

**Torres Rojas, Genara**

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*FOI #14629*

**From:** susan.grissinger@us.bbaaviation.com  
**Sent:** Tuesday, February 04, 2014 2:39 PM  
**To:** Duffy, Daniel  
**Cc:** Torres Rojas, Genara; Van Duyne, Sheree  
**Subject:** Freedom of Information Online Request Form

Information:

First Name: sUSAN  
Last Name: GRISSINGER  
Company: BBA AVIATION  
Mailing Address 1: 201 S. ORANGE AVENUE  
Mailing Address 2: SUITE 1100  
City: ORLANDO  
State: FL  
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Email Address: [susan.grissinger@us.bbaaviation.com](mailto:susan.grissinger@us.bbaaviation.com)  
Phone: 407-648-7250  
Required copies of the records: Yes

List of specific record(s):  
a copy of the Sheltair lease FBO.

**THE PORT AUTHORITY OF NY & NJ**

*FOI Administrator*

February 7, 2014

Ms. Susan Grissinger  
BBA Aviation  
201 S. Orange Avenue, Suite 1100  
Orlando, FL 32801

Re: Freedom of Information Reference No. 14629

Dear Ms. Grissinger:

This is in response to your February 4, 2014 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code", copy attached) for a copy of the Sheltair lease FBO.

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/14629-LPA.pdf>. Paper copies of the available records are available upon request.

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

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

Very truly yours,



Daniel D. Duffy  
FOI Administrator

Attachment

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

Agreement No. AGA-658

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**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
**FIXED BASE OPERATOR LEASE**

**AGREEMENT OF LEASE**

Between

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

And

**FORT LAUDERDALE JET CENTER, LLC**

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LEASE AGREEMENT

THIS AGREEMENT, by and between the PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority"), a body corporate and politic established by Compact between the States of New Jersey and New York with the consent of the Congress of the United States of America, and having an office at 225 Park Avenue South, in the Borough of Manhattan, in the City, County and State of New York 10003, and FORT LAUDERDALE JET CENTER, LLC, a limited liability Company, organized and existing under the laws of the State of Florida with its principal executive offices at 1100 Lee Wagner Boulevard, #107, Fort Lauderdale, Florida 33315 (hereinafter called the "Operator"), whose representative is Edward Zwirn.

**Section 1. Letting**

(a) Subject to the fulfillment of the condition precedent to the letting hereunder set forth in paragraph (b) of Section 2 below and the commencement of the term of this Agreement as provided in paragraph (a) of Section 2 below, the Port Authority hereby lets to the Operator and the Operator hereby hires and takes from the Port Authority, at LaGuardia Airport (hereinafter referred to as the "Airport") in the Borough of Queens, City and State of New York, the following described premises:

- (1) The space on the first floor of Building No. 81 as shown in hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A" (hereinafter called "Area A"); and
- (2) The space on the second floor of Building No. 81 as shown in hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit B" (hereinafter called "Area B"); and
- (3) The outside ground area shown in broken-line hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit C" (hereinafter called "Area C"),

together with the fixtures, improvements and other property of the Port Authority located therein or thereon, and all structures, improvements, additions, and replacements constructed or to be constructed or located therein or thereon, said space, fixtures, structures, additions, replacements, and improvements, and other property being hereinafter collectively referred to as "the premises".

(b) The Operator hereby acknowledges that the premises let hereunder constitutes non-residential real property.

(c) Except to the extent required for the performance of any of the obligations of the Operator hereunder, nothing contained in this Agreement shall grant to the Operator any rights whatsoever in the air space above the premises more than sixty (60) feet above the present ground level thereof.

## Section 2. Term

(a) Subject to the fulfillment of the condition precedent to the letting hereunder set forth in paragraph (b) of this Section the term of this Agreement shall commence on August 1, 2004, and the Commencement Date shall be the date on or after August 1, 2004 as set forth in a written notice from the Port Authority to the Operator establishing said Commencement Date, which notice shall be given no later than three (3) days prior to the Commencement Date, and unless sooner terminated as herein provided, the term of this Agreement shall expire on the day preceding the fourth anniversary of the Commencement Date (hereinafter referred to as "the Expiration Date"). In the event that the Port Authority has not fixed the Commencement Date of this Agreement as of a date prior to December 31, 2004, then this agreement shall be deemed cancelled and of no further force and effect without notice to either party provided, however, that the Port Authority in such event shall promptly refund to the Operator all amounts theretofore \*received by it from the Operator pursuant to Section 37 hereof or paragraph (b) of this Section, all without interest except as expressly otherwise required hereunder, it being understood that each party shall and each party does hereby release the other party of and from any and all claims and demand based on this Agreement or any breach or alleged breach thereof or the fact that the term hereof shall never have gone into effect.

(b) As a condition precedent to the letting hereunder and the commencement of the term of this Agreement, which letting and commencement nevertheless shall be subject to written notice of the Commencement Date as provided in the preceding paragraph (a) of this Section, the Operator shall pay to the Port Authority on such business day as immediately precedes the Commencement Date the sum of Twenty Thousand Eight Hundred Thirty-five Dollars No Cents (\$20,835.00), as such sum shall be reduced by Four Thousand One Hundred Sixty-seven Dollars and No Cents (\$4,167.00) for each full calendar month (and prorated for any period of less than a full calendar month), if any, beyond August 1, 2004 and preceding the Commencement Date, by official bank check drawn on a bank in New York City which is a member of the Federal Reserve System.

(c) The Port Authority shall have the right and option to extend the term of this Agreement for three successive periods of two years each upon the same terms as are in effect immediately preceding the period for which such option is exercised except that the annual basic rental shall be increased as set forth in Section 3, below and shall be payable in equal monthly installments each and every month, except that there

shall be no right and option to extend the term of this Agreement beyond the expiration of the last of the said periods for which such options are exercisable. Upon the exercise of any such option, which exercise shall be by notice in writing to the Operator prior to the period for which the option is exercised, the term of this Agreement shall be deemed extended without the further execution of any further agreement or other instrument.

**Section 3. Rentals and Payments**

The Operator agrees to pay to the Port Authority the following amounts :

(a) Basic Rental

An annual basic rental at the rate of Two Hundred Thousand Six Hundred Ninety Dollars and No Cents (\$200,690.00), which rental shall be paid in advance in equal monthly installments of Sixteen Thousand Seven Hundred Twenty-four Dollars and Seventeen Cents (\$16,724.17) on the Commencement Date and on the first day of each and every month thereafter during the term of this Agreement, provided, however, that if the Commencement Date shall be, or this Agreement shall expire or be terminated on other than the first day or the last day of the month, respectively, the basic rental for the portion of the month in which this Agreement is effective shall be the monthly installment prorated on a daily basis using the actual number of days in the month. The basic rental set forth in this paragraph shall be adjusted during the term of the letting in accordance with the provisions of subparagraph (b).

(b) As used in subparagraph (b) of this paragraph:

(1) As used in this Section 3 "CPI" or "Consumer Price Index" shall mean the Consumer Price Index for all Urban Consumers, New York -Northeastern New Jersey-Long Island, NY-NJ-CT (All Items, unadjusted 1982-1984=100) published by the Bureau of Labor Statistics of the United States Department of Labor.

(2) The Port Authority shall ascertain the CPI for the calendar month preceding the month in which the Commencement Date shall occur (hereinafter called the "First Measuring Month") and for the calendar month preceding the first anniversary of the \*Commencement Date (hereinafter called the "Second Measuring Month") and for the months constituting each anniversary of the First and Second Measuring months, respectively, thereafter during the term of the Lease after the same have been published; the Port Authority shall also determine the annual percentage, if any, in the CPI from the First Measuring Month to the Second Measuring Month during the first such period, and from the applicable First Measuring Month to the applicable Second Measuring Month for each twelve-month period thereafter (each such being hereinafter called "the CPI percentage increase"). After the first such determination, the said Second Measuring Month shall be deemed to be the First Measuring Month for purposes of such determination for the second (twelve month) period, and shall be

compared to the Second Measuring Month ascertained for such second period, with the same procedure being followed for the remainder of the term of the letting hereunder.

(3) Effective on the second anniversary of the Commencement Date, the basic rental provided for in paragraph (a) of this Section 3 shall be increased as follows: the basic rental provided for in paragraph (a) hereof shall be multiplied by a percentage composed of the annual CPI percentage increase, if any, for the period being measured, and the product so multiplied by a percentage composed of the annual CPI percentage increase, if any, for the period being measured, and the product so obtained plus the existing basic rental shall be and become the basic rental for the following twelve-month period, with the same procedure being followed for each succeeding year for a period of two years, including the option periods, if any, to determine the basic rental effective on the second anniversary of the Commencement Date and at the commencement of each option period, if any.

(4) (i) The Operator shall pay a basic rental at a rate per annum, equal to the greater of: (a) the sum obtained pursuant to subparagraph (b)(3) of this Section, or (b) Two Hundred Seventeen Thousand Sixty-six Dollars and No Cents (\$217,066.00) payable in equal monthly installments of Eighteen Thousand Eighty-eight Dollars and Eighty-three Cents (\$18,088.83).

(ii) During the first option period, if any, the Operator shall pay a basic rental at a rate per annum equal to the greater of: (a) the sum obtained pursuant to subparagraph (b)(3) of this Section, or (b) Two Hundred Thirty Four Thousand Seven Hundred Seventy-nine Dollars and No Cents (\$234,779.00) payable in equal monthly installments of Nineteen Thousand Five Hundred Sixty-four Dollars and Ninety-two Cents (\$19,564.92).

(iii) During the second option period, if any, the Operator shall pay a basic rental at a rate per annum equal to the greater of: (a) the sum obtained pursuant to subparagraph (b)(3) of this Section, or (b) Two Hundred Fifty Three Thousand Nine Hundred Thirty-seven Dollars and No Cents (\$253,937.00) payable in equal monthly installments of Twenty One Thousand One Hundred Sixty-one Dollars and Forty-two Cents (\$21,161.42).

(iv) During the third option period, if any, the Operator shall pay a basic rental at a rate per annum equal to the greater of: (a) the sum obtained pursuant to subparagraph (b)(3) of this Section, or (b) Two Hundred Seventy Four Thousand Six Hundred Fifty-eight Dollars and No Cents (\$274,650.00) payable in equal monthly installments of Twenty Two Thousand Eight Hundred Eighty-eight Dollars and Seventeen Cents (\$22,888.17).

