favors, such as meals, entertainment, transportation (other than that contemplated by this Agreement or any other Port Authority contract), etc., which might tend to obligate the Port Authority employee to the Lessee or any parent or Affiliate thereof and (2) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Agreement or any other Port Authority contract; and (iv) that neither the Lessee nor any Affiliate thereof knows of any action the part of any employee or former employee of the Port Authority which constitutes a breach of said Code of Ethics and Financial Disclosure and that if it or any parent or other Affiliate of the Lessee comes into such knowledge at any time hereafter, including during the term of this Agreement, it shall immediately report the same to the Port Authority in writing, any failure to do so being deemed a material breach of this Agreement.

(2) The term "Affiliate" shall mean any person which, directly or indirectly, controls, is controlled by or is under common control with any other Person. "Control" shall be deemed to mean either (i) ownership of fifty percent (50%) or more of all of the voting stock of a corporation or fifty percent (50%) or more of all of the legal or equitable interests in any other business entity or (ii) the possession of the power, directly or indirectly, to cause the direction of management and policy of a corporation, partnership, trust or other business entity, whether through voting securities, by contract or common directors, officers or trustees or otherwise. Affiliate shall also mean any individual who is a member of the immediate family (whether by birth or marriage) of an individual, which includes for purposes of this definition a spouse, a brother or sister of the whole or half blood of such individual or his spouse, a lineal descendant or ancestor (including an individual related by or through legal adoption) of any of the foregoing or a trust for the benefit of any of the foregoing.

(b) Conduct of Lessee. Lessee, and the individual signing this Lease on behalf of Lessee, each affirm under penalty of perjury that neither Lessee nor any of its Affiliates (as herein defined):

(1) shall have been charged with, indicted for, or convicted of a crime in any jurisdiction, or be then the subject of a grand jury investigation therefor, or had a civil

judgment rendered against such person in any matter involving fraud or official misconduct,

(2) shall have been suspended or otherwise disqualified from entering into contracts with any governmental agency,

(3) shall be the subject of any pending action or proceeding to enforce rights of New York State or New Jersey or any subdivision thereof, or any agency, department, public authority or public benefit corporation thereof, which action or proceeding is based on allegations of fraud or misrepresentation, or

(4) shall have received any notice of a default which remains uncured by New York State or New Jersey or any subdivision thereof; or any agency, department, public authority or any public benefit corporation thereof.

(c) In the event of a breach of any of the representations, warranties or covenants stated in subparagraph (a), above, or upon the occurrence during the term of this Agreement of any event described in subparagraph (b), above, the same shall constitute a material default under this Agreement and shall serve as the ground for termination of this Agreement by the Port Authority in its sole and absolute discretion. Upon written notice from the Port Authority so terminating this Agreement, this Agreement shall be, and be deemed to be, automatically terminated on the dated stated in the Port Authority's written notice, and the parties acknowledge that such a breach or occurrence is neither curable nor shall the Lessee be afforded any opportunity to cure same. The grounds for termination stated in this Section are in addition to those set forth in the Section of this Agreement entitled "Termination".

Section 50. Entire Agreement

The within Agreement consists of pages number 1 through 60, together with Schedules A and B and Exhibits A, B and C. It 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 written instrument 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 this Agreement.

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

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By

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

(Seal)

~~ATTEST:~~ WITNESS:

~~Secretary~~

Janine G. Bauer
Counsel

AMERICAN STEVEDORING, INC.

By

(Title) ~~President~~ CEO

(Corporate Seal)

American Stevedoring Inc. 1987 New York

APPROVED:
FORM TERMS

EXHIBIT B

AMERICAN STEVEDORING, INC. – OWNERSHIP

Name of Owner	Percentage of Ownership	Number of Shares Owned
SABATO F. CATUCCI	52%	52
KEITH A. CATUCCI	24%	24
KEVIN G. CATUCCI	24%	24
Total Issued and Outstanding Shares		100

SCHEDULE A

LEASE YEAR BEGINNING	ANNUAL RENT	MONTHLY RENT
May 1, 2008	$1,680,000.00	$140,000.00
May 1, 2009	$1,730,400.00	$144,200.00
May 1, 2010	$1,782,312.00	$148,526.00
May 1, 2011	$1,835,781.36	$152,981.78
May 1, 2012	$1,890,854.80	$157,571.23
May 1, 2013	$1,947,580.44	$162,298.37
May 1, 2014	$2,006,007.86	$167,167.32
May 1, 2015	$2,066,188.09	$172,182.34
May 1, 2016	$2,128,173.74	$177,347.81
May 1, 2017	$2,192,018.95	$182,668.25

SCHEDULE B

LEASE YEAR BEGINNING	ANNUAL RENT	MONTHLY RENT
May 1, 2008	$ 840,000.00	$70,000.00
May 1, 2009	$ 865,200.00	$72,100.00
May 1, 2010	$ 891,156.00	$74,263.00
May 1, 2011	$ 917,890.68	$76,490.89
May 1, 2012	$ 945,427.40	$78,785.62
May 1, 2013	$ 973,790.22	$81,149.19
May 1, 2014	$1,003,003.93	$83,583.66
May 1, 2015	$1,033,094.05	$86,091.17
May 1, 2016	$1,064,086.87	$88,673.91
May 1, 2017	$1,096,009.47	$91,334.12

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

(Port Authority Acknowledgment)

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

On the 12th day of February in the year 2008, before me, the undersigned, a Notary Public in and for said state, personally appeared RICHARD M. LARRABEE DIRECTOR, PORT COMMERCE DEPT., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity as , and that by his/her/their signature on the instrument, the individual, or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

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

(Lessee Acknowledgment)

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

On the 24th day of April in the year 2008, before me, the undersigned, a Notary Public in and for said state, personally appeared SABATO F. CATUCCI , 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 as , and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

(notarial seal and stamp)

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

Lease No. BP-307

AGREEMENT

Between

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

AND

AMERICAN STEVEDORING, INC.

Dated as of April 30, 2008

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Lease No. BP-307

THIS AGREEMENT OF LEASE, made as of April 30, 2008, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority"), a body corporate and politic created by Compact between the States of New Jersey and New York, with the consent of the Congress of the United States of America, and having an office and place of business at 225 Park Avenue South, New York, New York 10003; and AMERICAN STEVEDORING, INC. (hereinafter called "the Lessee"), a corporation organized and existing under the laws of the State of New York and having an office and place of business at 70 Hamilton Avenue, Brooklyn, New York 11231, whose representative is: Sabato F. Catucci.

WITNESSETH, THAT:

WHEREAS, the Port Authority as of December 18, 1979 entered into an agreement with the State of New York ("the State") and the City of New York ("the City") known as the Red Hook Marine Project (III) Terminal Operating Agreement and Lease (said agreement being hereinafter called "the Project Agreement"); and

WHEREAS, the Port Authority pursuant to the Project Agreement has constructed a marine terminal primarily for the handling of waterborne container cargo out of funds provided by the State and the City on real property a portion of which is owned by the Port Authority (hereinafter called "the Port Authority Realty") and the remaining portion of which is owned by the City (hereinafter called "the City Property"); and

WHEREAS, the purpose of the Project Agreement is to provide for the operation of a container terminal and the Port Authority desires to lease the Port Authority Realty and sublet the City Property for the purpose of operating such a terminal;

NOW, THEREFORE, the Port Authority and the Lessee hereby mutually undertake, promise and agree as follows:

Section 1. Letting

The Port Authority hereby lets and sublets, as the case may be, to the Lessee and the Lessee hereby hires and takes from the Port Authority, at the Red Hook Container Terminal (sometimes hereinafter called "the Facility" or the "marine terminal"), in the City of New York, in the County of Kings and the State of New York, the following:

(a) the open area and the enclosed spaces shown in diagonal crosshatching, and the water area shown in diagonal hatching, all as so shown on a sketch hereto attached, hereby made a part hereof, and marked "Exhibit A", together with the buildings, structures, fixtures, improvements and other property, if any, of the Port Authority located or to be located or constructed therein or thereon, the said open area, enclosed spaces, and water area, buildings, structures, fixtures, improvements and other property of the Port Authority being hereinafter collectively called "the premises", and the water area shown in diagonal hatching being hereinafter sometimes called "the berthing area". The parties agree that the premises constitute non-residential property.

(b)(1) two rail mounted quayside container cranes, model Liebherr P150L-Super and having the serial numbers IR1590 and IR1591, respectively, and associated spare parts; (2)two telescopic spreaders built by Bromma, Inc. Roxboro, North Carolina, USA (sw up to 60 long tons), for handling 20 foot, 40 foot, 45 foot, and 20x20 foot containers with serial numbers 1526 and 1527, respectively; (3) one 60-ton Hookbeam with serial number HB212; and (4) two rail mounted quayside Paceco container cranes numbers 1251 and 1033, respectively (all of which cranes are collectively called "the Cranes").

Section 2. Terminology

Notwithstanding that the letting of the City Property by the Port Authority to the Lessee is in the nature of a sublease, all references in this Agreement to the premises shall mean and include the City Property unless and except if specifically indicated otherwise and all references in this Agreement to the Lessee and the letting shall be deemed to include the Lessee as sublessee, it being the intention of the parties that there be no distinction between the obligations of the Lessee with respect to the City Property and to the Port Authority Realty unless where specifically indicated to the contrary.

Section 3. Term

The term of the letting under this Agreement shall commence at 12:01 o'clock A.M. on May 1, 2008 and shall expire, if not sooner terminated, at 11:59 o'clock P.M. on April 30, 2018; provided, however, that, as a condition precedent to the effectiveness of this Agreement and the letting hereunder, and as a condition precedent to the effectiveness of the other three agreements being entered into contemporaneously herewith by the

Lessee as identified in Section 40 hereof (i.e., Lease BP-308, Lease BP-309 and Lease L-PN-281), the Lessee shall have first surrendered the area defined as "Surrendered Area" in Section 48 of Lease No. L-PN-281 in full compliance with said Section. The Lessee further acknowledges and agrees that its fulfillment of its obligations under the provisions of said Section 48 is a special consideration and material inducement to the Port Authority, and is of such importance to the Port Authority, that the Port Authority would in no event have entered into this Agreement were it not for the full and timely fulfillment of these obligations of the Lessee.

Section 4. Container and Cargo Rental

(a) Except as specifically stated otherwise, for purposes of this Section and for all other purposes under this Agreement the following terms shall have the respective meanings provided below:

(1) "Annual Period" shall mean each twelve-month period commencing on May 1st and ending on April 30th to occur during the term of the letting under this Agreement.

(2) "Qualified Containers" shall mean cargo containers (or similar cargo conveyances ((if any)) which shall generally replace, succeed or complement present cargo containers) loaded onto or discharged from vessels berthing at the premises (whether or not so loaded or discharged by means of container cranes, and whether or not empty or containing cargo), including without limitation any specialized cargo containers such as flat-racks (flat-racks when empty and bundled together as one unit shall be counted as one container), and shall also be deemed to mean mafis and trailers; but shall not mean containers arriving on shipboard and departing on the same ship and the same voyage if such containers are merely unloaded from the ship at the premises and reloaded in the course of a restowing operation or are merely moved from one location to another location on the same ship in the course of a shifting operation. Containers discharged from vessels berthing at the premises and loaded onto vessels berthing at the premises in the course of a transshipment operation shall be deemed to have been both discharged from such vessels and loaded onto such vessels in one discrete operation for purposes of the computation of the rental payable under this Section. Notwithstanding any provision set forth above, Qualified Containers shall not include any container stuffed or stripped at the premises.

(3) "Non-container Cargo" shall mean (i) bulk cargo not in cargo containers loaded onto or discharged from

vessels berthing in the berthing area and (ii) bulk cargo stuffed in or stripped from cargo containers while at the premises.

(4) "Revenue Ton" shall mean one long ton (a weight of 2,240 pounds) or a measurement ton (40 cubic feet) as determined by the Port Authority acting in its sole discretion.

(5) "Tier 1 Number of Containers" shall mean the first fifty thousand (50,000) Qualified Containers.

(6) "Tier 2 Number of Containers" shall mean from fifty thousand and one (50,001) Qualified Containers through one hundred thousand (100,000) Qualified Containers.

(7) "Tier 3 Number of Containers" shall mean from one hundred thousand and one (100,001) Qualified Containers through one hundred fifty thousand (150,000) Qualified Containers.

(8) "Tier 4 Number of Containers" shall mean the number of Qualified Containers above one hundred fifty thousand (150,000) Qualified Containers.

(b) The Lessee shall pay to the Port Authority a container throughput rental for each Annual Period (hereinafter called the "Container Throughput Rental") equal to the product obtained by multiplying: (1) the tier 1 throughput rental rate (hereinafter called "the Tier 1 Rental Rate") applicable for such Annual Period by the Tier 1 Number of Containers loaded onto or discharged from vessels berthing at the premises during such Annual Period; (2) the tier 2 throughput rental rate (hereinafter called "the Tier 2 Rental Rate") applicable for such Annual Period by the Tier 2 Number of Containers loaded onto or discharged from vessels berthing at the premises during such Annual Period; (3) the tier 3 throughput rental rate (hereinafter called "the Tier 3 Rental Rate") applicable for such Annual Period by the Tier 3 Number of Containers loaded onto or discharged from vessels berthing at the premises during such Annual Period; and (4) the tier 4 throughput rental rate (hereinafter called "the Tier 4 Rental Rate") applicable for such Annual Period by the Tier 4 Number of Containers loaded onto or discharged from vessels berthing at the premises during such Annual Period. The Tier 1 Rental Rate, the Tier 2 Rental Rate, Tier 3 Rental Rate, and the Tier 4 Rental Rate for each Annual Period are as set forth in the schedule attached hereto, hereby made a part hereof and marked "Schedule A".