(5) In the event that the Consumer Price Index is not available for any specified month as hereinabove set forth within the time set forth for payment such index for the latest month then published shall be used to constitute the Consumer Price Index. In the event of the change of basis or the discontinuance of the publication

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One Million Three Hundred Fifty-one Thousand Dollars and No Cents (\$1,351,000.00)

by the United States Department of Labor of the Consumer Price Index such other appropriate index or indexes shall be substituted as may be agreed by the parties hereto as properly reflecting changes in the value of the current United States money in a manner similar to that established in the said indexes used in the latest adjustment. In the event of the failure of the parties to so agree, the Port Authority may select and use such index or indexes as it deems appropriate, provided, however, that the foregoing shall not preclude the Operator from contesting the Port Authority's selection.

(6) In no event shall any rental rate established under paragraph (b) hereof be less than the rental rate it supersedes.

(7) Commencing on the first day of the second anniversary of the Commencement Date, the basic rental, as the same may be adjusted as provided in paragraph (b) hereof, shall be payable by the Operator in advance in equal monthly installments equal to 1/12<sup>th</sup> of the applicable annual basic rental on the first day of the second anniversary of the Commencement Date, and on the first day of each and every calendar month thereafter during the term of the Lease.

(c) Percentage Payment

The Operator shall pay to the Port Authority an annual percentage rental equivalent to twenty six and twenty six one hundredth percent (26.26%) of the Operator's gross receipts arising during each annual period. The computation of percentage rental for each annual period, or a portion of an annual period, as hereinafter provided, shall be individual to such annual period, or such portion of an annual period, and without relation to any other annual period, or any other portion of any annual period.

(d) Fixed Minimum Amount

The Operator shall pay to the Port Authority an annual fixed minimum amount in the amount of ~~One Million Three Hundred Fifty-one Thousand Dollars and No Cents (\$1,351,000.00)~~ One Million Three Hundred Fifty-one Thousand Dollars and No Cents (\$1,351,000.00) which amount shall be paid in advance in equal monthly installments on the Commencement Date and on the first day of each and every month thereafter occurring during such period, provided, however, that if the Commencement Date occurs on a day which is other than the first day of a month, the fixed minimum payment for the portion of the month during which the Commencement Date occurs following such date shall be the amount of the monthly installment set forth in this subparagraph prorated on a daily basis.

(e) Definitions

(i) The term "gross receipts" as used in this Agreement shall include all monies paid or payable to the Operator for sales made and for services rendered at or from the Airport, regardless of the time or place of receipt of the order therefore, and for sales made and for services rendered outside the Airport, if the order therefore is received at the Airport, and shall include any other revenues of any type arising out of

or in connection with the activities of the Operator at the Airport, provided, however that (i) monies paid or payable to the Operator for charter, rental or sale of aircraft, (ii) charges collected by the Operator on behalf of the Port Authority as set forth in Section 42 hereof and (iii) and any taxes imposed by law which are separately stated to and paid by customers of the Operator and directly remitted by the Operator to the taxing or to a tax collecting authority, shall be excluded therefrom.

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

(f) Time of Payment of Percentage Payment, Annual Fixed Minimum Amount, Computations of Amounts and Accounting:

(1) The Operator shall pay the percentage payment as follows: on the 20th day of the first month following the commencement of each annual period, and on the 20th day of each and every month thereafter including the month following the end of each annual period, the Operator shall render to the Port Authority a sworn statement showing the Operator's gross receipts for the preceding month and the cumulative amount of the Operator's gross receipts from the commencement of the annual period for which the report is made through the last day of the preceding month; whenever such statement shall show that the total amount of the percentage rentals payable on the cumulative amount of gross receipts for such annual period is greater than the cumulative payments of the monthly fixed minimum amount for the same period, the Operator shall pay to the Port Authority the difference between the percentage rental payable to the Port Authority and the amount of the cumulative payments of the monthly fixed minimum amount paid or payable for the same period. The Operator's statement following the close of each annual period shall be certified, at the Operator's expense, and shall report total gross receipts for such annual period and the total percentage rental due therefore. In the event the report shows that the Operator has underpaid the Port Authority, the amount payable to the Port Authority shall be rendered by the Operator at the time such report is made. In the event the report shows that the Operator has overpaid the Port Authority, the Port Authority shall credit the Operator in that amount.

(2) Upon any termination of the agreement hereunder (even if stated to have the same effect as expiration), the Operator shall, within twenty (20) days after the effective date of such termination, make a fixed percentage payment computed as follows: first, if the agreement hereunder is terminated effective on a date other than the

last day of a month, the basic rental and the fixed minimum amount payment for the portion of that month in which the agreement remains effective shall be the amount of the monthly installment of basic rental and fixed minimum amount prorated on a daily basis, and if the monthly installment due on the first day of that month has not been paid, the Operator shall pay the prorated part of the amount of that installment; if the monthly installment has been paid, then the excess thereof shall be credited to the Lessee's other obligations; second, the Operator shall within twenty (20) days after the effective date of termination render to the Port Authority a sworn statement of all its gross receipts for the annual period in which the effective date of termination falls, third, the payment then due on account of all percentage payments for the annual period in which the effective date of termination falls shall be the excess of the fixed percentage, computed as follows, over the total of such percentage payments previously made for such annual period: an amount equal to the percentage stated above in paragraph (c) of this Item 1 applied to the gross receipts of the Operator for such annual period which are in excess of the fixed minimum amount established for such annual period, *provided, however*, that the fixed minimum amount established for such annual period shall be 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.

(g) For the purpose of calculating the percentage amount for any annual period, which is other than 365 days, the fixed minimum amount shall be prorated over the actual number of days contained in such annual period.

(h) Abatement

(1) In the event that the Operator shall at any time by the provisions of this Agreement become entitled to an abatement of the basic annual rental, said abatement shall be computed as follows (it being understood that there shall be no abatement of rentals under this Agreement for any portion of the premises or for any portion of the term except as specifically provided herein):

(i) For each square foot of Area A the use of which is denied of to the Operator, at the daily rate of \$0.079452;

(ii) For each square foot of Area B the use of which is denied to the Operator, at the daily rate of \$0.065753.

(iii) For each square foot of Area C, the use of which is denied to the Operator at the daily rate of \$0.005479.

(2) For the purposes of items (i) and (ii) of the preceding subparagraph, all of the interior space shall be measured and the same shall be ascertained by measuring from the interior surfaces of exterior building walls, and from the center of interior partitions and no deductions will be made therefrom for columns, pilasters, projections, partitions, toilets, vertical shafts, elevator shafts, stairs, fire towers,

vents, pipe shafts, meter closets, flues, stacks, structures or facilities of any kind or anything else located therein.

(3) During the option periods, if any, the applicable rates in subparagraph (h)(1) shall be subject to increase in the same ratio as the increase in the basic rental.

**Section 4. Obligations in Connection with the Conduct of the Operator's Business**

The Operator shall,

(a) Use its best efforts in every proper manner to maintain, develop and increase the business conducted by it hereunder;

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

(c) Maintain in accordance with accepted accounting practice during the term

of this Agreement and for one (1) year thereafter and for such further period until the Operator shall receive written permission from the Port Authority to do otherwise, records and books of account recording all transactions at, through or in anywise connected with the Airport, which records and books of account shall be kept at all times within the Port of New York District;

(d) Permit in ordinary business hours during the term of this Agreement and for one (1) year thereafter and during such further period as is mentioned in the preceding subdivision, the examination and audit by the offices, employees and representatives of the Port Authority of such records and books of account and also any records and books of account of any company which is owned or controlled by the Operator, or which owns or controls the Operator if said company performs services, similar to those performed by the Operator, anywhere in the Port of New York District;

(e) Permit the inspection by the officers, employees, and representatives of the Port Authority of any equipment used by the Operator, including but not limited to cash registers;

(f) Furnish on or before the twentieth day of each calendar month following the month in which the Commencement Date falls a sworn statement of gross receipts arising hereunder during the preceding month, and furnish within twenty (20) days after the expiration or termination of the letting a statement of all the gross receipts arising hereunder during the period from the last preceding anniversary date of this Agreement up to the date of expiration or termination, said statement to be certified, at the Operator's expense, by a certified public accountant;

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

(h) Provide to the Port Authority from time to time such information, data and reports concerning the Operator's operations under this Agreement as the Port authority may request and on such forms as may be supplied by the Port Authority.

**Section 5. Rights of User**

The Operator hereby agrees to and shall use the premises in connection with a fixed base operation for the following purposes only and for no other purpose whatsoever;

(a) Areas A and B

As offices for the sale of aircraft, aircraft assemblies, aircraft accessories and component parts thereof, and for the charter and leasing of aircraft and for desk space and lounges for flight crews, passengers, maintenance personnel and supervisory personnel of customers of the Operator and for use as business and operations offices in connection with the operations of the Operator hereunder;

(b) Area C

For the temporary parking solely of unoccupied ground vehicles then being used by the Operator solely in the performance of transporting passengers and crew and their baggage between Building No. 81 and the remote Public Aircraft Parking and Storage Area (s) assigned for the parking of customer's aircraft (as defined in Section 6(a) by the Manager of the Airport.

**Section 6. Services by the Operator**

(a) The Operator shall perform on a seven-days-a-week, 24 hours-a-day basis the work and furnish the services at the Public Aircraft Parking and Storage Areas and the Public Ramp and Apron Area at the Airport as required in connection with the ground handling of aircraft operated by air taxi, scheduled commuter, general aviation and itinerant aircraft (hereinafter sometimes called the "customer's aircraft") subject to such limitations, prohibitions and requirements from time to time established by the Manager of the Airport.

(b) Without limiting the generality of the foregoing obligations, the Operator shall furnish, at its own expense and without additional charge to the owner/operator of any customer's aircraft, the following services and equipment in connection with the arrival, stay and departure of the customer's aircraft at and from the Airport:

(1) In connection with the arrival or departure of the customer's aircraft at or from the Airport for the purpose of providing the service set forth herein, the Operator shall monitor for the purpose of determining at what time or times the customer's aircraft may be expected to land at or take off from the Airport the following radio frequencies: 121.7 megacycles (Ground Control), 118.7 megacycles (Tower Control) and such other appropriate radio frequencies as may be directed by the Port Authority from time to time. Further the Operator shall operate, man and monitor the Airport UNICOM radio frequency for the purpose of receiving requests and for transmitting operations advisories to aircraft requesting the same.

(2) Upon the landing of any customer's aircraft at the Airport, the Operator shall furnish ground vehicular service to meet the same, shall direct the aircraft to an assigned parking space and shall assist in the parking of the aircraft, and upon request therefore shall assist in tying down the aircraft, in chocking its wheels and in the removal of luggage therefrom. With regard to the occupants of the customer's aircraft and their luggage, the Operator shall provide prompt appropriate automotive transportation for such occupants and their luggage, to and from the parking space to which the aircraft has been assigned and, as desired by such occupants, the Operator's operations office in Areas A and/or B, any other non-aeronautical location on the Airport.