(c) The computation of the Container Throughput Rental for each Annual Period, or a portion of an Annual Period, shall

be individual to such Annual Period, or such portion of an Annual Period, and without relation to any other Annual Period, or any other portion of any Annual Period. The Container Throughput Rental shall be payable on a monthly basis, as set forth in paragraph (d) of this Section, based on the number of Qualified Containers loaded onto or discharged from vessels berthing at the premises during the month.

(d) The Lessee shall pay the Container Throughput Rental as follows: on the 30th day of June 2008, and on the 30th day of each and every month thereafter occurring during the term of the letting (or the 28th day if a February and the 29th of February if a leap year), including the month following the expiration of the term of the letting, the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee showing the total number of Qualified Containers loaded onto or discharged from vessels berthing at the premises during the preceding month and the cumulative number of Qualified Containers loaded onto or discharged from vessels berthing at the premises from the date of the commencement of the Annual Period for which the report is made through the last day of the preceding month; each monthly statement shall be accompanied by monthly vessel activity reports to substantiate the statement, showing the total number of Qualified Containers loaded onto or discharged from vessels berthing at the premises during the month for which the report is made, and such statement shall also include terminal statistics and measures relating to containers handled at and discharged to and from the premises as detailed and required from time to time by the Port Authority. The Lessee shall pay to the Port Authority at the time of rendering such statement any Throughput Rental payable under the provisions of this Section for the month for which the statement is made.

(e) Upon any termination of the letting hereunder (even if stated to have the same effect as expiration), the number of Qualified Containers shall be reported and the Container Throughput Rental shall be paid on the 30th day of the first month following the month in which the effective date of such termination occurs, as follows: the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee showing the total number of Qualified Containers loaded onto or discharged from vessels berthing at the premises during the Annual Period in which the effective date of termination falls; the payment then due on account of all Container Throughput Rental for the Annual Period in which the effective date of termination falls shall be the excess of the Container Throughput Rental for such Annual Period, computed as follows, over the total of all Container Throughput Rental payments previously made by the Lessee for such Annual Period: an

amount equal to the product obtained by multiplying (1) the Tier 1 Rental Rate by the Tier 1 Number of Containers, as the case may be, loaded onto or discharged from vessels berthing at the premises during such Throughput Lease Year; (2) the Tier 2 Rental Rate by the Tier 2 Number of Containers, as the case may be, loaded onto or discharged from vessels berthing at the premises during such Throughput Lease Year; (3) the Tier 3 Rental Rate by the Tier 3 Number of Containers, as the case may be, loaded onto or discharged from vessels berthing at the premises during such Throughput Lease Year; and (4) the Tier 4 Rental Rate by the Tier 4 Number of Containers, as the case may be, loaded onto or discharged from vessels berthing at the premises during such Throughput Lease Year, with the Tier 1 Number of Containers, the Tier 2 Number of Containers the Tier 3 Number of Containers, and the Tier 4 Number of Containers all being multiplied by a fraction, the numerator of which shall be the number of days from the commencement of such Annual Period to the effective date of termination and the denominator of which shall be 365. Any amount of the Container Throughput Rental determined to be owed to the Port Authority pursuant to such calculation shall be paid by the Lessee at the time of rendering the statement.

(f) The Lessee shall pay to the Port Authority a non-container cargo throughput rental (hereinafter called the "Non-container Cargo Throughput Rental") with respect to Non-container Cargo for each Annual Period to occur during the term of the letting under this Agreement equal to the product obtained by multiplying (1) the total number of Revenue Tons of Non-container Cargo loaded onto or discharged from vessels berthing at the premises during the Annual Period by (2) the Non-container Cargo Throughput rental rate (hereinafter called "the Non-container Cargo Throughput Rental Rate") applicable for such Annual Period. The Non-container Cargo Throughput Rental Rates for each Annual Period are as set forth in the schedule attached hereto, hereby made a part hereof and marked "Schedule B".

(g) The Lessee shall pay the Non-container Cargo Throughput Rental as follows: on the 30th day of June 2008, and on the 30th day of each and every month thereafter occurring during the term of the letting (or the 28th day if a February and the 29th of February if a leap year), including the month following the expiration of the term of the letting, the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee showing the total number of Revenue Tons of Non-container Cargo loaded onto or discharged from vessels berthing at the premises during the preceding month and the cumulative number of Revenue Tons of Non-container Cargo loaded onto or discharged from vessels berthing at the premises from the commencement of the Annual period for which the report

is made through the last day of the preceding month; each monthly statement shall be accompanied by monthly vessel activity reports to substantiate the statement, showing the total number of Revenue Tons of Non-container Cargo loaded onto or discharged from vessels berthing at the premises during the month for which the report is made. The Lessee shall pay any amount of Non-container Cargo Throughput Rental due under this Section at the time of rendering said statement.

(h) Notwithstanding any provision set forth in paragraphs (f) and (g) of this Section, the Non-container Cargo Throughput Rental Rate for that portion (if any) of the Non-container Cargo that is "Exempt Cargo" (as such term is defined below in this paragraph) shall be at the wharfage charge for "all cargo, unless otherwise specifically provided for" set forth in the Port Authority's tariff incorporated into FMC Schedule PA-10, or any successor tariff, as the same may be amended from time to time during the term of the letting under this Agreement. "Exempt Cargo" shall mean cargoes which are set forth in the definition of "Excepted Cargoes" in that certain agreement made by and between the New York Shipping Association, Inc. and the International Longshoremen's Association, ALF-CIO, dated September 24, 2004 and denominated the "NYSA-ILA Assessment Agreement".

(i) The rentals payable under this Section shall not be subject to abatement or suspension or reduction for any reason whatsoever.

Section 5. Equipment Rental

(a) Except as specifically stated otherwise, for purposes of this Section and for all other purposes under this Agreement the term "Equipment Containers" shall mean containers loaded onto or discharged from vessels berthing at the premises (whether or not stuffed and stripped at the premises) by means of a container crane (whether or not by means of one of the Cranes, as defined in Section 1 hereof, or another container crane) other than containers arriving on shipboard and departing on the same ship and the same voyage if such containers are merely unloaded from the ship at the premises and reloaded in the course of a restowing operation or are merely moved from one location to another location on the same ship in the course of a shifting operation. Containers discharged from vessels berthing at the premises and loaded onto vessels berthing at the premises in the course of a transshipment operation shall be deemed to have been both discharged from such vessels and loaded onto such vessels in one discrete operation for purposes of the computation of the rental payable under this Section.

(b) The Lessee shall pay to the Port Authority an equipment rental (hereinafter called the "Equipment Rental") with respect to Equipment Containers for each Annual Period to occur during the term of the letting under this Agreement equal to the product obtained by multiplying (1) the total number of Equipment Containers loaded onto or discharged from vessels berthing at the premises during the Annual Period by (2) the Equipment throughput rental rate (hereinafter called "the Equipment Throughput Rental Rate") applicable for such Annual Period. The Equipment Throughput Rental Rates for each Annual Period are as set forth in the schedule attached hereto, hereby made a part hereof and marked "Schedule C".

(c) The Lessee shall pay the Equipment Rental as follows: on the 30th day of June 2008, and on the 30th day of each and every month thereafter occurring during the term of the letting (or the 28th day if a February and the 29th of February if a leap year), including the month following the end of each such Annual Period, the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee showing the total number of Equipment Containers loaded onto or discharged from vessels berthing at the premises during the preceding month and the cumulative number of Equipment Containers loaded onto or discharged from vessels berthing at the premises from the commencement of the Annual period for which the report is made through the last day of the preceding month; each monthly statement shall be accompanied by monthly vessel activity reports to substantiate the statement, showing the total number of Equipment Containers loaded onto or discharged from vessels berthing at the premises during the month for which the report is made. The Lessee shall pay any amount of Equipment Rental due under this Section at the time of rendering said report.

(d) The rentals payable under this Section shall not be subject to abatement or suspension or reduction for any reason whatsoever.

Section 6. Rights of User

(a) The Lessee shall use the premises for the following purposes only, and for no other purpose whatsoever: (i) the loading and unloading predominately of cargo housed in containers, and also of non-containerized cargo, such bulk cargo as shall have the prior and continuing consent of the Port Authority, and ships' stores, supplies and gear on or from seagoing vessels and other craft permitted to be berthed in the berthing area; (ii) the receipt, handling, and storage incidental to the transportation of cargo (whether or not in cargo

containers) transported or to be transported by seagoing vessels permitted to be berthed in the berthing area, and of ships' stores, supplies and gear for such vessels; (iii) the parking of motor vehicles, container chassis, and of trailers and semi-trailers owned or operated by the Lessee or by the employees of the Lessee or by persons doing business with it at the Facility for the purposes set forth in this Section; (iv) the storage and repair of cargo containers, other cargo-handling equipment, and necessary amounts of dunnage used in the operations of the Lessee under this Agreement; and (v) the maintenance of office space solely for purposes incidental to the operations of the Lessee set forth in this Section.

(b) The Lessee shall have the right to berth in the berthing area seagoing vessels for which the Lessee acts as stevedore or terminal operator, and operated by persons, firms or corporations which shall have the prior and continuing consent of the Port Authority, to be granted, withheld, and withdrawn in the sole discretion of the Port Authority, carrying or about to carry general cargo, and tugboats, barges, lighters and other harbor craft serving such seagoing vessels, for loading or discharge of cargo, ships' stores, supplies and gear. Such loading and discharge from seagoing vessels may be accomplished in the berthing area through the medium of barges, lighters, and other harbor craft moored inshore or offshore. The Lessee shall have the exclusive right to collect dockage and wharf usage charges from seagoing vessels and all other craft, subject to all the terms and provisions of this Agreement. The Lessee shall not use or permit the use of the berthing area except as hereinabove provided.

(c) Notwithstanding any provision of this Section 6, the Lessee shall not, without the express, prior written consent of the Port Authority, to be granted, withheld, and withdrawn in the sole discretion of the Port Authority, use the premises for the transportation, storage, distribution or other handling of any municipal or commercial solid waste whether or not housed in cargo containers.

Section 7. Ingress and Egress

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

hereafter be promulgated for the safe and efficient operation of the Facility. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way or any other area at, in or near the Facility presently or hereafter used as such, so long as a means of ingress and egress as provided above remains available to the Lessee. The Lessee hereby releases and discharges the Port Authority and 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 way or other area whether within or outside the Facility; provided, that, a reasonably equivalent means of ingress and egress remains available. The Lessee shall not do or permit anything to be done which will interfere with the free access and passage of others to space adjacent to the premises or in, along, across or through any streets, ways and walks near the premises.

Section 8. Governmental and Other Requirements

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

(b) The Lessee shall promptly observe, comply with and execute all laws and ordinances and governmental rules, regulations, requirements, orders and similar items now or at any time during the occupancy of the premises by the Lessee which as a matter of law are applicable to or which affect (i) the premises, (ii) the operations of the Lessee at the premises or the Facility, (iii) the use and occupancy of the premises and/or (iv) any hazardous substance which has migrated from the premises. The Lessee, at its sole cost and expense, shall make any and all structural and non-structural improvements, repairs or alterations of the premises and perform all remediation work and clean up of hazardous substances required in order to fully satisfy the compliance obligations set forth in this Agreement.

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

Section 9. Rules and Regulations

(a) The Lessee covenants and agrees to observe and obey (and to compel its officers, employees and others on the premises with its consent to observe and obey) the Rules and Regulations of the Port Authority now in effect, and such further reasonable rules and regulations (including amendments and supplements thereto) for the government of the conduct and operations of the Lessee as may from time to time during the letting be promulgated by the Port Authority for reasons of safety, health, or preservation of property, or for the maintenance of the good and orderly appearance of the premises, or for the safe or efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it will give notice to the Lessee of every such further rule or regulation at least ten (10) days before the Lessee shall be required to comply therewith.

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

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

Section 10. Method of Operation

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

(b) The Lessee shall not allow any garbage, debris or other waste materials (whether solid or liquid) to collect or accumulate on the premises and the Lessee shall remove from the premises and from the Facility all garbage, debris and other waste materials (whether solid or liquid) arising out of its

operations hereunder. Any such material which may be temporarily stored shall be kept in suitable waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and in any case to be designed and constructed to contain safely the waste material placed by the Lessee therein. Said receptacles shall be provided and maintained by the Lessee and shall be kept covered except when being filled or emptied. The Lessee shall use extreme care when effecting removal of all such material, shall effect such removal at such times and by such means as are first approved by the Port Authority, and shall in no event make use of any facilities or equipment of the Port Authority for the removal of such material except with the prior consent of the Port Authority.

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

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

(e) The Lessee shall take all reasonable measures to eliminate vibrations tending to damage the premises or the Facility or any part thereof.

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

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

(h) The Lessee shall not overload any floor, roof, land surface, bulkhead, pavement, landing, pier or wharf at the Facility and shall repair, replace or rebuild any such, including but not limited to supporting members, damaged by overloading.

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

the Lessee shall furnish such electricity as may be required for use by navigation lights which may be so installed.

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

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

(l) The Lessee shall promptly raise and remove or cause to be raised and removed any and all objects of any kind, including vessels or other floating structures and equipment (whether or not intended to be floating), owned or operated by

the Lessee, or by a corporation, company or other organization or person associated, affiliated or connected with the Lessee or for which the Lessee acts as agent, stevedore or terminal operator, (or of others going to or from the premises on business with the Lessee) which shall have sunk, settled or become partially or wholly submerged at the Facility. In addition, the Lessee shall promptly raise and remove or cause to be raised and removed any and all objects of any kind, including vessels or other floating structures and equipment (whether or not intended to be floating), which shall have sunk, settled or become partially or wholly submerged in the berthing area. The provisions of the immediately preceding sentence shall be applicable whether or not the aforesaid object is owned by the Lessee or is connected in any way with the Lessee or its occupancy of or operations at the premises, and the Port Authority shall have no obligation to raise or remove any such object unless its presence in the berthing area is the result of the sole negligence or willful act of the Port Authority.