(3) During the period that the customer's aircraft is parked in the space to which it had been assigned by the Operator, the Operator shall make periodic inspections of the aircraft and of the parking area to confirm that no unauthorized person or persons are loitering in or about the parking area. If at any time, based on forecasts issued by the U.S. Weather Bureau, adverse weather conditions involving high velocity winds can be reasonably anticipated, the Operator shall inspect all such customer's aircraft with a view to determine if the same are adequately chocked, tied down, controls locked, doors and windows closed. If, as a result of such inspection the aircraft should not appear to be secured after the Operator has exercised every reasonable effort to protect the same, the pilot or owner shall be notified if reasonably possible and advised of the situation.

(4) Pilots of such aircraft shall at all times be given such reasonable assistance by the Operator in connection with the preparation and filing of flight plans and the fulfillment of other pre-flight requirements as may be requested.

(5) In connection with the departure of said aircraft from the Airport, the Operator shall assist with the removal of wheel chocks, control locks, and tie-down ropes, and at any time that an engine or engines of such aircraft are started, the

Operator shall provide adequate fire protection measures, including the stationing of an employee equipped with a standard hand fire extinguisher nearby.

(c) The Operator shall provide an office in Areas A and/or B in connection with the performance of its obligations hereunder. The Operator shall furnish and install in said office the radio equipment necessary to monitor the frequencies set forth in paragraph (b)(1) hereof. The Operator shall also maintain therein a lounge and a radio room where the passengers and crews of the customer's aircraft may obtain shelter prior to or after flight. Such lounge shall be equipped with comfortable chairs and shall contain facilities for the preparation of flight plans by pilots. The Operator shall maintain in the lounge direct telephone services to the Control Tower, the Aircraft Traffic Control Center, and the Weather Bureau, and provide a bulletin board whereon all current Notams are prominently displayed and a suitable computer terminal or other state of the art equipment over which Notams and weather information may be received. The provision of the foregoing shall be at the expense of the Operator and without additional or separate charge to the owner/operator of any customer's aircraft.

(d) (1) The Operator shall cause to be rendered to the owner/operator of customer's aircraft upon request routine and non-routine aircraft repair and maintenance services by properly qualified mechanics and other personnel and, if on the Airport, only at such location as is expressly authorized in such other permit or agreement with or issued by the Port Authority. The Operator shall bill such owner/operator for the value of such repair and maintenance services rendered irrespective of the identity of the service provider. The Operator shall provide all ramp handling services for customers' aircraft as requested and do so only on the Public Aircraft Parking and Storage Areas subject to limitations and requirements as may be imposed by the Manager of the Airport from time to time.

(2) The Operator shall, upon the request of a customer or by the Port Authority, remove and relocate from the Public Landing Area or other area at the Airport to another location on the Airport the customer's aircraft, which shall have become disabled and shall have available at the Airport an adequate staff of qualified personnel and equipment to perform the same, including, but not limited to, tractors, dollies, and jacks.

(e) (1) The Operator shall conduct the business of selling aviation fuel and dispensing the same into plane for aircraft operated by air taxi, scheduled commuter, general aviation, and itinerant aircraft operators adequate to meet all demands therefor at the Airport upon request therefor by the operators of such aircraft (hereinafter called "the Fueling Service").

The Operator shall have available and shall sell in the Fueling Service the types of aviation fuel used by the customer's aircraft, including, but not limited to, Jet A type fuel and 100 octane aviation gasoline and shall conduct the Fueling Service in accordance with the highest standards for safety and security in the

aircraft fueling industry and in accordance with the procedures contained in the Port Authority's Rules and Regulations as they may be supplemented and amended from time to time.

The Fueling Service shall be offered to owners/operators of customer's aircraft at a price no greater than 10.5 % above the average retail price, all taxes included (averaged per airport), charged from time to time for each type of fuel of the same type as dispensed to aircraft similar to those of customers' aircraft at Long Island MacArthur Airport, Ronkonkoma, New York, White Plains (Westchester County) Airport, White Plains, New York and East Farmingdale Republic Airport, East Farmingdale, New York with the Port Authority having the right in its absolute, unrestricted discretion to substitute or add at any time and from time to time upon sixty (60) days' prior written notice to the Operator, any other airport(s) on Long Island (other than New York City), Orange County, or Dutchess County, New York having scheduled commercial aircraft operations.

(2) The Operator understands and agrees that the Operator shall utilize the aviation fuel storage facilities at the Airport in conducting the Fueling Service and to that end, the Operator is required to become a party to the Facilities Lease and Agreement and the Consent to Facilities Agreement attached hereto, hereby made a part hereof, (as the same may be supplemented or amended) and marked "Exhibit Y" (hereinafter collectively called "the Facilities Agreements") covering the use of such fuel storage facilities.

(3) The Operator, upon delivery to it of an execution copy of the Facilities Agreements, shall execute the same promptly and deliver the same to the Port Authority. Upon complete execution of the Facilities Agreements, fully executed copies thereof will be delivered to the Operator.

(f) Without additional compensation to the Operator, the Operator, at its own expense, shall provide appropriate transportation between any arrival/departure location on the Airport of any Port Authority helicopter and Building No. 81 for those persons enplaning or deplaning from such helicopter.

#### **Section 7. Ingress and Egress**

(a) The Operator, its contractors, suppliers of material, and furnishers of services shall have the right of ingress and egress between the premises and the city streets or public ways outside the Airport by means of such pedestrian or vehicular roadways, to be used in common with others having rights of passage within the Airport, as may from time to time be designated by the Port Authority for the use of the public.

(b) The Operator shall have the right of ingress and egress between the premises and the Public Landing Area at the Airport, by means of connecting service roadways, to be used in common with others having rights of passage thereon.

(c) The use of any such roadway shall be subject to the rules and regulations of the Port Authority, which are now in effect or which hereafter may be promulgated for the safe and efficient operation of the Airport. The Authority may, at any time, temporarily or permanently close or consent to or request the closing of, any such roadway and any other area at the Airport presently or hereafter used as such, so long as a reasonable means of ingress and egress as provided above remains available to the Operator. The Operator hereby releases and discharges the Port Authority, its successors, and assigns, of and from any and all claims, demands, or causes of action which the Operator may now or at any time hereafter have against any of the foregoing, arising or alleged to arise out of the closing of any street, roadway, or other area, whether within or outside the Airport.

**Section 8. Compliance with Governmental Requirements**

(a) The Operator shall comply with all laws and ordinances and governmental rules, regulations, and orders now or at any time during the term of this Agreement which as a matter of law are applicable to or which affect the operations of the Operator at the premises hereunder and on the Airport, and the Operator shall, in accordance with and subject to the provisions of Section 16 hereof, make any and all non-structural improvements, alterations, or repairs of the premises.

(b) The Operator shall procure from all governmental authorities having jurisdiction over the operations of the Operator hereunder and shall maintain in full force and effect throughout the term of this Agreement all licenses, certificates, permits, or other authorization, which may be necessary for the conduct of such operations. "Government authority" shall not be construed as intending to include the Port Authority.

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

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

ordinances, resolutions, or regulations which are applicable only because of the Port Authority's agreement in the Basic Lease. The Operator shall, for the Port Authority's information, deliver to the Port Authority promptly after receipt a true copy of any notice, warning, summons, or other legal process for the enforcement of any such enactment, ordinance, resolution, or regulation. Any direction by the Port Authority to the Operator not to comply with any such enactment, ordinance, resolution, or regulation shall be given only pursuant to a resolution duly adopted by the Board of Commissioners of the Port Authority or by an authorized committee of its Board and if any such direction is given by the Port Authority to the Operator the Port Authority, to the extent that it may lawfully do so, shall indemnify and hold the Operator harmless from and against all claims, actions, damages, liabilities, fines, penalties, costs, and expenses suffered or incurred by the Operator as a result of non-compliance with such enactment, ordinance, resolution, or regulation.

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

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

#### **Section 9. Rules and Regulations**

(a) The Operator covenants and agrees to observe and obey (and to require its officers, employees, guests, invitees, and those doing business with it to observe and obey) the existing Rules and Regulations of the Port Authority and such reasonable future Rules and Regulations and amendments and supplements thereto for the government of the conduct and operations of the Operator and others on the premises or otherwise on the Airport, as may from time to time during the letting be promulgated by the Port Authority for reasons of safety, health, sanitation or good order. The obligation of the Operator to require such observance and obedience on the part of its guests, invitees, and business visitors shall obtain only while such persons are on the premises or such other areas of the Airport arising out of the Operator's operations hereunder. The Port Authority agrees that except in cases of emergency, it will give notice to the Operator of every such future rule or regulation adopted by it at least ten (10) days before the Operator shall be required to comply therewith.

(b) A copy of the Rules and Regulations in effect as of the Commencement Date is attached hereto, hereby made a part hereof, and marked "Exhibit Z-1."

**Section 10. Various Obligations of the Operator**

(a) The Operator shall conduct its operations hereunder in an orderly and proper manner, considering the nature of such operations so as not to annoy, disturb, or be offensive to others at or off the Airport. The Operator shall take all reasonable measures (1) to eliminate or reduce as low as possible vibrations tending to damage any equipment, structure, building or portion of a building which is on the premises, or is a part thereof, or is located elsewhere on or off the Airport; and (2) to keep the sound level of its operations as low as possible.

(b) The Operator shall use its best efforts to conduct all its operations at the premises or elsewhere on the Airport as provided for hereunder in a safe and careful manner, following in all respects the best practices of the air transportation industry in the United States.

(c) The Port Authority shall have the right to object to the Operator regarding the conduct and demeanor of the employees of the Operator whereupon the Operator will take all steps reasonably necessary to remove the cause of the objection. The Operator shall supply and shall require its employees to wear or carry badges or other suitable means of identification, which shall be subject to the prior and continuing approval of the Manager of the Airport.

(d) The Operator shall control all vehicular traffic on the roadways or other areas within the premises and shall take all precautions reasonably necessary to promote the safety of all persons on the premises and those persons elsewhere on the Airport for whom it is responsible hereunder. The Operator shall employ such means as may be necessary to direct the movement of vehicular traffic within the premises to prevent traffic congestion on the public roadways leading to the premises.