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

Section 11. Signs

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

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

Section 12. Indemnity and Liability Insurance

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

(b) If so directed by the Port Authority, the Lessee shall at its own expense defend any suit based upon any such claim or demand (even if such suit, claim or demand is groundless, false or fraudulent) in which event 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 its provisions of any statutes respecting suits against the Port Authority.

(c) The Lessee, in its own name as assured, shall maintain and pay the premiums on the following described policies of liability insurance:

(i) Commercial General Liability Insurance including but not limited to coverage for Premises-Operations and Products Liability-Completed Operations, with a minimum combined single limit coverage for bodily injury and property damage of $5,000,000.00. Said insurance shall also include coverage for explosion, collapse and underground property damage hazards. If the Lessee's operations entail the ownership, maintenance, operation, or use of any watercraft, whether owned, non-owned, or hired, the Lessee shall have any exclusion for such watercraft deleted or shall purchase equivalent coverage under a policy of Protection and Indemnity Insurance and shall provide the Port Authority with a certificate of insurance evidencing such coverage.

(ii) Commercial Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with its operations hereunder with a minimum combined single limit coverage for bodily injury and property damage of $2,000,000.00.

(iii) Workers' Compensation and Employers' Liability Insurance in accordance with the requirements of law. The Workers' Compensation Policy shall be specially endorsed to include coverage afforded by (aa) the U.S. Longshoremen's and Harbor Workers' Compensation Act and Coverage B - "Jones Act, maritime (including coverage for Masters or Members of the Crew of Vessels) and (bb) Coverage - B under the Federal Employers' Liability Act.

(d) With the exception of the Workers' Compensation and Employers' Liability Insurance Policy, each policy of insurance described in paragraph (c) of this Section shall include the Port Authority as an additional insured (including, without limitation, for purposes of premises operations and completed-operations) and each such policy shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority. Each such policy shall contain a contractual liability endorsement covering the indemnity obligations of the Lessee under this Section and such policies shall not contain any care, custody or control exclusions. Such insurance shall also contain an endorsement providing that the protection afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third party shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority and against the Port Authority by the Lessee, but said endorsement shall not limit, vary, change or affect the protections afforded the Port Authority as an additional insured.

(e) As to insurance of any type whatsoever required or permitted by any provision of this Agreement, a certified copy of each of the policies or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within fifteen (15) days after the execution of this Agreement by the Port Authority and the Lessee and the delivery to the Lessee

of a fully executed copy thereof (which date is hereinafter called "the Commencement Date"). In the event any binder is delivered it shall be replaced with due diligence by a certified copy of the policy or by a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving thirty (30) days' written advance notice thereof to the Port Authority. A binder evidencing each renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the letting hereunder, as the letting may be from time to time extended, and a certificate or a certified copy of each such renewal policy shall be delivered to the Port Authority with due diligence. If at any time any policy shall be or become unsatisfactory to the Port Authority as to form or substance or as to coverages or minimum limits, or if any carrier issuing any one or more such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain one or more new and satisfactory policies in replacement. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

Section 13. Maintenance and Repair

(a) The Lessee shall at all times keep the premises clean, and in an orderly condition and appearance, together with all the fixtures, equipment and personal property of the Lessee located in or on the premises. Without limiting the generality of the immediately preceding sentence or any obligations of the Lessee with respect to the premises, the Lessee agrees that upon the commencement of the letting it shall place the premises in good operating condition and shall keep such premises in good operating condition throughout the term of the letting.

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

(c) Subject to the provisions of paragraph (f) of this Section and Section 17 of this Agreement, throughout the term of the letting under this Agreement, the Lessee shall assume the entire responsibility for, and shall relieve the Port Authority from all responsibility from, all care, maintenance, repair and rebuilding whatsoever in the premises, whether such care, maintenance, repair, or rebuilding be ordinary or extraordinary, partial or entire, inside or outside, foreseen or unforeseen,

structural or otherwise; and without limiting the generality of the foregoing the Lessee shall maintain and make repairs and replacements, structural or otherwise to all improvements located on the premises and all other fixtures, machinery, or equipment now or hereafter belonging to or connected with said premises or the Lessee's operations being conducted thereon, including without limitation thereto all maintenance, repair and replacement of the following items: (1) paving, which shall mean maintenance paving, crack sealing, weed removal, repair of damaged or overstressed surfaces, manholes, catch basins, underground storm water pipes, and grate support systems. In addition, the Lessee shall be responsible for maintenance repairs, and damages, that are required above the structural concrete chamber of catch basins and manholes. Such repairs shall include the concrete brick collar, concrete collar, brick collar, asphalt concrete pavement, Portland cement concrete pavement, the frame and grate or manhole cover and silt bucket when and where applicable. For the purpose of manhole and catch basin repair, the top of the structural chamber shall be the top of the concrete slab that covers the vertical walls of the underground manhole structure, and for the purpose of catch basin and manhole repair, the top of the structural chamber shall be the top of the (cast-in-place or pre-cast) vertical walls of the underground catch basin and manhole structure; (2) crane rails and rail foundations; (3) scales; (4) rail tracks on the premises; (5) lights, light poles and light pole foundations; (6) sprinkler systems; (7) gas and electric from the meter (utility companies are responsible up to the meter); (8) water pits; (9) container cranes; (10) the electrical system, equipment and fixtures, including, without limitation, lighting fixtures, switches, outlets, receptacles and other electrical devices and accessories, and all relamping and fuse replacement; (11) the plumbing system, fixtures and equipment, and all finished plumbing; (12) buildings and all parts thereof; (13) special mooring devices and special loading devices, whether mechanical, electrical, hydraulic or otherwise; (14) fencing, (15) signs; (16) fire extinguishers; (17) all painting; and (18) all underground storage tanks. The Lessee shall maintain all such improvements, fixtures, machinery and equipment at all times in good condition, and shall perform all necessary preventive maintenance thereto so that at the expiration or termination of the letting and all times during the letting, the same (or a reconstruction of all or any part thereof) will be in as good condition as at the commencement of the term of the letting thereof (or, in the case of improvements made during the letting hereunder, in as good condition as at the time of the installation or construction thereof), except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the buildings or other structures on the

premises or adversely affect the efficient or the proper utilization of any part of the premises or the environmental condition thereof. The Lessee shall make frequent periodic inspections of the premises and subject to Section 17 of this Agreement shall make all repairs and replacements, and do all rebuilding, inside and outside, ordinary and extraordinary, partial and entire, foreseen and unforeseen, structural or otherwise, regardless of the cause of the condition requiring such repairs, rebuilding or replacements, which repairs, rebuilding and replacements by the Lessee shall be in quality and class not inferior to the original in materials and workmanship.

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

(e) (1) Upon sixty (60) days' notice from the Lessee that any one or more of the various parts of the berthing area have shallowed to the depth below mean low water set forth in the column headed "Shallowed Depth" on the schedule attached hereto, hereby made a part hereof and marked "Schedule D", the Port Authority, at its own expense, shall proceed (to the extent permitted by governmental authorities having jurisdiction) to dredge such part of the berthing area specified in the said notice (or such portion thereof as may be necessary), either directly or through a contractor, to a depth hereinbelow set forth in the column headed "Dredged Depth". The term "mean low water" as used in this subparagraph shall mean mean low water as most recently at the time of execution of this Agreement determined by observations of the United States Coast and Geodetic Survey. Notwithstanding the foregoing, any dredging required under this paragraph (e)(1) shall be only such as shall produce (or leave in place) such depths and slopes as may be required in the opinion of the Port Authority for underwater support of structures, which opinion shall be controlling.

(2) Notwithstanding any other provision of this Section, in the event that the Port Authority shall determine that the Estimated Cubic Yard Cost, as hereinafter defined, will exceed One Hundred Dollars and No Cents ($100.00) (which amount is hereinafter called "the Base Cost"), the Port Authority shall not be obligated to perform the dredging work set forth in paragraph (e)(1) of this Section unless the Lessee shall pay for any amount of the Estimated Cubic Yard Cost which shall exceed the Base Cost. "The Estimated Cubic Yard Cost" shall mean the total cost of dredging the portion of the berthing area described in the Lessee's notice given to the Port Authority under the aforesaid paragraph (e)(1) calculated in terms of the cost of such work per cubic yard of dredged material, with such estimate to include the cost of transporting and disposal of any dredged material and a Port Authority overhead charge of fifteen percent (15%) of all such other costs. In the event that the Port Authority shall determine that the Estimated Cubic Yard Cost of any such dredging will exceed the Base Cost, the Port Authority shall so notify the Lessee and the Lessee shall have the right to elect to have the dredging performed subject to its obligation to pay for any such excess cost. In the event that the Lessee shall not elect to pay such excess cost of the dredging, the Port Authority shall be relieved of its obligation to perform such dredging until such time, if ever, that it shall determine that the Estimated Cubic Yard Cost of such dredging does not exceed the Base Cost. The Base Cost shall be subject to adjustment during the term of the letting under this Agreement in accordance with the provisions of paragraph (e)(3) of this Section.

(3) As used in this subparagraph:

(i) "Index" shall mean the Construction Cost Index published by ENR Magazine.

(ii) "Base Period" shall mean the calendar month of April 2008.

(iii) "Adjustment Period" shall mean, as the context requires, the calendar month of April 2009 and the calendar month of April in each calendar year which thereafter occurs during the term of the letting under this Agreement.

(iv) "Anniversary Date" shall mean, as the context requires, May 1, 2009 and each anniversary of such date which thereafter occurs during the term of the letting under this Agreement.

(v) "Percentage Change" shall mean the percentage of change in the Index on each Anniversary Date equal to a

fraction the numerator of which shall be the difference between (aa) the Index for the Adjustment Period immediately preceding such Anniversary Date and (bb) the Index for the Adjustment Period immediately preceding the Anniversary Date which immediately precedes such Anniversary Date, and the denominator of which shall be the Index for the Adjustment Period immediately preceding the Anniversary Date which immediately precedes such Anniversary Date.

Commencing on each Anniversary Date and for the period commencing with such Anniversary Date and continuing through the day preceding the next Anniversary Date, or the expiration date of the term of the letting under this Agreement, as the case may be, the Base Cost set forth in paragraph (e)(2) of this Section shall be adjusted by adding to or subtracting from the Base Cost, as the case may be, the product obtained by multiplying the Base Cost by the Percentage Change for such Anniversary Date. For purposes of any adjustment under this subparagraph, the Base Cost employed in the calculation described in the immediately preceding sentence shall be the Base Cost as previously adjusted under this paragraph.

In the event the Index shall hereafter be converted to a different standard reference base or otherwise revised or ENR Magazine shall cease to publish the Index, then for the purposes hereof there shall be substituted for the Index such other appropriate index or indices properly reflecting changes in construction costs in a manner similar to that established in the Index used in the latest adjustment as the Port Authority may in its discretion determine. If after an adjustment in the Base Cost shall have been fixed for any period, the Index used for computing such adjustment shall be changed or adjusted, then the adjustment of the Base Cost for that period shall be recomputed accordingly.

(4) Notwithstanding any other provision of this Section, the Port Authority shall not be obligated to perform the dredging work set forth in subparagraph (1) of this paragraph as to any part of the portion of the berthing area described in the Lessee's notice given to the Port Authority under the aforesaid subparagraphs as long as any vessel or other floating structure, equipment or other personal property (whether or not intended to be floating) is sunk, settled or partially or wholly submerged in such part of the berthing area. The provisions of this subparagraph shall be applicable whether or not the aforesaid object is owned by the Lessee or is connected in any way with the Lessee or its occupancy of or operations at the premises. The Port Authority shall have no obligation to raise or remove any such object unless its presence in the berthing area is the

result of the sole negligence or willful act of the Port Authority.

(f) Except under circumstances as to which paragraph (b) of this Section applies, upon receipt of notice that repair or replacement of such of the following as are located in or are a part of the premises is required: (1) the structure of the wharf, fender systems (but not backing logs or bumpers), and standard mooring devices; (2) the water distribution system (i) up to the closer of twenty (20) feet from the exterior building walls of the building being serviced or the valve connection thereto and (ii) up to the closer of the ships' water pits or the single meter on the premises or closest meter on the premises servicing said water pit (but in no event the ships' water pits themselves); and (3) the underground sanitary systems; the Port Authority will make such repairs and replacements to the extent necessary to keep such part of the premises in a reasonably good condition for the operations of the Lessee hereunder, but the Port Authority shall not be obligated to make any repairs or replacements to bring the premises to a better condition than that existing at the commencement of the letting. The Port Authority's responsibilities under this paragraph shall be limited to bearing the expense of repair or replacement, and without limiting the foregoing the Port Authority shall have no responsibility with respect to any repairs or replacements which are the obligation of the Lessee under any other provision of this Agreement. The Port Authority shall have no responsibility with respect to any repairs or replacements which are required because of any casualty whether or not insured or insurable, except as expressly provided in Section 14 of this Agreement. If the Port Authority shall fail, after a reasonable period of time to perform its repair and replacement obligations under this paragraph, the Lessee, as its sole remedy, shall perform the work, and the Port Authority shall on demand pay the Lessee its actual certified cash expenditures to third parties therefor, or, at the option of the Port Authority, shall extend to the Lessee a credit against its rental obligations under this Agreement in an amount equal to such expenditures. Furthermore, prior to the commencement by the Port Authority of any work set forth in the Lessee's notice to the Port Authority, the Lessee shall take all precautions necessary to protect persons or property at the Facility, including the immediate performance by the Lessee of any work required to correct conditions which involve danger to persons or property, and the Port Authority will reimburse the Lessee for such work as provided in this paragraph. The Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents, and representatives, from and against all claims and demands, including but not limited to claims and demands for death, claims and demands for

personal injuries, and claims and demands for property damages, of any third persons whatsoever, including, but not limited to, the Lessee's officers, employees, agents, and representatives which may arise from the condition of the premises or any part thereof, or from the failure of the Lessee to notify the Port Authority of conditions requiring repair or replacement, or from the failure of the Lessee to make timely corrections of dangerous or potentially dangerous conditions in or on the premises. Except as set forth above, the Lessee hereby releases and discharges the Port Authority, its Commissioners, officers, employees, agents, and representatives from any liability for damages to the Lessee, consequential, or otherwise, in connection with any of the provisions of this paragraph concerning repairs or replacements to any portion of the premises, including without limitation thereto any failure on the part of the Port Authority for any reason whatsoever to make any repair or replacement, and including without limitation thereto any act or omission of the Port Authority, its officers, agents, employees, contractors or their employees, connected with the performance of such repairs or replacements.