(e) The Operator shall remove from the Airport or otherwise dispose of in a manner approved by the Manager of the Airport all garbage, debris, and other waste materials (whether solid or liquid and including petroleum products no longer suitable for use on aircraft) arising out of its occupancy of the premises or out of its operations elsewhere at the Airport. Any such which may be temporarily stored in the open shall be kept in suitable garbage and waste receptacles, the same to be made of metal or other suitable material, and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein. The Operator shall use extreme care when effecting removal of all such waste material, and shall effect such removal at such time and by such means as first approved by the Port Authority. No such garbage, debris, or other waste materials shall be or be permitted to be thrown, discharged, or deposited into or upon the waters at or bounding the Airport.

Without limiting the generality of Section 8 hereof, the Operator shall comply with all federal, state, and local laws, rules, and regulations governing the storage and disposal of garbage, debris, waste materials, quarantined materials, and other substances, if any, on general aviation, itinerant, air taxi and scheduled commuter aircraft, if any, arriving at the Airport.

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

(g) It is the intention of the parties hereto that noise caused by aircraft engine operations shall be held to a minimum considering the nature of the Operator's operations on the Airport. To this end, the Operator will conduct its operations on the Airport in such a manner as to keep the noise produced by aircraft engines to a minimum and where appropriate shall employ noise arresting and noise reducing devices that are *suitable*.

(h) In its operations, the Operator shall use its best efforts to minimize jet or prop blast interference to aircraft operating on or to buildings and structures now located on or which in the future may be located on areas adjacent to the premises or elsewhere on the Airport. In the event the Port Authority determines that at any time and from time to time that the Operator has not so minimized the jet or prop blast interference, it may serve a notice to the Operator to such effect and if the condition is not corrected to the satisfaction of the Port Authority within thirty (30) days after the service of said notice, the Operator hereby covenants and agrees to erect and maintain at its own expense such structure or structures as may be necessary to minimize the said jet or prop blast interference, subject, however, to the prior written approval of the Port Authority as to the type, manner, method, and cost of construction. The obligations assumed by the Operator under this paragraph shall not diminish, limit, modify, or affect all other obligations of the Operator with respect to interference under this Agreement.

(i) The Operator agrees that it will not erect, construct, or maintain or otherwise create or continue any obstacle or so park or store any aircraft or other object on the premises or elsewhere on the Airport if otherwise permitted by this Agreement so as to create any obstacle that will hamper or interfere with the free, orderly, unobstructed and uninterrupted passage of vehicles, aircraft, or of the wings or other integral part of aircraft of any type, nature, or description, while such vehicle is operating or aircraft is taxiing or being transported or towed along any runways, taxiways, and roads outside of the premises.

(j) In addition to compliance by the Operator with all laws, ordinances, governmental rules, regulations, and orders now or at any time in effect during the term of the letting hereunder, which as a matter of law are applicable to the operation, use, or maintenance by the Operator of the premises or the operations of the Operator under this Agreement (the foregoing not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them), the Operator agrees that it shall exercise the highest degree of safety and care and shall operate, use, and maintain the premises and conduct its operations on the premises and elsewhere on the Airport if otherwise permitted by this Agreement in accordance with the highest standards and in such manner that there will be at all times a minimum of air pollution, water pollution, or any other type of pollution and a minimum of noise emanating, arising out of, or resulting therefrom. The Port Authority hereby reserves the right from time to time and at any time during the term of this Agreement to require the Operator, and the Operator agrees to design and construct at its sole cost and expense such reasonable structures, fences, equipment, devices, and other facilities as may be necessary or appropriate to accomplish the objectives as set forth in the first sentence of this paragraph. All locations, the manner, type, and method of construction and the size of any of the foregoing shall be determined by the Port Authority. The Operator shall submit for Port Authority approval its plans and specifications covering the required work and upon receiving such approval, shall proceed diligently to construct the same.

The obligations assumed by the Operator under this paragraph (j) shall continue throughout the term of this Agreement and shall not be limited, affected, impaired, or in any manner modified by the fact that the Port Authority shall have approved any Construction Application and supporting plans, specifications and contracts covering construction work and notwithstanding the incorporation therein of the Port Authority's recommendations or requirements and notwithstanding that the Port Authority may have at any time consented to or approved any particular procedure or method of operation which the Operator may have proposed or the Port Authority may have itself prescribed the use of any procedure or method. The agreement of the Operator to assume the obligations under this paragraph (j) is a special inducement and consideration to the Port Authority in entering into this Agreement with the Operator.

#### **Section 11. Federal Airport Aid**

The Port Authority has applied for and received a grant or grants of money from the Administrator of the Federal Aviation Administration pursuant to the Airport and Airways Development Act of 1970, as the same has been amended and supplemented, and under prior federal statutes which said Act superseded and the Port Authority may in the future apply for and receive further such grants. In connection therewith, the Port Authority has undertaken and may in the future undertake certain obligations respecting its operation of the Airport and the activities of its contractors, operators, and permittees thereon. The performance by the Operator of the promises and obligations contained in this Agreement is, therefore, a special consideration and

inducement to the execution of this Agreement by the Port Authority, and the Operator further agrees that if the Administrator of the Federal Aviation Administration or any other governmental officer or body having jurisdiction over the enforcement of the obligations of the Port Authority in connection with Federal Airport Aid, shall make any orders, recommendations, or suggestions respecting the performance by the Operator if its obligations under this Agreement, the Operator will promptly comply therewith at the time or times, when and to the extent that the Port Authority may direct.

**Section 12. Sales and Services**

(a) A principal purpose of the Port Authority in the making of this Agreement is to make available at the Airport the items and services which the Operator is permitted to sell and render hereunder, and the Operator hereby warrants and agrees that it will conduct a first class operation and will furnish all necessary or proper fixtures, equipment, personnel (including licensed personnel as necessary), supplies, materials and facilities, that it will furnish such services promptly, efficiently and adequately to meet all demands therefor, on a fair, equal, and nondiscriminatory basis to all users thereof, and at charges which are fair, reasonable, and non-discriminatory, provided that reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions may be made to volume purchasers.

(b) The Operator, prior to furnishing any services hereunder, shall prepare a schedule of rates and charges for the services it will perform. Such schedule shall be furnished to the Port Authority. All subsequent changes therein shall be submitted to the Port Authority prior to the effective date or dates thereof. The entire schedule, including all changes, amendments, and supplements, shall be made available to the public by the Operator at its office on the premises and at the office of the Manager of the Airport. That part of the schedule covering rates, charges and services ordinarily made to customers of the Operator not having continuing contracts with the Operator shall be posted prominently at the office of the Operator on the premises. The Operator covenants and agrees to adhere to the charges shown on the schedule, and to refund promptly to the customer, upon demand of the Port Authority, any charge or charges made in excess of those shown on the schedule.

(c) The Operator covenants and agrees that it will not enter into continuing contracts or arrangements with third parties for the furnishing of services by the Operator if any such contract or arrangement will have the effect of utilizing to an unreasonable extent the capacity of the Operator for furnishing such services generally. At all times the Operator will reserve a reasonable capacity to furnish services hereunder to customers not parties to continuing contracts with the Operator.

(d) The Operator shall be open for and shall conduct business and furnish services hereunder 24 hours a day, seven days a week.

(e) The Operator covenants and agrees that it will not enter into any agreement or understanding, whether or not binding, with any person, firm, association, corporation, or other entity, which will have the effect of fixing rates, of lessening or preventing competition, or of creating or tending to create a monopoly at the Airport relating to the service, products, or articles furnished or sold by the Operator.

### Section 13. Prohibited Acts

(a) Unless otherwise expressly permitted so to do, the Operator 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, Operators, or permittees, shall have the exclusive right to install, maintain, 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 Operator. This provision shall not be construed to confer upon the Operator any right to have such machines installed, except at the sole discretion of the Port Authority.

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

(d) The Operator shall not create nor permit to be caused or created upon the premises or elsewhere on the Airport any obnoxious odors or smokes, or noxious gases or vapors. The creation of exhaust fumes by the operation of the Operator's internal combustion engines or by the operation of aircraft engines, so long as such engines are maintained and are being operated in a proper manner, shall not be a violation of this paragraph (d).

(e) The Operator shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of the drainage and sewer system, water system, communications system, electrical system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, and other systems, if any, installed or located or to be installed or located on, under, or in the premises or elsewhere on the Airport.

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

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

(h) The Operator shall not dispose of nor permit any one to dispose of any waste material taken from aircraft (whether liquids or solids) by means of the toilets, manholes, sanitary sewers, or storm sewers in the premises or elsewhere on the Airport except after treatment in installations or equipment included in plans and specifications submitted to and approved by the Port Authority.

(i) The Operator shall not do or permit to be done any act or thing upon the premises or elsewhere on the Airport which (1) will invalidate or conflict with any fire insurance, extended coverage, or rental insurance policies covering the premises or any part thereof, or the Airport, or any part thereof, or (2) which, in the opinion of the Port Authority, may constitute an extra hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by Section 5 hereof or otherwise hereunder. The Operator 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 Operator on the premises or elsewhere on the Airport hereunder, and the Operator shall, subject to and in accordance with all of the provisions of this Agreement, make any and all non-structural improvements, alterations, or repairs of the premises that may be required at any time hereafter by any such present or future rule, regulation, requirement, order or direction. If by any reason of any failure on the part of the Operator to comply with the provisions of this paragraph any fire insurance, extended coverage or rental insurance rate on the premises or any part thereof, or on the Airport or any part thereof, shall at any time be higher than not would be if the premises or any other part of the Airport were properly used for the purpose permitted by Section 5 hereof or as otherwise permitted hereunder, then the Operator shall pay to the Port Authority, as an item of additional rental, that part of all insurance premiums paid by the Port Authority which shall have been charged because of such violation or failure by the Operator.

(j) The Operator shall not keep or store during any 24-hour period inflammable liquids within the enclosed portion of the premises (other than in rooms or areas expressly constructed for the storage of such liquids) in excess of the Operator's working requirements during said 24-hour period. Any such liquids having a flash point

of less than 110°F shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories or the Factory Mutual Insurance Association.

(k) The Operator shall not fuel or defuel automotive or other equipment in the enclosed portion of the premises without prior approval of the Manager of the Airport. The Operator shall not start or operate any engine of any item of automotive equipment in the enclosed portion of the premises unless such space is adequately ventilated and unless such engine is equipped with a proper spark-arresting device which has been approved by the Manager of the Airport.

(l) The Operator hereby assumes full responsibility for and control over persons disembarking from or bound for customer's aircraft while on the aeronautical areas of the Airport and shall take all proper measures to insure that the highest standards of safety are maintained. The Operator shall prevent access by persons or vehicles (unless duly authorized by the Port Authority) to the Public Ramp and Apron Area, Public Passenger Ramp and Apron Area and Public Landing Area from the premises, except for aircraft, which aircraft shall be equipped with radio receivers tuned to control tower frequencies and adequately manned. Such aircraft may be towed to a motor vehicle also so equipped and manned or equipped with such other means as may be approved by the Port Authority. The Operator shall prevent such access by such means as the Port Authority shall approve. Such prevention shall be accomplished on a 24-hour, seven day-a-week basis. The Operator shall indemnify and save the Port Authority harmless from all damages, liability and penalties that may arise out of any breach of its obligations under this paragraph (l) or which may result from unauthorized entry or activity upon the aeronautical areas of the Airport attributable in whole or in part to the acts or other compromise or aeronautical area security by the Operator, its employees, guests, or invitees.

(m) The Operator shall not keep or store aviation fuel on the premises, except that aviation fueling equipment may be operated on the premises where permitted hereunder and in accordance with all of the terms and provisions hereof.

(n) The Operator shall not bring or permit to be brought onto any portion of the premises any aircraft or aircraft parts, including parts removed from customer's aircraft and shall not operate or permit to be operated aircraft engines on any portion of the premises.

(o) No aircraft maintenance or repairs may be performed on the Airport by the Operator or by or for the benefit of the Operator's customer (the enforcement of which shall be the Operator's responsibility), except if and as expressly authorized hereunder or by the Manager of the Airport from time to time and, if and to the extent so authorized, then only as and on such portion(s) of the Airport authorized by the Manager of the Airport.

**Section 14. Maintenance, Repair, and Property Insurance**

(a) The Operator shall at all times keep in clean and orderly condition and appearance the premises and the Public Aircraft Parking and Storage Area(s) and all of the Operator's fixtures, equipment, and personal property which are located in any parts of the premises which are open to or visible by the general public.

(b) The Operator shall repaint, repair, replace, or rebuild all or any part of the premises and any other area of the Airport which may be damaged or destroyed by the acts or omissions of the Operator or by those of its employees, customers, guests, or invitees or of other persons doing business with the Operator.

(c) With respect to Building No. 81, except for damage or destruction occurring under circumstances set forth in paragraphs (b) and (I) of this Section 14 and except for reasonable wear and tear, the Port Authority shall, as necessary for the preservation of the building, maintain and make all repairs and replacements to the structural supporting frame and roof of the building, the exterior of the exterior walls (excluding doors, screens, and glass), and damage to the building caused by the sinking or settling of the ground (not including minor damage to other than the structural supporting frame and roof of the building). With respect to all parts of Areas A, B, and C, other than as provided in the preceding sentence, including, without limitation thereto as to such areas, fences, the building walls, partitions, floors, ceilings, doors, tail gates, screens, interior of sash, glass, and other transparencies and surfaces of every kind, incinerators, the mechanical, electrical, plumbing, heating, steam, sewerage, drainage, communications, fire protection, gas, and other systems and their pipes, wires, mains, lines, tubes, conduits, equipment, motors, cables, and fixtures, the Operator shall take the same good care of the premises that would be taken by a reasonably prudent owner who desired to keep and maintain the same so that at the expiration or termination of the terms hereof and at all times during the term hereof, the same will be in as good condition as at the commencement thereof or in the event the Port Authority shall perform repairs and replacements on the premises after the Commencement Date, then, as to such repairs and replacements, in as good condition as on the completion thereof, except under circumstances as set forth in paragraph (i) of this Section 14 and except for reasonable wear which does not adversely affect the efficient or proper utilization thereof. To that end and regardless of the cause of the condition requiring the same, the Operator shall carry on periodic inspections, perform all necessary preventive maintenance, including, but not limited to, painting, make all necessary repairs and replacements, and do all necessary rebuilding with respect to the same, all of which shall be in quality equal to the original in material and workmanship.

(d) The Operator agrees to accept the premises "As Is" in its condition as of the date of the Operator's "Proposal" for Agreement No. AGA-658 of which this Form of Agreement is a part.

(e) The Operator shall not use any cleaning materials having a harmful corrosive effect on any part of the premises or the Airport.

(f) The Operator shall promptly wipe up all oil, gasoline, grease, lubricants, and other flammable liquids and substances and all liquids or substances having a corrosive or detrimental effect on the paving or other surfaces of the premises and the Public Aircraft Parking and Storage Area and Public Ramp and Apron Area at the Airport which may leak or be spilled thereon by the Operator or its customers. The Operator shall repair any damage to the pavement caused by such oil, gasoline, grease, lubricants, or other liquids or substances arising from the operations of the Operator or its customers on the Airport.

(g) In the event the Operator fails to commence so to maintain, clean, repair, replace, rebuild, or paint within a period of twenty (20) days after notice from the Port Authority so to do, or fails diligently to continue to completion the repair, replacement, rebuilding or painting of all of the premises or portions of the Airport required to be repaired, replaced, rebuilt, or painted by the Operator under the terms of this Agreement, the Port Authority may, at its option, and in addition to any other remedies which may be available to it, repair, replace, rebuild, or paint all or any part of the premises or the Airport included in the said notice, and the cost thereof shall be payable by the Operator upon demand.

(h) The obligation of the Operator as set forth in paragraph (b) of this Section 14 (in the event that damage or destruction caused by the acts or omissions of the Operator or by those of its employees, customers, guests, or invitees, or of other persons doing business with the Operator, is covered by any contract of insurance under which the Port Authority is the insured) is hereby released to the extent that the loss and all costs and expenses of the Port Authority, including legal fees in recovering insurance proceeds, are recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that if this release shall invalidate any such policy of insurance or limit or void the Port Authority's rights thereunder, then this release shall be void and of no effect and provided, further, that this waiver shall be void and of no effect if and to the extent that such damages or loss are covered under the Port Authority's self-insurance plan as hereinafter provided.

(i) (1) In the event that, as a result of the sinking or settling of the ground, or as the result of casualty, the premises are damaged (without fault of the Operator, its employees, customers, guests, invitees, or persons doing business with it) so as to render it untenable in whole or a substantial part, then

(i) 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 Areas A and B and the Operator shall repair and rebuild Area C, and the basic rental

hereunder shall be abated separately as to each of said Areas as provided in this Agreement for the period from the occurrence of the damage to the completion of the repairs or rebuilding as to said Area, whether or not the work of repair or rebuilding is actually completed within the said ninety (90) days; or

(ii) if, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the building where the damage has occurred requires rebuilding, then the Port Authority shall have the option: (1) to proceed with due diligence to repair or to rebuild Areas A and B as necessary and to require the Operator to repair or to rebuild Area C, as necessary; or (2) to terminate the letting as to the damaged portion of the premises, allowing an abatement of basic rental therefor and if such option is exercised by the Port Authority and the same affects a substantial part of the premises, the Operator shall have the right within thirty (30) days thereafter, on six (60) days' written notice, to terminate this Agreement as to the balance of the premises; or (3) to cancel this Agreement and terminate the letting as to the entire premises; and the basic rentals payable under this Agreement shall be abated as hereinafter provided, 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 by the Port Authority for the portion of the premises involved.

(iii) if the Operator is required pursuant to the foregoing to repair or rebuild Area C, as necessary, the Operator shall proceed with due diligence to do so in accordance with the plans and specifications for the said Areas as they existed prior to such damage or, with the approval of the Port Authority, make such other repairs or replacements as may be desired by the Operator. To the extent such damage is covered by insurance hereunder as to Areas C, the proceeds thereof (net of the costs, including legal expenses, if any, in recovering same) received by the Port Authority shall be made available by the Port Authority to the Operator and used by the Operator solely for restoration, any excess to be retained by the Port Authority.

(2) "Substantial part" shall mean, for the purpose of this paragraph (i), at least twenty-five percent (25%) of the total usable interior floor space of either Areas A and B in the aggregate or Area C.

(j) The Operator shall be the insurer of the Port Authority against the risk of loss or theft of or damage to any of the Port Authority's fixtures, equipment and personal property which are a part of or are located in or on the premises and shall promptly replace or repair the same within five (5) days of such loss, theft or damage.

(k) Nothing herein contained shall relieve the Operator of its obligations under Section 16 hereof to secure the Port Authority's written approval before installing any fixtures in or upon or making any alterations, decoration, additions or improvements in the premises.

(l) (1) Subject to the availability of such insurance, the Port Authority in the name of the Port Authority, and for its benefit only, throughout the term of the letting hereunder shall keep Building No. 81 insured to the extent of a least 80% of the replacement value thereof, if the same is not protected from the peril of fire by a sprinkler system (and at least ninety percent (90%) of the full replacement value thereof if so protected), such insurable value throughout the term to be as determined by the Port Authority from time to time against damage or loss by fire, windstorm, cyclone, tornado, hail, explosion, riot, civil commotion, aircraft, vehicles and smoke, under the Standard Form of Fire Insurance Policy of the State of New York and the form of extended coverage endorsement prescribed as of the effective date of the said insurance by the rating organization having jurisdiction. In the event that the Port Authority's insurance carrier or carriers for the insurance described above shall rescind the right of the Port Authority to give the release covered by paragraph (h) hereof or said insurance carrier or carriers shall refuse to issue new or renew the existing insurance policy or policies covering Building No. 81 as aforesaid with an endorsement thereon under which the release covered by paragraph (h) hereof is permitted without prejudice to the interest of the insured, the Port Authority shall give the Operator prior written notice of such event. If at any time because of the release covered by paragraph (h) hereof the insurance carrier or carriers shall increase the premiums otherwise payable for the insurance covered under this subparagraph (1) the Operator shall pay to the Port Authority on demand an amount equivalent to such increase or increases. The Port Authority hereby reserves the right, exercisable at any time during the term of this Agreement, to self-insure Building No. 81 either in whole or in part under its self-insurance plan or to have any property insurance it may purchase as to said building provide for such deductibles as it elects with respect to any and all of the risks enumerated in this subparagraph. Property insurance policies presently maintained by the Port Authority provide for deductibles of Two Million Dollars (\$2,000,000) per loss. If and at such time as it shall so self-insure or increase such deductibles, it will give the Operator prior written notice to such effect.