(g) The obligation of the Lessee as set forth in paragraphs (b) and (c) of this Section in the event of damage or destruction covered by any contract of insurance under which the Port Authority is the insured is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that if at any time because of this release the insurance carrier of any policy covering the premises or any part thereof shall increase the premiums otherwise payable for fire, extended coverage or rental coverage applicable to the premises the Lessee shall pay to the Port Authority an amount equivalent to such increase or increases on demand; and provided, further, that if at any time this release shall invalidate any such policy of insurance or reduce, limit, or void the rights of the Port Authority thereunder, or if because of this release, any such insurance carrier shall cancel such endorsement or refuse to renew the same or shall take any other action to alter, decrease or diminish the benefits of the Port Authority under the policy, then the release shall be void and of no effect.

Section 14. Casualty

(a) In the event that as a result of a casualty, whether or not insured or insurable, the premises are damaged the Lessee shall rebuild the same with due diligence. Without in any way limiting the obligations of the Lessee set forth in the first sentence of this paragraph, with respect to all portions of the premises, the Lessee shall secure and maintain in its own name as

assured and shall pay the premiums on the following policy of insurance in the limit set forth below, which policy shall be effective during the term of the letting under this Agreement:

(1) All risk property damage insurance covering the full replacement cost of any property owned, leased, or within the care, custody or control of the Lessee and now or in the future located on or constituting a part of the premises, except for any personal property owned by the Port Authority. Full replacement cost shall be determined by the Port Authority. No omission on the part of the Port Authority to make such determination shall relieve the Lessee of its obligations to maintain the appropriate insurance under this paragraph. Such insurance shall cover and insure against such hazards and risks as at least would be insured against under the Standard Form of Fire Insurance policy in the State of New York, or any successor thereto, and the broadest form of extended coverage endorsement prescribed as of the effective date of said insurance by the rating organization having jurisdiction, including without limitation hazards and risks of flood, earthquake, windstorm, cyclone, tornado, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, and boiler and machinery hazards and risks, and, if the Port Authority so requests, also covering nuclear property losses and contamination (if said coverage regarding nuclear property losses and contamination is or becomes available).

(2) Unless otherwise directed by the Port Authority, the property damage insurance policy required by this paragraph shall name the Port Authority and the Lessee (with insurance clauses consistent with the provisions of this Agreement) as the insureds, as their respective interests may appear, and shall provide that loss, if any, shall be adjusted with and payable to the Port Authority. As to any insurance required by this paragraph, a certificate of insurance, or binders, shall be delivered by the Lessee to the Port Authority on or before the Commencement Date. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certificate of insurance. Each such policy shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving at least thirty (30) days' written advance notice thereto to the Port Authority and an endorsement to the effect that the insurance as to the interest of the Port Authority shall not be invalidated by any act or negligence of the Lessee or any other insured. Each policy of insurance shall have attached thereto an endorsement that the Port Authority will be given at least

thirty (30) days' prior notice of any material change in the policy. A certificate of insurance with respect to a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the effective period hereof. If at any time the policy required by this paragraph shall be or become unsatisfactory to the Port Authority as to form or substance, or if the carrier issuing such policy shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new and satisfactory policy in replacement.

The proceeds of insurance from coverages secured in accordance with this paragraph shall be made available to the Lessee and shall be applied by the Lessee strictly and solely to the repair, replacement, or rebuilding of the premises as provided in this Agreement. The Lessee shall not be entitled to any abatement of the rentals payable hereunder at any time by reason of such casualty.

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

(c) In the event of damage to or a partial or total destruction of the premises, the Lessee shall within thirty (30) days after the occurrence commence to remove from the premises or from the portion thereof destroyed, all damaged property (and all debris thereof) including damaged buildings and structures, and all damaged property belonging to the Lessee or to any third person whatsoever, and thereafter shall diligently continue such removal, and if the Lessee does not perform its obligation hereunder, the Port Authority may remove such debris and dispose of the same and may remove such property to a public warehouse for deposit or may retain the same in its own possession and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, and 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 on demand. Without limiting any term or provision of this Agreement, the Lessee shall indemnify and save harmless the Port Authority, its officers, agents, employees, contractors and subcontractors, from and against any and all claims of third persons arising out of the exercise by the Port Authority of its right to remove property as hereinabove provided including all claims for conversion, all claims for damage or destruction of property, all claims for injuries to persons (including death), and all other claims for damages, consequential or otherwise.

Section 15. Assignment and Sublease

(a) The Lessee covenants and agrees that it will not sell, convey, transfer, assign, mortgage or pledge this Agreement or any part thereof, or any rights created thereby or the letting thereunder or any part thereof, 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 the Lessee assigns, sells, conveys, transfers, mortgages, pledges or sublets in violation of paragraphs (a) or (b) of this Section or if the premises are occupied by any person, firm or corporation other than the Lessee, the Port Authority may collect rent from any assignee, sublessee, or anyone who claims a right to this Agreement or to the letting or who occupies the premises, and shall apply the net amount collected to the rental herein reserved; and no such collection shall be deemed a waiver by the Port Authority of the covenants contained in paragraphs (a) and (b) of this Section, nor an

acceptance by the Port Authority of any such assignee, sublessee, claimant or occupant as tenant, nor a release of the Lessee by the Port Authority from the further performance by the Lessee of the covenants contained in this Agreement.

(d) The Lessee further covenants and agrees that it will not use or permit any person whatsoever to use the Facility or any portion thereof for any purpose other than as provided in Section 6 of this Agreement.

(e) The provisions of this Section shall not be construed so as to prohibit the Lessee from permitting its subsidiaries to operate at the premises on its behalf, in performing the operations expressly permitted under this Agreement and, in this connection, the Lessee represents and warrants to the Port Authority that (i) it has not directly or indirectly, in whole or in part, assigned or sublet, and shall not during the term of this Agreement assign or sublet, to any of its subsidiaries the premises or any portion thereof, or this Agreement or any rights hereunder, (ii) no subsidiary of the Lessee has or shall have any property interest in or to the premises, (iii) any and all usage of the premises by any of the Lessee's subsidiaries at the premises shall be strictly for the purpose as provided in Section 6 of this Agreement and (iv) no use of the premises or any part thereof by any of the Lessee's subsidiaries shall entitle any of the same to any rights as a third party beneficiary of this Agreement.

Section 16. Condemnation

(a) In any action or other proceeding by any governmental agency or agencies superior to the Port Authority for the taking for a public use of any interest in all or part of the premises, or in case of any deed, lease or other conveyance in lieu thereof (all of which are in this Section referred to as "taking or conveyance"), the Lessee shall not be entitled to assert any claim to any compensation, award or part thereof made or to be made therein or therefor or any claim to any consideration or rental or any part thereof paid therefor, or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority for any such taking or conveyance, it being understood and agreed between the parties hereto that the Port Authority shall be entitled to all compensation or awards made or to be made or paid, and all such consideration or rental, free of any claim or right of the Lessee; provided, however, that this paragraph shall not be construed to prevent the Lessee from making a possible claim against the condemning party for an award for moving or relocation expenses, for trade fixtures and for other fixtures

and improvements owned by the Lessee to the extent that such fixtures and improvements are owned by the Lessee and have been paid for by the Lessee, if such claims are then permitted by law and if such award is made separately from the award which the Port Authority will be entitled to in the condemnation proceeding, and will not reduce the amount thereof, but this provision shall not be deemed a recognition by the Port Authority of the validity of any such claims.

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

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

(d) In the event that the taking or conveyance covers a part only of the premises, or in the event that the letting is terminated pursuant to paragraph (b) of this Section with respect to a part only of the premises, then the letting as to such part shall, as of the date possession thereof is taken by such agency or agencies, or as of the effective date of such termination, cease and determine in the same manner and with the same effect as if the term of the letting had on that date expired, and the basic rental shall be abated as provided in Section 49 hereof and the Container Throughput Rental and Minimum Rental shall be abated proportionately.

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

Section 17. Construction by the Lessee

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

Section 18. Additional Rent and Charges

(a) If the Port Authority has paid any sum or sums or has incurred any obligations or expense which the Lessee has agreed to pay or reimburse the Port Authority for, or if the Port Authority is required or elects to pay any sum or sums or incurs any obligations or expense by reason of the failure, neglect or refusal of the Lessee to perform or fulfill any one or more of the conditions, covenants or agreements contained in this Agreement or as a result of an act or omission of the Lessee contrary to the said conditions, covenants and agreements, the Lessee shall pay to the Port Authority the sum or sums so paid or

the expense so incurred, including all interest, costs, damages and penalties, and the same may be added to any installment of rent thereafter due hereunder, and each and every part of the same shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of any of the rentals set forth in this Agreement. No payment made by the Lessee to the Port Authority under this Section shall be or be deemed a waiver by the Lessee of any right to contest its making of such payment.

(b) Should the Port Authority elect to use its operating and maintenance staff in performing any work and to charge the Lessee with the cost thereof, any time report of any employee of the Port Authority showing hours of work or labor allocated to such work, or any stock requisition of the Port Authority showing the issuance of materials for use in the performance thereof, shall be prima facie evidence against the Lessee that the amount of such charge was necessary.

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

Section 19. Rights of Entry Reserved

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

(b) Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, agents, representatives, and contractors, and on behalf of furnishers of utilities and other services, shall have the right, for its own benefit, for the benefit of the Lessee, or for the benefit of others than the Lessee at the Facility, to maintain existing and future utility, mechanical, electrical and other systems and to enter upon the premises at all reasonable times to make such repairs, replacements or alterations as the Port Authority shall deem necessary or advisable and, from time to time, to construct or install over, in or under the premises new systems or parts thereof, and to use the premises for access to other parts of the

Facility otherwise not conveniently accessible; provided, however that in the exercise of such rights of access, repair, alteration or new construction the Port Authority shall not unreasonably interfere with the use and occupancy of the premises by the Lessee.

(c) In the event that any property of the Lessee shall obstruct the access of the Port Authority, its employees, agents or contractors to any of the existing or future utility, mechanical, electrical and other systems and thus shall interfere with the inspection, maintenance or repair of any such system, the Lessee shall move such property, as directed by the Port Authority, in order that the access may be had to the system or part thereof for its inspection, maintenance or repair, and, if the Lessee shall fail so to move such property after written 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 impose, or shall be construed to impose upon the Port Authority any obligations so to construct or maintain or to make repairs, replacements, alterations or additions, or shall create any liability for any failure so to do. The Lessee is and shall be in exclusive control and possession of the premises and the Port Authority shall not in any event be liable for any injury or damage to any property or to any person happening on or about the premises or for any injury or damage to the premises or to any property of the Lessee or of any other person located therein or thereon (other than those occasioned by the acts of the Port Authority).

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

(f) If, during the last month of the letting, the Lessee shall have removed all or substantially all its property from the premises, the Port Authority may immediately enter and alter, renovateand 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 20. Limitation of Rights and Privileges Granted

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

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

(c) Nothing in this Agreement contained shall grant to the Lessee any rights whatsoever in the air space above the roof of any building or buildings or portion of any building or buildings, if any are included in the premises (except to the extent required in either case for the performance of any of the obligations of the Lessee hereunder), or more than twenty (20) feet above the present ground level of any open area included in the premises (except to the extent required for the operation of the container cranes on the premises and the movement and storage of containers). If any construction or installation is contemplated in this Agreement, the height thereof above ground shall be as determined solely by the Port Authority.

Section 21. Prohibited Acts

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

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

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

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

(e)(1) The Port Authority, by itself or by contractors, lessees or permittees, shall have the exclusive right to install, maintain and receive the revenues from all coin-operated or other vending machines or devices installed by it and operated on the premises for the sale of merchandise of all types or for the rendering of services, provided, however, that no such machine or device shall be installed except upon the request of the Lessee. If the Port Authority does not install and maintain any such machine that the Lessee may reasonably request, the Lessee shall have the right to do so, provided, however, (1) that the Lessee shall pay or cause to be paid to the Port Authority each month for each machine upon the same basis for the preceding month as any concessionaire, permittee or licensee of the Port Authority then operating machines at the Facility for the sale of similar merchandise or the rendering of similar services, and (2) that in the event the Lessee exercises such right the Port Authority, at any time thereafter, may substitute for the Lessee's machines other machines selling similar merchandise or services operated by the Port Authority or by its licensee, permittee or concessionaire, and thereupon the Lessee shall remove its machines.

(2) The Lessee shall have the right to operate a cafeteria for over-the-counter sales to employees of the Lessee of food, non-alcoholic beverages and other merchandise normally sold in such an establishment at no profit to the Lessee and either directly by the Lessee or by an independent contractor who has received a permit from the Port Authority.

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

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

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

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

(j) The Lessee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any hazardous substance on or from the premises, and shall not dispose of, release or discharge or permit anyone subject to its control or authority to dispose of, release or discharge any hazardous substance at the Facility. Any hazardous substance disposed of, released or discharged by the Lessee (or permitted by the Lessee to be disposed of, released or discharged) on or from the premises or at the Facility, shall upon notice by the Port Authority to the Lessee and subject to the provisions of Section 17 hereof, be completely removed, cleaned up and/or remediated by the Lessee. The obligations of the Lessee pursuant to this paragraph shall survive the expiration or termination of this Agreement.

Section 22. Termination

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

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

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

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

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

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

(6) If the Lessee is a partnership, the said partnership shall be dissolved as the result of

any act or omission of its partners or any of them, or by operation of law or the order or decree of any court having jurisdiction, or for any other reason whatsoever; or

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

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

(9) Any lien shall be filed against the premises because of any act or omission of the Lessee and shall not be discharged or bonded within thirty (30) days; or

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

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

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

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

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

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

Section 23. Right of Re-entry

The Port Authority shall, as an additional remedy upon the giving of a notice of termination as provided in Section 25 of this Agreement, 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 other legal proceedings, or otherwise. Such re-entry, or regaining or resumption of possession, however, shall not in any manner

affect, alter or diminish any of the obligations of the Lessee under this Agreement, and shall in no event constitute an acceptance of surrender.

Section 24. 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 25. 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 22 of this Agreement or the interest of the Lessee shall have been cancelled pursuant thereto, or in the event that the Port Authority has re-entered, regained or resumed possession of the premises in accordance with the provisions of Section 23 of this Agreement, all of the obligations of the Lessee under this Agreement shall survive such termination or cancellation, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of the letting, as originally fixed in Section 3 hereof, subject to the provisions of Section 26 hereof, 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 has 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 or amounts of damages for the period of time subsequent to termination or cancellation (or re-entry, regaining or resumption of possession) shall be:

(1) the amount of all unfulfilled monetary obligations of the Lessee under this Agreement, including, without limitation thereto, all sums constituting additional rental under Section 18 of this Agreement, and all sums constituting the rentals under Section 4 and Section 5 of this Agreement, accrued prior to the effective date of termination, and the cost to and expenses of the Port Authority for fulfilling all other obligations of the Lessee which

would have accrued or matured during the balance of the term or on the expiration date originally fixed or within a stated time after expiration or termination; and

(2) an amount equal to the cost and the expenses of the Port Authority in connection with the termination, cancellation, regaining, possession and restoring and reletting the premises, the Port Authority's legal expenses and costs, and the Port Authority costs and expenses for the care and maintenance of the premises during any period of vacancy, and any brokerage fees and commission in connection with any reletting; and

(3) on account of the Lessee's obligations under this Agreement with respect to the Container Throughput Rental, an amount equal to the amount of such rental which would have been paid by the Lessee during the balance of the term if there had been no termination or cancellation or re-entry, regaining or resumption of possession (any of the foregoing in this subparagraph being called a "Termination"). Such amount shall be calculated in accordance with the following: the Tier 1 Rental Rate, the Tier 2 Rental Rate, the Tier 3 Rental Rate and the Tier 4 Rental Rate (as said rates would have escalated in the Annual Periods remaining in the term of letting at the time of the Termination) shall be applied respectively to the "annual number of the Tier 1 Number of Containers", the "annual number of the Tier 2 Number of Containers," the "annual number of the Tier 3 Number of Containers, and the "annual number of the Tier 4 Number of Containers as defined below, and the result so obtained shall be multiplied by the number of full Annual Periods remaining in the term of the letting at the time of the Termination. The "annual number of the Tier 1 Number of Containers", the "annual number of the Tier 2 Number of Containers," the "annual number of the Tier 3 Number of Containers and the "annual number of the Tier 4 Number of Containers" shall be, respectively, the Tier 1 Number of Containers, the Tier 2 Number of Containers, the Tier 3 Number of Containers and the Tier 4 Number of Containers loaded onto or discharged from vessels berthing at the premises during the last full Annual Period to occur prior to the Termination. In the event that the Termination shall be on other than the last day of an Annual Period, for purposes of calculating the rental due hereunder for the period from the day

after the Termination through the end of the Annual Period in which the Termination shall occur, the Tier 1 Number of Containers, the Tier 2 Number of Containers, the Tier 3 Number of Containers and the Tier 4 Number of Containers shall each be prorated for the period from the day after the Termination through the end of the Annual Period in which the Termination shall occur; and

(4) on account of the Lessee's obligations under this Agreement with respect to the Non-container Cargo Throughput Rental, an amount equal to the amount of such rental which would have been paid by the Lessee during the balance of the term if there had been no termination or cancellation or re-entry, regaining or resumption of possession (any of the foregoing in this subparagraph being called a "Termination"). Such amount shall be calculated in accordance with the following: the applicable charge per revenue ton prevailing at the time of Termination shall be multiplied by the "average number of revenue tons per month" as defined below and the product so obtained shall in turn be multiplied by the number of full calendar months remaining in the term of the letting at the time of Termination. The "average number of revenue tons per month" shall be calculated by dividing the total number of revenue tons of Non-container Cargo loaded onto or discharged from vessels berthing at the premises during the last full twelve months immediately preceding the Termination by twelve (12).

(5) on account of the Lessee's obligations under this Agreement with respect to the Equipment Rental, an amount equal to the amount of such rental which would have been paid by the Lessee during the balance of the term if there had been no termination or cancellation or re-entry, regaining or resumption of possession (any of the foregoing in this subparagraph being called a "Termination"). Such amount shall be calculated in accordance with the following: the Equipment Throughput Rental Rate (as said rate would have escalated in the Annual Periods remaining in the term of letting at the time of the Termination) shall be applied to the number of Containers loaded onto or discharged from vessels berthing at the premises during the last full Annual Period to occur prior to the Termination. In the event that the Termination shall be on other than the last day of an Annual Period, for purposes of calculating the rental due hereunder for the period from the day

after the Termination through the end of the Annual Period in which the Termination shall occur, the number of Equipment Containers shall be prorated for the period from the day after the Termination through the end of the Annual Period in which the Termination shall occur.

Section 26. Reletting by the Port Authority

The Port Authority, upon termination or cancellation pursuant to Section 22 of this Agreement, or upon any re-entry, regaining or resumption of possession pursuant to Section 23 of this Agreement, may occupy the premises or may relet the premises and shall have the right to permit any person, firm or corporation to enter upon the premises and use the same. Such reletting may be of part only of the premises or of the premises, and for a period of time the same as or different from the balance of the Term hereunder remaining, and on terms and conditions the same as or different from those set forth in this Agreement. The Port Authority shall also, upon termination or cancellation pursuant to Section 25 of this Agreement, or upon re-entry, regaining or resumption of possession pursuant to Section 26 of this Agreement, have the right to repair and to make structural or other changes in the premises, including changes which alter the character of the premises and the suitability thereof for the purposes of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder. In the event either of any reletting or of any actual use and occupancy by the Port Authority (the mere right to use and occupy not being sufficient however) there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the premises (or portion thereof) during the balance of the Term as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the premises as the Port Authority may itself during such period actually use and occupy, all reasonable expenses, reasonable costs and reasonable disbursements incurred or paid by the Port Authority in connection therewith. Neither any such letting nor any such other use or occupancy shall be or be construed to be an acceptance of a surrender. It is understood by the Port Authority and the Lessee that the Port Authority has no obligation to relet the premises or any portion thereof or to use or occupy the premises or any portion thereof itself, except to the extent as may be required by law.

Section 27. Remedies to Be Nonexclusive

All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any other remedy available to the Port Authority at law or in equity, and neither the exercise of any remedy, nor any provision in this Agreement for a remedy or an indemnity shall prevent the exercise of any other remedy.

Section 28. Surrender

(a) The Lessee covenants and agrees to yield and deliver peaceably to the Port Authority possession of the premises on the date of the cessation of the letting, whether such cessation be by termination, expiration or otherwise, promptly and in the condition required by the provisions of Section 16(c) hereof regarding the condition of the premises at the expiration or termination of the letting hereunder.

(b) Unless required for the performance by the Lessee of its obligations hereunder, the Lessee shall have the right at any time during the letting to remove from the premises, all its equipment, removable fixtures and other personal property, and all property of third persons for which the Lessee is responsible, and on or before the expiration or earlier termination of the letting it shall remove all of the same from the premises, repairing all damage caused by any removal. If the Lessee shall fail to remove such property on or before the termination or expiration of the letting, the Port Authority may remove such property to a public warehouse for deposit or may retain the same in its own possession and in either event may sell the same at public auction, provided, however, that the Port Authority shall have given the Lessee twenty (20) days' notice of the Port Authority's intent to sell such property at public auction, the proceeds of which shall be applied: first to the expenses of removal, including repair required thereby, and of storage and sale; second, to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if the expenses of such removal, repair, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority upon demand. Without limiting any other term or provision of this Agreement, the Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, employees and contractors from all claims of third persons arising out of the Port Authority's removal and disposition of property pursuant to this Section, including claims for conversion, claims for loss of or damage to property, claims for injury to persons (including death), and claims for any other damages, consequential or otherwise.

Section 29. Acceptance of Surrender of Lease

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

Section 30. Notices

(a) All notices, permissions, requests, consents and approvals given or required to be given to or by either the Port Authority or the Lessee, except as otherwise expressly provided herein, shall be in writing, and all such notices and requests shall be (i) personally delivered to the party or to the duly designated officer or representative of such party; or (ii) delivered to an office of such party, officer or representative during regular business hours; or (iii) delivered to the residence of such party, officer or representative at any time; or (iv) if directed to the Lessee, delivered to the premises at any time to the offices of the terminal manager; or (v) forwarded to such party, officer or representative at the office or residence address by registered or certified mail, or delivered to such party at such address by "Federal Express" or similar courier service. The Lessee shall designate an office within the Port of New York District and an officer or representative whose regular place of business is at such office. Until further notice, the Port Authority hereby designates its Executive Director, and the Lessee designates the person whose name appears on the first page of this Agreement as their respective officers or representatives upon whom notices and requests may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Lessee designates its office, the address of which is set forth in Page 1 of this Agreement, as their respective offices where notices and requests may be served.

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

Section 31. General

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

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

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

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

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

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

(c) Unless otherwise stated in this Agreement, in its use of the premises the Lessee shall act only for its own account and, without limiting the generality of the foregoing, shall not act as agent, representative, factor, broker, forwarder, bailee, or consignee without legal title to the subject matter of the

consignment, except to the extent necessary for exercise of the rights of user granted by this Agreement.

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

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

(f) All payments required of the Lessee by this Agreement shall be made by mail to the Port Authority at P. O. Box 17309, Newark, New Jersey, 07194, or to such other address as may be substituted therefor.

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

(h) As used in Sections 10 and 19 hereof, the phrase "utility, mechanical, electrical and other systems" shall mean and include (without limitation thereto) the following: machinery, engines, dynamos, boilers, elevators, escalators, incinerators and incinerator flues, systems for the supply of fuel, electricity, water, gas and steam, plumbing, heating, sewerage, drainage, ventilating, air-conditioning, communications, fire-alarm, fire-protection, sprinkler, telephone, telegraph and other systems, fire hydrants and fire hoses, and their respective wires, mains, switches, conduits, lines, tubes, valves, pipes, motors, cables, fixtures and other equipment.

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

(j) As used in this Agreement, "letting" shall include any extension of the letting under this Agreement, whether made by agreement or by operation of law, and "Manager of the Facility" or "Manager" shall mean the person or persons from time

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

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

(l) "Red Hook Container Terminal" shall mean the respective properties of the City and the Port Authority constituting the "premises" and "the Port Authority Reality" as such terms are defined in the Marine Project Agreement.

(m) The rights of the Port Authority in the Facility are those acquired by it pursuant to the Project Agreement and no greater rights are granted or intended to be granted to the Lessee hereunder than the Port Authority has power thereunder to grant. The letting shall in any event terminate simultaneously with the termination, expiration or mutual surrender of the Project Agreement. The Lessee shall have no surviving obligations to pay any then unpaid rents to the Port Authority in the event of a termination of the letting under this Agreement as a result of a termination, expiration or mutual surrender of the Project Agreement.

(n) Nothing herein contained shall prevent the Port Authority from entering into an agreement with the State and the City pursuant to which the Project Agreement is surrendered, canceled or terminated.

(o) So long as the Lessee shall pay all rentals provided for in this Agreement and shall observe and perform all the terms, covenants and conditions on the Lessee's part to be observed and performed under this Agreement, the Lessee may peaceably and quietly enjoy the premises, during the term of the letting, without hindrance or molestation by anyone claiming by, through or under the Port Authority, subject, nevertheless, to the terms, covenants and conditions of this Agreement, it being understood that the Port Authority's liability hereunder shall obtain only so long as it remains the owner of the premises.

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

(q) Without in any way limiting the obligations of the Lessee as elsewhere stated in this Agreement, the Lessee shall be liable to the Port Authority for any damage done to the Facility or to any part thereof, or to any property of the Port Authority thereon through any act or omission of those in charge of any one or more vessels, steamers, tugboats, barges, lighters, or other floating equipment, or highway or other vehicles, or other transportation equipment while the same are at, coming to or leaving the premises, except for damages to the Facility (other than the premises) caused by any one or more of such vessels, steamers, tugboats, barges, lighters, or other floating equipment, or highway or other vehicles, or other transportation equipment as may be coming to or leaving the premises without previous knowledge on the part of the Lessee.

Section 32. Premises

(a) The Port Authority shall deliver the premises to the Lessee in its presently existing "as is" condition. The Lessee agrees to and shall take the premises in its "as is" condition and the Port Authority shall have no obligations under this Agreement for finishing work or preparation of any portion of the premises for the Lessee's use.