(2) With respect to Area C, in addition to all other insurance required by this Agreement the Operator shall, during the term of the letting hereunder, insure and keep insured to the extent of 100% of the replacement value thereof, all buildings, structures, improvements, installations, facilities and fixtures now

or in the future located in or on Area C, against All Risks of physical loss or damage including without limitation flood and earthquake, if such insurance is available and if not available then against such hazards and risks as may now or in the future be included under a standard form of fire insurance policy available in the State of New York and the form of extended coverage endorsement prescribed as of the effective date of the said insurance by the rating organization having jurisdiction, and also against damage or loss by windstorm, cyclone, tornado, hail, explosion, riot, civil commotion, aircraft, vehicles and smoke, under a standard form of fire insurance policy available in the State of New York and the form of extended coverage endorsement prescribed as of the effective date of the said insurance by the rating organization having jurisdiction, and, if the Port Authority so requests, also covering nuclear property losses and contamination hazards and risks (if such coverage is or becomes available at reasonable rates) and boiler and machinery hazards and risks in a separate insurance policy or policies or as an additional coverage endorsement to the aforesaid policies in the form as may now or in the future be prescribed as of the effective date of said insurance by the rating organization having jurisdiction or the Superintendent of Insurance of the State of New York and the Operator shall furthermore provide additional insurance with respect to Area C, and the installations, structures, buildings, fixtures and improvements therein and thereon (herein collectively encompassed by the reference to said Area) covering any other property risk that the Port Authority may at any time during the term of the letting hereunder cover by carrier or self-insurance covered by appropriate reserves at other similarly used locations at the Airport or its other airport facilities upon written notice to the Operator to such effect, provided such other coverage or insurance is reasonably available on the commercial market.

The aforesaid insurance coverages and renewals thereof under this subparagraph (2) shall insure the Port Authority, the Operator and the City of New York, as their interests may appear, and shall provide that the loss, if any, shall be solely adjusted with and by and shall solely be payable to the Port Authority.

In the event said Area C, or any part thereof shall be damaged by any casualty against which insurance is carried pursuant to this subparagraph (2), the Operator shall promptly furnish to the Port Authority such information and data as may be necessary to enable the Port Authority to adjust the loss.

The policy or certificate issued by the insurance company insuring against said risks evidencing insurance covered by this subparagraph (2) shall be delivered by the Operator to the Port Authority prior to the Commencement Date hereof and the policy or certificate delivered shall contain a valid, unqualified provision obligating the insurance company to furnish the Port Authority thirty (30) days' advance notice of any cancellation, termination, change, or modification of the insurance evidenced by said policy certificate and bear the endorsement of or be accompanied by evidence of payment of the premium therefor. Each policy and certificate shall also have stated thereon this Agreement's number appearing on the first page hereof. Renewal policies or certificates shall be delivered to the Port Authority at least ten (10) days

before the expiration of the insurance which such policy is to renew. Regardless, however, of the persons whose interests are insured, the proceeds of the policy covered by this subparagraph (2) shall be applied or retained as provided in this Section 14. The insurance covered by this subparagraph (2) shall be written by a company approved by the Port Authority, the Port Authority agreeing not to withhold its approval unreasonably. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any carrier issuing such policy shall be or become unsatisfactory to the Port Authority, the Operator shall promptly obtain a new and satisfactory policy in replacement and deliver to the Port Authority such replacement policy or a certificate of the issuing insurance company evidencing the same to the satisfaction of the Port Authority, the Port Authority agreeing not to act unreasonably hereunder. If at any time the Port Authority so requests or approves a certified copy of the said policy, in lieu of such policy or certificate shall be delivered to the Port Authority. The person making any certification hereunder to the Port Authority shall be one acceptable to the Port Authority.

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

#### **Section 15. Indemnity Liability Insurance**

(a) The Operator shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, and representatives from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses, including reasonable legal expenses incurred in connection with the defense of) all claims and demands of third persons, including, but not limited to, claims and demands for death or personal injuries, or for property damages arising out of a breach or default of any term or provision of this Agreement by the Operator or out of the use or occupancy of the premises by the Operator, or by others with its consent, or out of any other acts or omissions of the Operator, its officers and employees, guests, invitees, and business visitors on the premises or arising out of the acts or omissions of the Operator, its officers, and employees, elsewhere at or off the Airport (excepting only claims and demands arising from the sole negligence of the Port Authority), including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or through agreement of the Port Authority with the said City.

(b) If so directed, the Operator shall at its own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false, or fraudulent), and in handling such, it shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal 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 the obligations set forth in paragraph (a) of this Section, the Operator throughout the period of the letting under this Agreement, in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums on a policy or policies of Comprehensive Automobile Liability Insurance covering owned, non-owned, and hired vehicles, including automatic coverage for newly acquired vehicles, and Commercial General Liability Insurance, including premises operations, independent contractors, completed operations, products liability, and liquor liability, covering bodily injury, including death and property damage liability, the policies to be broadened to include or equivalent separate policies to be obtained covering aircraft liability and airport operator's liability under an airport liability policy with all policies under this Section providing for coverage in the limits set forth below at a minimum. In addition to the foregoing policies throughout the period of the letting under this Agreement, the Operator shall pay for and maintain in its own name as insured and including the Port Authority as an additional insured as its interest may appear, a Hangarkeeper's Legal Liability policy with the same minimum limits as applicable to the aforementioned policies. The said policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Operator thereunder with respect to any claim or action against the Operator by a third person shall pertain and apply with like effect with respect to any claim or action against the Operator by the Port Authority and any claim or action against the Port Authority by the Operator as though the Port Authority were a named insured, but such provision or endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority thereunder as an additional insured. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Operator under paragraph (a) of this Section.

	<u>Minimum Limits</u>
Commercial General Liability: Combined Single Limit per occurrence and annual aggregate for Bodily Injury and Property Damage	\$100,000,000
Comprehensive Automobile Liability Combined Single Limit per occurrence and annual aggregate for Bodily Injury and Property Damage	\$25,000,000

Notwithstanding the foregoing, it is specifically understood and agreed that the Port Authority shall have the right upon notice to the Operator given from time to time and at any time to require the Operator to increase any or all of the foregoing limits to reasonable commercial amounts and the Operator shall promptly comply

therewith and shall promptly submit to the Port Authority a certificate or certificates evidencing the same.

(d) As to the insurance required by the provisions of this Section, the policies or a certificate or certificates evidencing the existence thereof, shall be delivered by the Operator to the Port Authority prior to the Commencement Date. Each policy or certificate delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. Each such policy or certificate shall contain a valid, unqualified 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. Each such policy or certificate shall contain an additional endorsement providing that the insurance carrier shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents, or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority. Any renewal policy shall be delivered to the Port Authority at least ten (10) days prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the letting hereunder. The aforesaid insurance shall be written by a company or companies approved by the Port Authority, the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance, including the minimum limits thereof, or if any of the carriers issuing such policies shall be or become unsatisfactory to the Port Authority, the Operator shall promptly obtain and deliver to the Port Authority a new and satisfactory policy in replacement or a certificate from the issuing company evidencing the same to the satisfaction of the Port Authority, the Port Authority agreeing not to act unreasonably hereunder. If the Port Authority at any time so request or approves, the Operator shall deliver to the Port Authority a certified copy of each of the said policies and shall, upon request, deliver to the Port Authority a certified copy of such portions of said policies pertaining to the coverage hereunder as the Port Authority shall request. The person making any certification hereunder to the Port Authority shall be one acceptable thereto.

**Section 16. Construction by the Operator**

The Operator shall not erect any structures, make any improvements, or do any construction on the premises or alter, modify, or make additions or improvements to any structure now existing or built at any time during the letting, or install any fixture (other than trade fixtures, removable without material damage to the premises, any such damage to be immediately repaired by the Operator) without the prior written approval of the Port Authority and in the event any construction, improvement, alteration, modification, or addition is made without such approval, then upon reasonable notice so to do, the Operator will remove the same, or at the option of the Port Authority cause the same to be changed to the satisfaction of the Port Authority. In case of any failure on the

part of the Operator to comply with such notice, the Port Authority may effect the removal or change and the Operator shall pay to the Port Authority the cost thereof.

**Section 17. Signs**

(a) Except with the prior written approval of the Port Authority, the Operator shall not erect, maintain, or display any signs or any advertising at or on the exterior parts of the premises or in the premises so as to be visible from outside the premises or at any other place on the Airport outside the premises. Interior signs affecting public safety and security shall be in accordance with established Port Authority Standards.

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

**Section 18. THERE IS NO SECTION 18**

**Section 19. Parking**

(a) The Port Authority shall permit the officers and employees of the Operator to park passenger automobiles used by them for transportation to and from the Airport in such area or areas at the Airport, if any, on an exclusive or non-exclusive basis, as from time to time may be designated by the Port Authority for such purposes and the Operator shall pay therefor the fees, if any, that may be in force for such parking in such area or areas and shall comply with such rules, regulations, and procedures as are in force and such further rules, regulations, and procedures as hereafter may be adopted by the Port Authority for the safety and convenience of persons who park automobiles in the area or areas involved or for the safety and proper identification of such automobiles.

(b) The Operator shall prevent all persons from parking automobiles on the premises, except that automobiles may be permitted to be on the premises for a reasonable period of time for the purpose of discharging or picking up passengers.

**Section 20. Additional Rent and Charges**

If the Port Authority is required or elects to pay any sum or sums or incurs any obligation or expense by reason of the failure, neglect, or refusal of the Operator to perform or fulfill any one or more of the conditions, covenants, or agreements contained

in this Agreement or as a result of any act or omission of the Operator contrary to the said conditions, covenants, and agreements, the Operator agrees to pay the sum or sums so paid or the expense so incurred, including all interest, costs, damages, and penalties, and the same may be added to any installment of rent thereafter due hereunder, and each and every part of the same shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rental as set forth in Section 3 hereof.

**Section 21. 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 Operator 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, contractors, and furnishers of utilities and other services shall have the right, for its own benefit, for the benefit of the Operator, or for the benefit of those at the Airport other than the Operator, to enter the premises to maintain existing and future utility, mechanical, electrical, and other systems, to make such repairs, replacements, or alterations as, in the opinion of the Port Authority, may be deemed necessary or advisable, to construct or install over, in, or under the premises new systems or parts thereof, and to use the premises for access to other parts of the Airport otherwise not conveniently accessible; provided, however, that in the exercise of such rights of access, repair, alteration, or new construction the Port Authority shall not unreasonably interfere with the use and occupancy of the premises by the Operator.

(c) In the event that any property of the Operator 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 or to the area of any proposed alteration or new construction and thus shall interfere with or impede the inspection, maintenance, repair, or replacement of any such system or interfere with or impede any alteration or new construction, the Operator shall move such property, as directed by the Port Authority, in order that access may be had to the system or part thereof or such area of any alteration or new construction for its inspection, maintenance, repair, replacement, alteration, or new construction, and if the Operator shall fail to so remove such property after direction from the Port Authority to do so, the Port Authority may move it and the Operator hereby agrees to pay the cost of such moving upon demand.