(b) The Lessee acknowledges that it has not relied upon any representation or statement of the Port Authority or its Commissioners, officers, employees or agents as to the condition of the premises or the suitability thereof for the operations permitted on the premises by this Agreement. The Lessee, prior to the execution of this Agreement, has thoroughly examined the premises as existing and has found the same to be suitable and satisfactory for the operations of the Lessee contemplated and permitted under this Agreement. Without limiting any obligation of the Lessee to commence operations under this Agreement at the time and in the manner stated elsewhere in this Agreement, the Lessee agrees that no portion of the premises will be used initially or at any time during the letting which is in a condition unsafe or improper for the conduct of the operations of

the Lessee, so that there is possibility of injury or damage to life or property, and the Lessee further agrees that before any use it will immediately correct any such unsafe or improper condition.

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

Section 33. Force Majeure

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

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

(c) No abatement, diminution of reduction of the rent or other charges payable by the Lessee, shall be claimed by or allowed to the Lessee for any inconvenience, interruption, cessation or loss of business or other loss caused, directly or indirectly, by any present or future law, rule, requirement, order, direction, ordinance or regulation of the United States of

America, or of the state, county or city government, or of any other municipal, governmental or lawful authority whatsoever, or by priorities, rationing or curtailment of labor or materials, or by war or any matter or thing resulting therefrom, or by any other cause or causes beyond the control of the Port Authority, nor shall this Agreement be affected by any such causes.

Section 34. Brokerage

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

Section 35. Non-Liability of Individuals

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

Section 36. Services

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

(b) The Lessee shall promptly pay all water-bills covering its own consumption, including but not limited to water delivered and sold by the Lessee to vessels berthing at the premises. In the event that any such water-bill or bills shall remain unpaid for a period of six (6) months after the same becomes due and payable, or in the event that any such bill remains unpaid at the date of expiration or earlier termination of the letting under this Agreement, the Port Authority may pay the same and any interest or penalties thereon, and the total payment or payments shall constitute an item of additional rental, payable to the Port Authority on demand.

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

(d) If any federal, state, municipal or other governmental body, authority or agency, or any public utility or other entity providing any service, assesses, levies, imposes, makes or increases any charge, fee, rent or assessment on the Port Authority, for any service, system or utility now or in the future supplied to or available at the premises or to any tenant, lessee, occupant or user thereof, or to the structures or buildings, which, or a portion or portions of which, are included in the premises, the Lessee shall, at the option of the Port Authority exercised at any time and from time to time by notice to the Lessee, pay, in accordance with any such notice, such charge, fee, rent or assessment or such increase thereof (or the portion thereof allocated by the Port Authority to the premises or to the operations of the Lessee under this Agreement) either directly to the governmental body, authority or agency, or to the public utility or other entity, or directly to the Port Authority, as such notice may direct. All such payments shall constitute items of additional rental.

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

(f) Without in any wise affecting the obligations of the Lessee elsewhere stated in this Agreement, the Lessee shall, subject to the provisions of Section 17 of this Agreement, provide, maintain and keep in good order, condition and repair any and all meters (to be located as designated by the Port Authority, other governmental authority or utility), ship-filling lines and other water-using equipment and facilities.

Section 37. Records

(a) The Lessee shall maintain in accordance with accepted accounting practice during the term of the letting under this Agreement and for three years thereafter records and books of account (including, without limitation, bills of lading and manifests) recording all transactions in any way connected with or reflecting upon the payment of any rental by the Lessee

pursuant to Sections 4 or 5 hereof, and which records and books of account shall be kept at all times within the Port of New York District, as defined in the Port Compact of 1921 authorized by C. 154 Laws of N.Y. 1921 and C. 151 Laws of N.J. 1921, approved by Public Resolution No. 17 of the 67th Congress, First Session, and permit, in ordinary business hours during such time, the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account and also any of such records and books of account of any company which is owned or controlled by the Lessee, if said company performs services, similar to those performed by the Lessee, anywhere in the Port of New York District.

(b) Nothing contained in this Agreement shall be deemed to render any records, or any statement, of the Lessee required to be maintained or supplied hereunder conclusive as to any of the matters set forth therein. The Port Authority may at its sole discretion, in lieu of any records or books of account or statements of the Lessee, employ its own records and books of account for the calculation of any amounts to be paid under this Agreement.

Section 38. Affirmative Action

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

(b) It is hereby agreed that the Lessee, in connection with its continuing operation, maintenance and repair of the premises, or any portion thereof, and in connection with every award or agreement for concessions or consumer services at the premises, shall throughout the term of the letting hereunder commit itself to and use good faith efforts to implement an extensive program of Affirmative Action, including specific affirmative action steps to be taken by the Lessee, to ensure maximum opportunities for employment and contracting by minorities and women. In meeting the said commitment the Lessee agrees to submit its said extensive Affirmative Action program, including the specific affirmative action steps to be taken by the Lessee to meet its aforesaid commitment, within sixty (60)

days after the commencement of the term of the letting hereof to the Port Authority for its review and approval. The Lessee shall incorporate in its said program such revisions and changes as the Port Authority and the Lessee may agree upon from time to time. The Lessee throughout the term of the letting hereunder shall document its efforts in implementing the said program, shall keep the Port Authority fully advised of the Lessee's progress in implementing the said program and shall supply to the Port Authority such information, data and documentation with respect thereto as the Port Authority may from time to time and at any time request, including but not limited to annual reports. The obligations imposed on the Lessee under this paragraph shall not be construed to impose any greater requirements on the Lessee than those which may be imposed on the Lessee under applicable law.

(c) "Minority" as used herein shall include: (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin); (2) Hispanic (all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American culture or origin, regardless of race); (3) 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 (4) 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) In the implementation of this Section the Port Authority may consider compliance by the Lessee with the provisions of any federal, state or local law concerning affirmative action equal employment opportunity which are at least equal to the requirements of this Section, as effectuating the provisions of this Section. If the Port Authority determines that by virtue of such compliance with the provisions of any such federal, state or local law that the provisions hereof duplicate or conflict with such law the Port Authority may waive the applicability of the provisions of this Section to the extent that such duplication or conflict exists.

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

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

Section 39. Right of Termination - Ownership and Control

(a) (1) The Lessee hereby represents, knowing that the Port Authority is relying on the accuracy of such representation, that it is a privately held corporation organized and existing under the laws of the State of New York, with 100 shares of common stock constituting all of its outstanding securities and that "Exhibit B", attached hereto and hereby made a part hereof, sets forth all the individuals, corporations, partnerships or other entities, including those with a beneficial interest in the securities in the Lessee, who are the owners of all its outstanding securities, the number of shares owned by each of them, and the percentage interest which such share ownership represents of the total issued and outstanding securities of the Lessee. The Lessee further represents that there are no other individuals, corporations, partnerships or other entities having a direct or indirect beneficial ownership of any portions of the Lessee.

(b) The Lessee recognizes the fact that a transfer of securities in the Lessee or of a substantial part thereof, or any other act or transaction involving or resulting in a change in the ownership or distribution of such securities or with respect to the identity of the parties in control of the Lessee or the degree thereof, is for practical purposes a transfer or disposition of the rights obtained by the Lessee through this Agreement. The Lessee further recognizes that because of the nature of the obligations of the Lessee hereunder, the qualifications and identity of the Lessee and its security holders are of particular concern to the Port Authority. The Lessee also recognizes that it is because of such qualifications and identity that the Port Authority is entering into this Agreement and, in doing so, is willing to accept and rely on the Lessee for the faithful performance of all obligations and covenants hereunder. Therefore, the Lessee represents and agrees for itself, its present owners and any successor in interest thereof, respectively, that without the prior written approval of the Port Authority, there shall be no transfer of any securities in the Lessee by its present owners to any other person; nor shall the present owners suffer any transfer of such securities to be made; nor shall there be or be suffered to be made by the Lessee or by any owner of securities therein, any other change in the ownership of such securities or in the relative distribution thereof, or with respect to the identity of the parties in control of the Lessee or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of additional new securities or classification of securities or

otherwise; and the Lessee further represents and agrees for itself and its present owners, and any successor in interest thereof, respectively, that the direct ownership and control of the Lessee shall be and remain as represented in paragraph (a) of this Section. Notwithstanding any provision set forth above in this Section, the provisions of this Section shall not apply to the transfer of any securities in the Lessee to the children of Sabato F. Catucci; his or their respective estates; or the beneficiaries of his or their respective estates (limited to spouses and/or children and/or grandchildren).

(c) The Lessee acknowledges the Lessee's assurance of faithful performance of these provisions is a special inducement for the Port Authority to enter into this Agreement. Noncompliance on the part of the Lessee with the provisions contained in this Section shall be and be deemed an event of default under Section 22 of this Agreement, and the Port Authority shall have the right to terminate this Agreement and the letting hereunder pursuant to the provisions of said Section 22 hereof.

(d) The foregoing right of termination shall be in addition to all other rights of termination the Port Authority has under this Agreement and the failure of the Port Authority to exercise its right of termination under this Section 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.

(e) The phrase "direct or indirect beneficial ownership" shall include without limiting the generality thereof the direct or indirect power through contract, arrangement, understanding, relationship or otherwise to dispose of or to direct the disposal of, or to vote or to direct the voting of, any voting security of an entity.

(f) The term "security" shall include any stock, any bond which carries voting rights, or rights or options to subscribe to, purchase, convert or transfer into or otherwise acquire equity securities, or any other obligation of a corporation the holder of which has any voting rights including but not limited to the right to vote for the election of members of the board of directors of said corporation and shall include any security convertible into a voting security and any right, option or warrant to purchase a voting security.

(g) The Lessee shall promptly advise the Port Authority of any change in the representations made in paragraph

Section 40. Cross Default

The Lessee acknowledges that the Port Authority and the Lessee are entering into the following agreements as of the date first set forth above: (1) an agreement of lease covering premises at the Brooklyn-Port Authority Marine Terminal and bearing Port Authority lease number BP-308 (hereinafter called "Lease BP-308"); (2) an agreement of lease covering premises at the Brooklyn-Port Authority Marine Terminal and bearing Port Authority lease number BP-309 (hereinafter called "Lease BP-309") and (3) an agreement of lease covering premises at Port Newark and bearing Port Authority lease number L-PN-281 (hereinafter called "Lease L-PN-281"). If any event described in Lease BP-308, BP-309 or Lease L-PN-281 as a ground for termination or event of default, including without limitation thereto the events set forth in the respective section of Lease BP-308, BP-309 and L-PN-281 entitled "Termination", shall occur, such event shall be a ground for termination under this Agreement in the same manner and to the same extent as if it had been explicitly included in subparagraphs (1) through (11) of paragraph (a) of Section 22 of this Agreement.

Section 41. Security

(a) By August 1, 2008, the Lessee shall deliver to the Port Authority, as security for the Lessee's full, faithful and prompt performance of and compliance with all of obligations of the Lessee under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York District, in favor of the Port Authority in the amount of Two Million Dollars and No Cents ($2,000,000.00) ((which letter of credit is hereinafter called "the Letter of Credit"). The form and terms of the Letter of Credit, as well as the institution issuing it, shall be subject to the prior and continuing approval of the Port Authority. The Letter of Credit shall provide that it shall continue throughout the term of the letting under this Agreement and for a period of not less than six (6) months thereafter; such continuance may be by provision for automatic renewal or by substitution of a subsequent satisfactory letter of credit. Upon notice of cancellation of the Letter of Credit, the Lessee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the Letter of Credit is replaced by another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof and thereafter the Port Authority will hold the same as security under this Agreement. Failure to provide the Letter of Credit at any time during the term of the letting under this Agreement, valid and available to the Port Authority, including

any failure of any banking institution issuing the Letter of Credit previously accepted by the Port Authority to make one or more payments as may be provided in the Letter of Credit shall be deemed to be a breach of this Agreement on the part of the Lessee. If the Port Authority shall make any drawing under the Letter of Credit, 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. 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 draw upon the Letter of Credit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Lessee arising out of or with respect to the Lessee's obligations under this Agreement. 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 Letter of Credit itself shall cure any default or breach of this Agreement on the part of the Lessee. After the expiration or earlier termination of the period of the term of the letting under this Agreement (as it may have been amended or extended or both), and upon condition that the Lessee shall then be in no wise in default under any provision of this Agreement (as it may have been amended or extended or both), and upon written request therefor by the Lessee, the Port Authority will return the Letter of Credit 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 Agreement or any part thereof.

(b) The Lessee and the Port Authority hereby agree that all sums deposited by the Lessee as security under this Agreement shall be held and used by the Port Authority as security for the full, faithful and prompt performance of and compliance with, on the part of the Lessee, all of the terms, provisions, covenants and conditions of this Agreement, Lease BP-308, BP-309 and Lease L-PN-281. All security deposited under this Agreement shall be considered as if deposited under Lease BP-308, BP-309 and Lease L-PN-281 and no part of the security deposited under this Agreement shall be repaid until this Agreement, Lease BP-308, BP-309 and Lease L-PN-281 shall have expired and except in accordance with the provisions of the last of the said agreements to expire. The provisions of paragraph (a) of this Section 41 shall apply to the Lessee's obligations under this Agreement and shall be incorporated in Lease BP-308, BP-309 and Lease L-PN-281 as if set forth therein in haec verba.

Section 42. Late Charges

If the Lessee should fail to pay any amount required under this Agreement when due to the Port Authority, including without limitation any payment of rental or any payment of utility fees or charges, or other charges or fees, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period hereinbelow described during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time there for 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 rentals as set forth in this Agreement. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in Section 22 of this Agreement entitled "Termination" or (ii) any obligations of the Lessee under this Agreement. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Agreement shall be payable instead at such legal maximum.

Section 43. Sustainable Design

The Lessee agrees that in the performance of any work that is subject to Section 17 of this Agreement entitled "Construction by the Lessee", it will comply with the Port Authority's policy on sustainable design as set forth in the sustainable design guidelines promulgated by the Port Authority Engineering Department from time to time.

Section 44. Port Authority Costs Following Termination

Without limiting the generality of any provision of this Agreement, in the event the Port Authority exercises its right of termination under the provisions of Section 22 of this Agreement entitled "Termination", the Lessee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such termination, including without limitation any re-entry, regaining or resumption of possession, the collection of all amounts due to the Port Authority, the restoration of the premises (on failure of the Lessee to have it restored), the preparation of the premises for use and occupancy by a succeeding lessee, the care and maintenance of the premises during any period of non-use of the premises; the foregoing shall include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the premises and putting the premises in order.

Section 45. Double Rent For Holdover

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

Section 46. Audit Fee

In the event that upon conducting an examination and audit under the provisions of this Agreement (and as it may be hereinafter amended), the Port Authority determines that unpaid amounts are due to the Port Authority by the Lessee (the "Audit Findings"), the Lessee 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 Lessee under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rentals to be paid. Nothing in this Special Endorsement is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (ii) any obligations of the Lessee under this Agreement.

Section 47. Waiver of Jury Trial

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

Section 48. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute the agreement of the parties.

Section 49. Environmental Responsibilities

(a) As used in this Agreement, the following terms shall have the meanings set forth below:

(1) "Environmental Damage" and "Environmental Damages" shall mean any one or more of the following: (i) the presence on, about or under the premises of any Hazardous Substance whose presence occurred during the "Term" (as such term is defined in paragraph (j) of this Section and which "Term" shall for purposes of this Section include periods prior to the letting under this Agreement during which the Lessee was in occupation of the

premises) or resulted from any act or omission of the Lessee or others during the Term, and/or (ii) the disposal, release or threatened release of any Hazardous Substance from the premises during the Term or thereafter if the Hazardous Substance came to be present on, about or under the premises during the Term, and/or (iii) the presence of any Hazardous Substance on, about or under other property at the Facility or elsewhere as a result of the Lessee's use and occupancy of the premises or a migration of a Hazardous Substance from the premises during the Term or thereafter if the Hazardous Substance came to be present on, about or under the premises during the Term, and/or (iv) any personal injury, including wrongful death, property damage and/or natural resource damage arising out of or related to any such Hazardous Substance, and/or (v) the violation of any Environmental Requirements pertaining to any such Hazardous Substance, the premises and/or the activities thereon.

(2) "*Environmental Requirement*" and "Environmental Requirements" shall mean all applicable present and future laws, statutes, enactments, resolutions, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, requirements and similar items of all Governmental Authorities and all applicable judicial, administrative and regulatory decrees, judgments and orders relating to the protection of human health or the environment, the foregoing to include, without limitation:

(i) All requirements pertaining to reporting, licensing, permitting, investigation, remediation and mitigation of the 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; and

(ii) All requirements pertaining to the protection of the health and safety of employees or the public.

(3) "*Hazardous Substance*" and "*Hazardous* Substances" shall mean and include, without limitation, 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 byphenyls ("PCBs"), chemicals known to cause cancer or reproductive toxicity, petroleum and petroleum products and other substances which have been or in the future shall be declared to be hazardous or toxic, or the regulation or removal of which have

been or in the future shall be required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which have been or in the future shall be restricted, prohibited, regulated or penalized by any Environmental Requirement.

(4) "Governmental Authority" and "Governmental Authorities" shall mean all governmental agencies, authorities, departments, commissions, boards, bureaus or instrumentalities of the United States, states and political subdivisions thereof, except that it shall not be construed to include The Port Authority of New York and New Jersey, the lessor under this Agreement.

(b) Without limiting the generality of any of the other terms and provisions of this Agreement, the Lessee hereby expressly agrees to assume all responsibility for, and any and all risks of any kind whatsoever caused by, arising out of or in connection with, the conditions of the premises from and after the commencement of the Term, including without limitation all Environmental Requirements and all Environmental Damages and, except for Environmental Damages arising from the sole negligent acts of the Port Authority, the Lessee shall indemnify, hold harmless and reimburse the Port Authority, its Commissioners, officers, agents and employees from and against all such risks and responsibilities and all Environmental Damages and Environmental Requirements (including, without limitation, all fines, penalties, payments in lieu of penalties, and legal expenses incurred by the Port Authority in connection therewith). If so directed, the Lessee shall at its own expense defend any suit based upon the foregoing, and in handling such it shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.

(c) In addition to and without limiting the generality of the obligations of the Lessee set forth above and elsewhere in this Agreement, the Lessee shall at its sole cost and expense and in accordance with and subject to the provisions of Section 16 of the Lease, upon notice from the Port Authority, promptly take all actions to completely remove and remediate: (1) any Hazardous Substance present on, about or under the premises whose presence occurred during the Term or resulted from any act or omission of the Lessee or others during the Term, (2) any Hazardous Substance disposed of or released from the premises during the Term or

thereafter if the Hazardous Substance came to be present on, about or under the premises during the Term, and (3) any Hazardous Substance present on, about or under other property at the Facility or elsewhere whose presence resulted from the Lessee's use and occupancy of the premises or which migrated from the premises to such other property during the Term or thereafter if the Hazardous Substance came to be present on, about or under the premises during the Term, which any Governmental Authority or any Environmental Requirements or any violation thereof require to be removed and/or remediated, or which in the sole opinion of the Port Authority are necessary to mitigate Environmental Damages, including, but not limited to, the investigation of the environmental condition of the area to be remediated, the preparation of feasibility studies, reports and remedial plans, and the performance of any cleanup, remediation, mitigation, containment, operation, maintenance, monitoring or restoration work; the standard for any of the foregoing shall be that which requires the lowest level or presence of a particular Hazardous Substance under the laws of the United States or the State of New York, with the strictest to be applied, and which does not require any restriction on the possible use of the premises or such other property. The Lessee agrees that with respect to any of its obligations set forth above in this paragraph it will not make any claim against the Port Authority and/or the City of New York and/or the State of New York for contribution under any Environmental Requirement. Any actions required under this paragraph shall be performed in a good, safe and workmanlike manner and shall minimize any impact on activities off the premises. The Lessee shall promptly provide to the Port Authority all copies of test results and reports generated in connection with such actions. Promptly upon completion of such investigation and remediation, the Lessee shall seal or cap all monitoring wells and test holes, remove all associated equipment and restore the remediated property.

(d) Without limiting any other of the Lessee's obligations under this Agreement, the Lessee shall provide the Manager of the Facility at the cost and expense of the Lessee with such information, documentation, records, correspondence, notices, reports, test results, and certifications and any other information as the Port Authority shall request in connection with any Environmental Requirements or Environmental Damages, and as may be necessary for the preparation of any application, registration, statement, certification, notice, non-applicability affidavit, communication, negative declaration, clean-up plan or other information, documentation or communication required by the Environmental Requirements and the Lessee shall promptly swear to, sign or otherwise fully execute the same. The Lessee agrees that any of the foregoing may be filed by the Port Authority with the appropriate Governmental Authority on behalf of the Lessee

and at the Lessee's cost and expense. Further, the Lessee agrees unless directed otherwise by the Port Authority, to provide the Manager of the Facility with copies of all information, documentation, records, correspondence, notices, certifications, reports, test results and all other submissions provided by the Lessee to a Governmental Authority at the same time such are provided to a Governmental Authority and by a Governmental Authority to the Lessee at the time the same are provided to the Lessee with respect to any Environmental Requirements.

(e) Notwithstanding any other provision of this paragraph, all of the Lessee's obligations, undertakings and responsibilities under this paragraph shall apply to any Environmental Damage involving any Hazardous Substance whose presence on, about or under the premises occurred prior to the commencement of the Term if any clean-up, remediation or other response action, or indemnification or other action under this paragraph is required with respect to such Environmental Damage as a result of (1) any violation by the Lessee or the Lessee's Representative, as hereinafter defined, of any Environmental Requirements pertaining to such Hazardous Substance, the premises and/or the activities thereon, or any failure by the Lessee or the Lessee's Representative to observe and comply with any Port Authority requirements, directives and procedures regarding any Hazardous Substance on, about or under the premises, including without limitation those set forth in any design guidelines, best management practices, agreements (including voluntary agreements) with Governmental Authorities, or construction guidelines which have been or may be established by the Port Authority for the Facility and submitted to the Lessee, and/or (2) any negligent act or omission by the Lessee or the Lessee's Representative with respect to such Hazardous Substance. For purposes of this paragraph, "Lessee's Representative" shall mean its officers, employees, agents, representatives, contractors, customers, guests, invitees, or other persons who are doing business with the Lessee or are on the premises with the Lessee's consent.

(f) Without limiting the Port Authority's remedies that it may have under this Agreement or at law or in equity, the Port Authority shall have the right during the term of the letting under this Agreement and subsequent to the termination or expiration thereof to such equitable relief, including restraining injunctions and declaratory judgments, as may be required to enforce compliance by the Lessee with its environmental obligations under this paragraph. In the event the Lessee fails to comply with or perform any of its obligations hereunder, the Port Authority at any time during the term of the letting under this Agreement and subsequent to the termination or expiration thereof may elect (but shall not be required) to perform such obligations and the Lessee shall pay to the Port

Authority upon demand its costs thereof, including all overhead costs as determined by the Port Authority.

(g) Notwithstanding any other provision of this paragraph, and without limiting the generality of subparagraph (e) of this paragraph, the Lessee's obligations, undertakings and responsibilities under this paragraph shall not apply to any Environmental Damage involving any Hazardous Substance which migrated or shall migrate onto the premises during the Term (hereinafter called the "Migrated Hazardous Substance"), except that such obligations, undertakings and responsibilities under this paragraph shall apply to any Environmental Damage involving any Migrated Hazardous Substance if any clean-up, remediation or other response action, or indemnification or other action under this paragraph is required with respect to such Environmental Damage as a result of (1) any violation by the Lessee or the Lessee's Representative of any Environmental Requirements pertaining to such Migrated Hazardous Substance, the premises and/or the activities thereon, or any failure by the Lessee or the Lessee's Representative to observe and comply with any Port Authority requirements, directives and procedures regarding any Hazardous Substance on, about or under the premises, including without limitation those set forth in any design guidelines, best management practices, agreements (including voluntary agreements) with Governmental Authorities, or construction guidelines which have been or may be established by the Port Authority for the Facility and submitted to the Lessee, and/or (2) any act or omission of the Lessee or the Lessee's Representative with respect to such Migrated Hazardous Substance.

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

(i) Without limiting the generality of any other term or provision of this Agreement, the obligations of the Lessee

under this paragraph shall survive the expiration or termination of this Agreement.

(j) The Port Authority and the Lessee acknowledge and agree that the Term of the letting for purposes of this Section commenced on January 1, 1994.

Section 50. Lessee's Release of the Port Authority

The Lessee, for and in consideration of the entering into of this Agreement and for other good and valuable consideration, hereby remises, releases and discharges and by these presents does for itself and for its representatives, successors, and assigns remise, release and forever discharge the Port Authority and its representatives, successors, and assigns of and from any and all actions, causes of action, suits, debts, dues, sums of money, accounts, abatement of rentals, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever in law, admiralty, or equity which the Lessee against the Port Authority ever had, now has, and which the Lessee or its successors and assigns hereafter can, shall or may have for, upon, or by reason of, on account of, or in any way growing out of, resulting from or to result from the leasing licensing of space by the Port Authority and the taking or use of such space by the Lessee under or in connection with the Leases or any other agreements or arrangements for the taking or use of space during the period through and including the date of this Agreement. The acceptance of this release by the Port Authority is not, nor shall be construed to be, an admission by or on the part of the Port Authority of any liability whatsoever arising out of the aforesaid leasing or licensing of space by the Port Authority and the taking or use of such space by the Lessee.

Section 51. Additional Rights of Termination

(a) In the event that at any time during the term of the letting under this Agreement, (i) the Lessee shall cease to be the holder of a valid and effective stevedoring license issued by The Waterfront Commission of New York and New Jersey (or its successor in function) or (ii) the Lessee or an officer, employee or agent thereof, or a firm, corporation or individual having a controlling interest in or ownership of the Lessee shall have been convicted of any crime, felony or misdemeanor (but in the case of an individual or agent only if such conviction relates to or is connected with the operations or activities of the Lessee and in case of a misdemeanor only if such conviction involves

dishonesty or moral turpitude), then the Port Authority shall have the right to terminate the letting under this Agreement by giving the Lessee ten (10) days' notice in advance.

(b) Termination under the provisions of this Section shall be effective as if the effective date of termination were the date of expiration of the letting.

Section 52. Project Agreement

The Lessee recognizes that the Port Authority has agreed to surrender to the City the City Property as defined in the Project Agreement free of occupants. The Lessee recognizes this obligation of the Port Authority and, without limiting the generality of any other provision of this Agreement, the Lessee agrees that it shall be liable to the Port Authority and to the City, for whose benefit this provision is also intended, for all damages, including without limitation consequential damages, in the event that it fails to surrender either the Port Authority Realty or the City Property immediately upon termination or expiration of the letting under this Agreement.

Section 53. Additional Rights of Termination

(a) At all times during the term of the letting under this Agreement, the Lessee shall act as terminal operator or as stevedore, or in both capacities (and shall provide berthing facilities at the premises in connection with such functions), for at least one steamship line which maintains regularly-scheduled services to and from the Facility. If the Lessee shall desist from so acting in at least one such capacity, on behalf of, or from making such provision for, such a steamship line for a period of fifteen (15) days, the Port Authority shall thereafter have the right to terminate the letting under this Agreement at any time by giving the Lessee ten (10) days' notice in advance.