(d) Nothing in this Section shall or shall be construed to impose upon the Port Authority any obligation so to construct or inspect or maintain or to make repairs, replacements, alterations, or additions, or shall create any liability for any failure so to do. The Operator is and shall be in exclusive control and possession of the premises

during the letting, and the Port Authority shall in no event be liable for any injury or damage to any property or to any person happening on or about the premises nor for any injury or damage to the premises nor to any property of the Operator or of any other person located in or thereon (other than those occasioned by the affirmative acts of the Port Authority, its employees, agents, and representatives).

(e) At any time and from time to time during ordinary business hours within the six (6) months next preceding the expiration of the letting, the Port Authority, by its agents and employees, whether or not accompanied by prospective operators, occupiers, or users of the premises, shall have the right to enter thereon for the purpose of exhibiting and viewing all parts of the same and during such six-month period the Port Authority may place and maintain on the premises the usual "To Let" signs, which signs the Operator shall permit to remain without molestation.

(f) If, during the last month of the letting, the Operator shall have removed all or substantially all of its property from the premises or a part thereof, the Port Authority may immediately enter and alter, renovate, and redecorate the premises or the part thereof from which the same shall have been removed, whichever is the case.

(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 Operator nor be made the grounds for any abatement of rental nor any claim or demand for damages, consequential or otherwise.

## **Section 22. Condemnation**

(a) In any action or proceeding instituted by any governmental agency or agencies for the taking for a public use of any interest in all or any part of the premises or in case of any deed, lease, or other conveyance in lieu thereof (all of which are in this Section referred to herein as the "taking"), the Operator shall not be entitled to assert any claim to any compensation, award or part thereof made or to be made therein or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority for or on account of any such taking (except the possible claim to an award for loss of the Operator's removable fixtures), it being understood and agreed between the Port Authority and the Operator that the Port Authority shall be entitled to all compensation or awards made or to be made or paid for in such taking, free of any claim or right of the Operator. For the purpose of this Section, "governmental agency or governmental authority" shall be construed as excluding the Port Authority.

(b) In the event of a taking of the entire premises or if a material part of the premises, as defined in paragraph (c) of this Section, is taken and either party elects to terminate this Agreement as provided therein, by any governmental agency or agencies, then this Agreement shall be cancelled and the letting of the premises shall, as of the date possession is taken from the Port Authority by the agency or agencies, cease

and determine in the same manner and with the same effect as if the term of this Agreement on that date expired.

(c) In the event of a taking by any governmental agency or agencies of a part of the premises, then the letting as to such part only shall, as of the date possession thereof is taken from the Port Authority by such agency or agencies, cease and determine, and the basic rental thereafter to be paid by the Operator to the Port Authority shall be abated as heretofore provided in Section 3 hereof, from and after the date of such taking. In the event that a material part of the premises shall be taken then the Port Authority and the Operator shall each have the right, to be exercised within thirty (30) days after the taking, to terminate this Agreement, such termination to have the same effect as expiration. As used in this Section the phrase "material part" shall mean a taking so extensive that the Operator is unable to use or operate the premises for the purposes expressed in Section 5 of this Agreement.

**Section 23. Assignment and Sublease**

(a) The Operator covenants and agrees that it will not sell, convey, transfer, mortgage, pledge or assign this Agreement or any part thereof, or any rights created hereby or the letting hereunder or any part thereof, without the prior written consent of the Port Authority.

(b) The Operator shall not sublet the premises or any part thereof or permit its use or occupancy by another, without the prior written consent of the Port Authority.

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

(d) The Operator shall not use or permit any person to use the premises or any portion thereof for any purpose other than the purposes stated in Section 5 hereof. Except as provided in this Agreement or otherwise permitted in writing by the Port Authority, the Operator shall not permit the premises to be used or occupied by any person other than its own officers, employees, customers, contractors and representatives.

**Section 24. Termination by the Port Authority**

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

(1) The Operator 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 Operator shall be adjudged

bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of its creditors or by any of the stockholders of the Operator, seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) days after the entry thereof, any notice of termination shall be and become null, void and of no effect; 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 Operator and shall not be dismissed within thirty (30) days after the filing thereof; or

(4) The letting hereunder or the interest or estate of the Operator 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 Operator, if a corporation, shall without the prior written

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

(6) The Operator shall voluntarily abandon, desert or vacate the premises or discontinue its operations hereunder at the Airport, or, after exhausting or abandoning any right of further appeal, the Operator because of an act or omission of the Operator shall be prevented for a period of thirty (30) days by action of any governmental agency other than the Port Authority having jurisdiction thereof, from conducting its operations hereunder at the Airport, regardless of the fault of the Operator; or

(7) Any lien is filed against the premises because of any act or omission of the Operator and is not removed within ten (10) days after the Operator has received notice thereof; or

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

(9) The Operator 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 twenty (20) days after receipt of notice of default thereunder from the Port Authority (except where fulfillment of its obligation requires activity over a period of time, and the Operator shall have commenced to perform whatever may be required for fulfillment within twenty (20) 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 fifteen (15) days' notice terminate the rights of the Operator hereunder and the letting, such termination to be effective upon the date specified in such notice. Such right of termination and the exercise thereof shall be and operate as a conditional limitation.

(b) If any of the events enumerated in paragraph (a) of this Section shall occur prior to the Commencement Date, the Operator shall not be entitled to enter into possession of the premises and the Port Authority, upon the occurrence of any such event or at any time thereafter during the continuance thereof, by twenty-four (24) hours' notice may terminate the interest of the Operator under this Agreement, such termination 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 of any period or periods after a default in any of the terms, covenants and conditions hereof to be performed, kept or observed by the Operator shall be deemed a waiver of any right on the part of the Port Authority to terminate the letting.

(d) No waiver by the Port Authority of any default on the part of the Operator in performance of any of the terms, covenants or conditions hereof to be performed, kept or observed by the Operator shall be or be construed to be a waiver by the Port Authority of any other or subsequent default in performance of any of the said terms, covenants and conditions.

(e) The rights of termination described above shall be in addition to any other rights of termination provided in this 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 Operator, and the exercise by the Port Authority of any right of termination shall be without prejudice to any other such rights and remedies.

**Section 25. Right of Re-entry**

The Port Authority, as an additional remedy upon the giving of a notice of termination as provided in Section 24 hereof, shall have the right to reenter 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 Operator under this Agreement, and shall in no event constitute an acceptance of surrender.

**Section 26. Waiver of Redemption**

The Operator 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 obtained possession of the premises in any lawful manner.

**Section 27. Survival of the Obligations of the Operator**

(a) In the event that this Agreement shall have been terminated in accordance with a notice of termination as provided in Section 24 hereof, or the interest of the Operator terminated 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 25 hereof, all obligations of the Operator under this Agreement shall survive such termination, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of this Agreement, and the amount or amounts of damages or deficiency shall become due and payable to the Port Authority to the same extent, at the same time or times and in the same manner as if no termination, 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 subsequent to termination (or re-entry, regaining or resumption of possession) on account of the Operator's rental and fee obligations, shall be the sum of the following:

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

(2) An amount equal to the sum of the percentage stated in paragraph (b) of Section 3 applied to the gross receipts of the Operator during the balance of the term if there had been no termination (or re-entry, regaining, or resumption or possession); and for the purpose of calculation hereunder (i) the said amount of gross receipts shall be derived by multiplying the number of days in the balance of the term originally fixed by the daily average of the Operator's gross receipts; and (ii) the daily average of the Operator's gross receipts shall be the Operator's total actual gross receipts during which the premises were open and in operation and in which no abatement was in effect divided by the number of days included in such part of the effective period.

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

(4) It is understood and agreed that the statement of damages under the preceding sub-paragraph (2) shall not affect or be construed to affect the Port Authority's right to damages in the event of termination (or re-entry, regaining or resumption of possession) where the Operator has not received any actual gross receipts or fees under this Agreement.

**Section 28. Reletting by the Port Authority**

The Port Authority, upon termination pursuant to Section 24 hereof, or upon any re-entry, regaining or resumption of possession pursuant to Section 25 hereof, may occupy the premises or may relet the premises and shall have the right to permit any person, firm or corporation to enter upon the premises and use the same. Such reletting may be of part only of the premises 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 pursuant to the said Section 24, or upon its re-entry, regaining or resumption of possession pursuant to the said Section 25 have the right to repair or make structural or other changes in the premises, including changes which alter the character of the premises and the suitability thereof from that stated for the purpose of this Agreement, without affecting, altering or diminishing the obligations of the Operator hereunder. In the event either of any reletting or of any actual use and occupancy by the Port Authority (the mere right of the Port Authority to use and occupy not being sufficient however) there shall be credited to the account of the Operator against its survived obligations hereunder and any net amount remaining after deducting from the amount actually received from any Operator, licensee, permittee or other occupier in connection with the use of the said premises or portion thereof during the balance of the letting as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the premises as the Port Authority may during such period actually use and occupy, all expenses, costs and disbursements incurred or paid by the Port Authority in connection therewith. No such reletting shall be or be construed to be an acceptance or surrender.

**Section 29. Remedies to be Non-exclusive**

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

**Section 30. Surrender**

The Operator covenants and agrees to yield and deliver peaceably to the Port Authority possession of the premises on the date of cessation of the letting, whether such cessation be by termination, expiration or otherwise, promptly and in the same condition as on the Commencement Date, reasonable wear arising from use of the premises to the extent permitted elsewhere in this Agreement excepted, and excepting for matters which are the obligation of the Port Authority under this Agreement.

**Section 31. Acceptance of Surrender of Agreement**

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 Operator. Except as expressly provided in this Section, neither the doing of, nor any omission to do, any act or thing, by any of the officers, agents or employees of the Port Authority, shall be deemed an acceptance of a surrender of the letting or of this Agreement.

**Section 32. Effect of Basic Lease**

The Agreement shall, in any event, terminate with the termination or expiration of the Basic Lease with the City of New York which covers the premises. The rights of the Port Authority in the premises are those granted to it by the Basic Lease, and no greater rights are granted or intended to be granted to the Operator than the Port Authority has power thereunder to grant.

**Section 33. Removal of Property**

The Operator, subject to the obligation set forth in this Agreement to supply all equipment and material necessary to the Fixed Base Operation, shall have the right at any time during the term of this Agreement to remove its equipment, inventories, removable fixtures and other personal property from the premises. If the Operator shall fail to remove its property on or before the termination or expiration of this Agreement, the Port Authority may remove such property to a public warehouse for deposit or retain the same in its own possession, and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, second to any sums owed by the Operator to the Port Authority, with any balance remaining to be paid to the Operator; if the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Operator shall pay such excess to the Port Authority upon demand.