(b) In the event that at any time during the term of the letting under this Agreement, (i) the Lessee shall cease to be the holder of a valid and effective stevedoring license issued by The Waterfront Commission of New York Harbor (or its successor in function) or (ii) the Lessee or an officer, employee or agent thereof, or a firm, corporation or individual having a controlling interest in or ownership of the Lessee shall have been convicted of any crime, felony or misdemeanor (but in the case of an individual or agent only if such conviction relates to or is connected with the operations or activities of the Lessee and in the case of a misdemeanor only if such conviction involves dishonesty or moral turpitude), then the Port Authority shall

have the right to terminate the letting under this Agreement by giving the Lessee ten (10) days' notice in advance.

(c) Termination under the provisions of this Section shall be effective as if the effective date of termination were the date of expiration of the letting.

Section 54. Additional Provisions

(a) The following subdivisions (12), (13) and (14) shall be deemed to have been inserted immediately following subdivision (11) in paragraph (a) of Section 22 of this Agreement entitled "Termination":

> "(12) A period of ninety (90) consecutive calendar days shall have passed without any container vessel (by which is meant a vessel no less than eighty percent (80%) of whose cargo is carried in marine containers) having berthed at the premises for the loading and unloading of containers;
>
> "(13) A total of less than fifteen thousand (15,000) containers have been loaded onto and discharged from vessels berthing at the premises in any period of twelve consecutive calendar months;
>
> "(14) Less than four hundred thousand (400,000) revenue tons have moved through the premises in any period of twelve consecutive calendar months;"

(b) The running of consecutive calendar days pursuant to subdivision (12) above and the running of consecutive calendar months pursuant to subdivision (13) and subdivision (14) above shall be deemed tolled during such period during which the Lessee's terminal operations have substantially ceased because of a strike or other labor difficulties or during a "Suspension Period" (as such term is defined in paragraph (d) of this Section). Tolling shall not be deemed to affect the consecutiveness of any combination of time periods occurring before and after such tolling.

(c) Notwithstanding any other provision of this Agreement, the provisions of Section 25 of this Agreement entitled "Survival of the Obligations of the Lessee" shall not be applicable in the event of a termination of the letting by The Port Authority pursuant to the provisions of subdivision (12) above, subdivision (13) or subdivision (14) above added to Section 22 by paragraph (a) of this Section, it being the intention of the Port Authority that no damages on account of the

rentals under this Agreement shall be payable by the Lessee in the event of a termination of this Agreement pursuant to any of said three subdivisions.

(d) The Lessee hereby represents and warrants to the Port Authority that it is engaged primarily in maritime operations.

(e) The Lessee recognizes that the Port Authority has undertaken various obligations under the Project Agreement regarding the operation of the marine terminal and the letting of the City Property and in this connection the Lessee hereby covenants that it shall conduct its operations at all times in a manner consistent with the Port Authority's obligations under the Project Agreement and the Lessee shall, as necessary, in addition to its obligations under this Agreement, perform such actions as the Port Authority may require to conform the operations of the marine terminal to the requirements of the Project Agreement. Without limiting the generality of the foregoing, the Lessee covenants that (i) it shall at all times keep such records and accounts in regard to the conduct of its operations as the Port Authority may require at any time and from time to time; (ii) it shall make no discrimination against any person because of age, religion, race, creed, color, national origin or ancestry; and (iii) it shall arrange for the supplying of such consumer services to accommodate users of the Facility as the Port Authority deems necessary.

(f) The following subparagraph shall be deemed to have been inserted immediately following subparagraph (e)(4) of Section 13 of this Agreement entitled "Maintenance and Repair":

> "(5) In the event that the Port Authority has not fulfilled its dredging obligation set forth in paragraphs (e)(1) through (e)(4) of this Section within a period of one year of the expiration of said sixty (60) day period (which period of non-fulfillment commencing on said sixtieth (60th) day is hereinafter called the "Suspension Period"), then, in such event, the Lessee shall have the right to terminate the letting under this Agreement at any time after the first anniversary of the commencement of the Suspension Period without cause upon twenty (20) days' notice to the Port Authority but such termination shall not be effective and shall be null and void and of no force or effect if the Port Authority is able to fulfill its dredging obligation on or before the effective date stated in the notice. In the event of termination pursuant to this subparagraph, this Agreement and the

letting thereunder shall cease and expire as if the effective date of termination stated in the notice were the date stated herein for the expiration of the letting under this Agreement."

Section 55. Minimum Rentals

Notwithstanding any other provision of this Agreement, in addition to all other rentals payable under this Agreement, the Lessee shall pay a minimum annual Container Throughput Rental (hereinafter called "the Minimum Annual Container Throughput Rental" in the annual amount of Four Hundred Thousand Dollars and No Cents ($400,000.00). The Minimum Annual Container Throughput Rental shall be payable by the Lessee to the Port Authority on the twentieth day of the first calendar month following each Annual Period to occur during the term of the letting under this Agreement; provided, however, that the Lessee shall receive a credit against the Minimum Annual Container Throughput Rental for the amount of the Container Throughput Rental paid by the Lessee to the Port Authority under Section 4 of this Agreement during such Annual Period. In addition, notwithstanding any other provision of this Agreement, in addition to all other rentals payable under this Agreement, the Lessee shall pay a minimum annual Equipment Rental (hereinafter called "the Minimum Annual Equipment Rental" in the annual amount of One Hundred Eighty Thousand Dollars and No Cents ($180,000.00). The Minimum Annual Equipment Rental shall be payable by the Lessee to the Port Authority on the twentieth day of the first calendar month following each Annual Period to occur during the term of the letting under this Agreement; provided, however, that the Lessee shall receive a credit against the Minimum Annual Equipment Rental for the amount of the Equipment Rental paid by the Lessee to the Port Authority under Section 5 of this Agreement during such Annual Period.

Section 56. Ethical Standards; Lessee Conduct; Automatic Termination of Agreement

(a) Ethical Standards.

(1) The Lessee for itself and on behalf of any Affiliate (as herein defined) of the Lessee and as to each member of the Board of Directors and each officer of the Lessee and/or of such Affiliate hereby certifies under the penalties applicable to perjury, represents, warrants and covenants with full knowledge that the Port Authority will rely hereon in entering into this Agreement that at no time hereafter including the term of this Agreement shall the Lessee or any Affiliate thereof (a)

take any action with respect to any employee or former employee of the Port Authority or immediate family member of either (i.e., spouse, child, parent or brother or sister) which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated as of July 18, 1994 promulgated by the Port Authority, a copy of which is available upon request to the Secretary of the Port Authority, (b) offer, give or agree to give anything of value either to a Port Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority, or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing, in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority of duties involving transactions with the Lessee on behalf of the Port Authority, whether or not such duties are related to this Agreement or any other Port Authority contract or matter, or (c) make an offer of employment or use confidential information in a manner prescribed by the said Code of Ethics and Financial Disclosure. Any such conduct shall be deemed a material breach of this Agreement. As used herein "anything of value" shall include but not be limited to any (1) favors, such as meals, entertainment, transportation (other than that contemplated by this Agreement or any other Port Authority contract), etc., which might tend to obligate the Port Authority employee to the Lessee or any parent or Affiliate thereof and (2) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Agreement or any other Port Authority contract; and (iv) that neither the Lessee nor any Affiliate thereof knows of any action the part of any employee or former employee of the Port Authority which constitutes a breach of said Code of Ethics and Financial Disclosure and that if it or any parent or other Affiliate of the Lessee comes into such knowledge at any time hereafter, including during the term of this Agreement, it shall immediately report the same to the Port Authority in writing, any failure to do so being deemed a material breach of this Agreement.

(2) The term "Affiliate" shall mean any person which, directly or indirectly, controls, is controlled by or is under common control with any other Person. "Control" shall be deemed to mean either (i) ownership of fifty percent (50%) or more of all of the voting stock of a corporation or fifty percent (50%) or more of all of the legal or equitable interests in any other business entity or (ii) the possession of the power, directly or indirectly, to cause the direction of management and policy of a

corporation, partnership, trust or other business entity, whether through voting securities, by contract or common directors, officers or trustees or otherwise. Affiliate shall also mean any individual who is a member of the immediate family (whether by birth or marriage) of an individual, which includes for purposes of this definition a spouse, a brother or sister of the whole or half blood of such individual or his spouse, a lineal descendant or ancestor (including an individual related by or through legal adoption) of any of the foregoing or a trust for the benefit of any of the foregoing.

(b) Conduct of Lessee. Lessee, and the individual signing this Lease on behalf of Lessee, each affirm under penalty of perjury that neither Lessee nor any of its Affiliates (as herein defined):

(1) shall have been charged with, indicted for, or convicted of a crime in any jurisdiction, or be then the subject of a grand jury investigation therefor, or had a civil judgment rendered against such person in any matter involving fraud or official misconduct,

(2) shall have been suspended or otherwise disqualified from entering into contracts with any governmental agency,

(3) shall be the subject of any pending action or proceeding to enforce rights of New York State or New Jersey or any subdivision thereof, or any agency, department, public authority or public benefit corporation thereof, which action or proceeding is based on allegations of fraud or misrepresentation, or

(4) shall have received any notice of a default which remains uncured by New York State or New Jersey or any subdivision thereof; or any agency, department, public authority or any public benefit corporation thereof.

(c) In the event of a breach of any of the representations, warranties or covenants stated in subparagraph (a), above, or upon the occurrence during the term of this Agreement of any event described in subparagraph (b), above, the same shall constitute a material default under this Agreement and shall serve as the ground for termination of this Agreement by the Port Authority in its sole and absolute discretion. Upon written notice from the Port Authority so terminating this Agreement, this Agreement shall be, and be deemed to be, automatically terminated on the dated stated in the Port Authority's written notice, and the parties acknowledge that such a breach or occurrence is neither curable nor shall the Lessee be afforded

any opportunity to cure same. The grounds for termination stated in this Section are in addition to those set forth in the Section of this Agreement entitled "Termination".

Section 57. Entire Agreement

The within Agreement consists of pages number 1 through 71, together with Schedules A, B, C, and D and Exhibit A and B. It 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 written instrument 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 this Agreement.

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

ATTEST: SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

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

~~ATTEST.~~ WITNESS:

~~Secretary~~
Janine G. Bauer
Counsel

AMERICAN STEVEDORING, INC.

By _____

(Title) CEO President
(Corporate Seal)

American Stevedoring Inc 1987 New York

APPROVED:
FORM TERMS

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

(Port Authority Acknowledgment)

STATE OF)
) ss.
COUNTY OF)

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

_____

(notarial seal and stamp)

(Lessee Acknowledgment)

STATE OF)
) ss.
COUNTY OF)

On the day of in the year 2008, 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 as
, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

_____

(notarial seal and stamp)

SCHEDULE A

LEASE YEAR BEGINNING	TIER 1 RENTAL RATE (1-50,000)	TIER 2 RENTAL RATE (50,001-100,000)	TIER 3 RENTAL RATE (100,001-150,000)	TIER 4 RENTAL RATE (150,001 & ABOVE)
May 1, 2008	$25.00	$20.00	$15.00	$10.00
May 1, 2009	$25.75	$20.60	$15.45	$10.30
May 1, 2010	$26.52	$21.22	$15.91	$10.61
May 1, 2011	$27.32	$21.85	$16.39	$10.93
May 1, 2012	$28.14	$22.51	$16.88	$11.26
May 1, 2013	$28.98	$23.19	$17.39	$11.59
May 1, 2014	$29.85	$23.88	$17.91	$11.94
May 1, 2015	$30.75	$24.60	$18.45	$12.30
May 1, 2016	$31.67	$25.34	$19.00	$12.67
May 1, 2017	$32.62	$26.10	$19.57	$13.05

SCHEDULE B

LEASE YEAR BEGINNING	PER REVENUE TON RENTAL
May 1, 2008	$2.25
May 1, 2009	$2.32
May 1, 2010	$2.39
May 1, 2011	$2.46
May 1, 2012	$2.53
May 1, 2013	$2.61
May 1, 2014	$2.69
May 1, 2015	$2.77
May 1, 2016	$2.85
May 1, 2017	$2.94

SCHEDULE C

LEASE YEAR BEGINNING	PER CONTAINER RENTAL RATE
May 1, 2008	$10.00
May 1, 2009	$10.30
May 1, 2010	$10.61
May 1, 2011	$10.93
May 1, 2012	$11.26
May 1, 2013	$11.59
May 1, 2014	$11.94
May 1, 2015	$12.30
May 1, 2016	$12.67
May 1, 2017	$13.05

SCHEDULE D

PORTION OF BERTHING AREA	SHALLOWED DEPTH	DREDGED DEPTH
North side of Pier 9A	33 ft.	35 ft
South side of Pier 9A	25 ft.	27 ft.
North side of Pier 9B	23 ft.	25 ft.
South side of Pier 9B	23 ft.	25 ft.
Buttermilk Channel Area	38 ft.	40 ft.

EXHIBIT B

AMERICAN STEVEDORING, INC. – OWNERSHIP

Name of Owner	Percentage of Ownership	Number of Shares Owned
SABATO F. CATUCCI	52%	52
KEITH A. CATUCCI	24%	24
KEVIN G. CATUCCI	24%	24
Total Issued and Outstanding Shares		100

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

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

On the 12th day of February in the year ~~2008~~ 2009 before me, the undersigned, a Notary Public in and for said state, personally appeared RICHARD M. LARRABEE DIRECTOR, PORT COMMERCE DEPT., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

LUCY AMBROSINO
NOTARY PUBLIC, STATE OF NEW YORK
No. 01AM6101070
QUALIFIED IN NEW YORK COUNTY
MY COMMISSION EXPIRES NOV. 3, 20[illegible]

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

On the 24th day of April in the year 2008, before me, the undersigned, a Notary Public in and for said state, personally appeared SABATO F. CATUCCI ——— , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

LUCY AMBROSINO
NOTARY PUBLIC, STATE OF NEW YORK
No. 01AM6101070
QUALIFIED IN NEW YORK COUNTY
MY COMMISSION EXPIRES NOV. 3, 20[illegible]