**Section 34. Brokerage**

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

**Section 35. Limitation of Rights and Privileges Granted**

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

(b) The premises is let to the Operator and the Operator takes the same subject to all the following: (i) easements, restrictions, reservations, covenants and agreements, if any, to which the premises may be subject, and rights of the public in and to any public street, (ii) rights, if any, of any enterprise, public or private which is engaged in furnishing heating, lighting, power, telegraph, telephone, steam, transportation services and of the City and State of New York; and (iii) permits, licenses,

regulations and restrictions, if any, of the United States, the City or State of New York, or other governmental authority.

(c) The Operator 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 as to its suitability for the operations permitted on the premises by this Agreement. Without limiting any obligation of the Operator to commence operations hereunder at the time and in the manner stated elsewhere in this Agreement, the Operator 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 Operator's operations hereunder so that there is possibility of injury or damage to life or property.

### **Section 36. Notices**

Except where expressly required or permitted herein to be oral, all notices, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the offices of such officer or representative during regular business hours, or forwarded to such person or to the party at such address by certified or registered mail. The Operator shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Operator designates the person executing the Proposal as their officers 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 Operator designates its office listed in the Proposal as their respective offices where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the certified or registered mailing thereof.

### **Section 37. Security Deposit or Letter of Credit**

(a) Upon the execution of this Agreement by the Operator and delivery thereof to the Port Authority, the Operator shall deposit with the Port Authority (and shall keep deposited throughout the term of the letting under this Agreement) either the sum of One Million Dollars and No Cents (\$1,000,000.00) in cash, or bearer bonds of the United States of America, 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 Operator, all of the provisions, terms and conditions of this Agreement on its part to be fulfilled, kept, performed or observed. 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 said deposit or any part thereof in whole or partial satisfaction of any of

its claims or demands against the Operator. 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 Operator. 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 Operator 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 term of this Agreement (or any extension thereof) and upon condition that the Operator shall then be in no wise in default under any part of this Agreement, and upon written request therefor by the Operator, the Port Authority will return the said deposit to the Operator 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 Operator of this Agreement or any part thereof. The Operator agrees that it will not assign or encumber the said deposit. The Operator may collect or receive annually any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts less any part thereof or amount which the Port Authority is or hereafter may be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administration 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. Without limiting the foregoing provisions of this Section, with respect to any bonds deposited by the Operator, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Operator, 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 any claims, equities or rights of redemption of the Operator. The Operator hereby waives any right to participate therein or any right to prior notice or demand of the amount or amounts of the Port Authority's claims or demands against the Operator. The proceeds of any such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to any advertising or commission expenses) and then to the amounts due the Port Authority from the Operator. Any balance remaining shall be retained in cash toward bringing the security deposit to the sum specified above provided that this shall not relieve the Operator from maintaining the deposit in the full amount stated above. For the purposes of the provisions of this Section, the Operator certifies that its I.R.S. Employer Identification Number is 65-0031710.

(b) The Operator 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 Operator 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 hereunder 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 Operator agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in accordance with paragraph (a) of this Section or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof and thereafter the Port Authority will hold the same as security under paragraph (a) of this Section. Failure to provide such a letter of credit at any time during the term of the letting hereunder, 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 Operator. Upon acceptance of such letter of credit by the Port Authority, and upon request by the Operator 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 Section. The Operator shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the term of the letting under this Agreement and fulfillment of the obligations of the Operator hereunder. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Operator on demand of the Port Authority and within two (2) days thereafter, shall bring this letter of credit back up to its full amount.

(c) At any time and from time to time hereafter, should the Port Authority feel insecure with respect to the amount of the security required under subsection (a) or (b) above or pursuant to this subsection (c), the Port Authority shall have the right, in its sole and absolute discretion, to increase such amount upon notice by the Port Authority to the Operator to such effect and within two days thereafter the Operator shall deposit with the Port Authority such additional cash or bonds or such letter of credit to bring the security under this Section up to the full amount stated by the Port Authority in said notice.

### **Section 38. Place of Payments**

All payments required of the Operator by this Agreement shall be made at the office of the Treasurer of the Port Authority of New York and New Jersey, P. O. Box 95000-1517, Philadelphia, Pennsylvania 19195-1517 or to such other office or address as may substituted therefor.

### **Section 39. Construction and Application of Terms**

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

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

**Section 40. Non-liability of Individuals**

No Commissioner, director, officer, agent or employee of the Port Authority shall be charged personally or held contractually liable by or to the Operator under any term or provision of this Agreement or of any supplement, or amendment to this Agreement or because of any breach or alleged breach thereof, or because of its or their execution or attempted execution or otherwise.

**Section 41. Services to the Operator**

(a) (1) Except as provided in subparagraph (2) hereof, the Port Authority shall sell, furnish and supply to the Operator in reasonable quantities for use on the premises and the Operator agrees to take from the Port Authority and pay for electricity of the same voltage, phase and cycle as supplied to the premises by the public utility company in the vicinity, at the same charge which would be made by such public utility for the same quantity, used under the same conditions and in the same service classification but in no event less than an amount which would reimburse the Port Authority for its costs of obtaining and supplying electricity to the Operator hereunder; charges shall be payable by the Operator and the quantity of electricity consumed shall be measured by the meter or meters installed for the purpose; provided, however, that if for any reason, any meter or meters fail to record the consumption of electricity, the consumption during the period such meter or meters are out of service will be considered to be the same as the consumption for a like period either immediately before or after the interruption, as elected by the Port Authority. The Port Authority shall install the appropriate meters. The Port Authority shall not discontinue the supply of electricity except upon fifteen (15) days' notice to the Operator or unless a supply of electricity of the same voltage, phase and cycle shall be available from another supplier, and upon any such discontinuance the Operator shall be at liberty to contract or otherwise arrange for the supply of such current after the expiration of said fifteen (15) days from any other person, firm or corporation.

(2) The Port Authority shall, without additional charge, furnish to the Operator for use in Areas A and B electricity, in reasonable quantities of the same voltage, phase and cycle as supplied to the premises by the public utility company in the vicinity, through existing wires, conduits and outlets, if any, for illumination by which is meant the energizing of incandescent and fluorescent bulbs (to be supplied by the Operator) and for the operation of the following items only: office fans, clocks, time stamps, typewriters, calculators, dictaphones, mimeograph or ditto duplicators, one TV and water coolers.

(b) The Port Authority agrees to sell, furnish and supply to the Operator for use on the premises cold water (of the character furnished by the City of New York) in reasonable quantities through existing pipes, mains and fittings and the Operator agrees to take such water from the Port Authority and to pay to the Port Authority therefor an amount equal to that which would be charged by the municipality or other supplier of the same (whether or not representing a charge for water or other services measured by water consumption) for the same quantity, used under the same conditions and in the same service classification plus the cost to the Port Authority of supplying such water which shall not be less than ten percent (10%) nor in excess of fifty percent (50%) of the amount charged but in no event less than an amount which would reimburse the Port Authority for its costs of obtaining and supplying water to the Operator hereunder. The charge therefor shall be payable by the Operator when billed and the quantity of water consumed shall be measured by the meter or meters installed for the purpose by the Port Authority; provided, however, that if for any reason, any meter or meters fail to record the consumption of water, the consumption during the period such meter or meters are out of service will be considered to be the same as the consumption for a like period immediately before or after the interruption, as elected by the Port Authority. In the event meters are not installed to measure the consumption of water under high pressure, the quantity of such water used by the Operator will be based upon equitable estimates of consumption, which estimates shall be deemed binding on the Operator.

(c) The Port Authority shall, without additional charge, furnish to the Operator for heating purposes in the enclosed portions of Areas A and B hot water, in such quantities as are required to maintain a reasonably even and comfortable working temperature therein during the months of November, December, January, February, March and April with the present heating equipment installed on the premises in good repair and working condition and limited to the safe and efficient operating capacity of the present heating equipment. The hot water shall be delivered to the Operator through existing pipes, mains and conduits connecting the boiler room with heaters and radiators (if any) located in said Areas. The Port Authority shall have the right to discontinue operation of the boiler room and the heating equipment therein for such periods as are reasonably necessary for maintenance, repairs, and replacements.

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

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

(f) The Port Authority shall not be obligated to perform or furnish any other services whatsoever in connection with the premises or any services at any time while the Operator shall be in default hereunder after the period, if any, herein granted to cure such default shall have expired.

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

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

**Section 42. Collection of Port Authority Fees and Charges**

(a) The Port Authority hereby designates the Operator as the Port Authority's special agent for the purpose of collecting the Public Landing Area, Public Ramp and Apron Area, and Public Aircraft Parking and Storage Area fees and such other fees and charges as set forth from time to time in the Port Authority Schedule of Air Terminal Charges (such fees and charges being hereinafter called the "user's charges") from the operators of Chargeable Aircraft (as hereinafter defined) using the Airport.

(b) For the purposes hereof the term "Chargeable Aircraft" shall mean all aircraft using the Public Landing Area, Public Ramp and Apron Area, or Public Aircraft Parking and Storage Area at the Airport other than aircraft of aircraft operators having a separate agreement with or permit from the Port Authority for the payment of the Public Landing Area charge and aircraft of aircraft operators for which no Public Landing Area charge shall be made as provided in the Port Authority schedule of Air Terminal Charges for the Airport.

(c) The Operator as special agent for the Port Authority hereby agrees to collect from the operators of Chargeable Aircraft using the Public Landing Area, Public Ramp and Apron Area and any Public Aircraft Parking and Storage Area and other user's charges and fees which are in effect from time to time.

(d) The Schedule of Air Terminal Charges showing the current user's charges in effect as of the Date of the Proposal for the use of the Public Landing Area, Public Ramp and Apron Area and Public Aircraft Parking and Storage Areas at the Airport is attached hereto and hereby made a part hereof and designated "Exhibit Z-2". The Port Authority hereby reserves the sole and unrestricted right from time to time and as often as it considers it necessary or advisable, to amend or rescind any item contained in such Schedule of Air Terminal Charges, to make increases or decreases therein, and to add additional items thereto. The said Schedule of Air Terminal Charges and changes therein or amendments thereof shall be binding upon the Operator and shall be and become the charges hereunder.

(e) In rendering bills or statements of charges to the operators of Chargeable Aircraft the Operator, if required by the Port Authority, shall use the form of invoice prescribed by the Port Authority from time to time which invoice, among other things, shall separately set forth under appropriate headings, the user's charges for the use of the Public Landing Area, Public Ramp and Apron Area and the Public Aircraft Parking and Storage Areas.

(f) The user's charges to operators of Chargeable Aircraft shall be strictly in accordance with the applicable provision of the Schedule of Air Terminal Charges of the Port Authority in effect at the time of the use of the Airport. The Operator shall post prominently and thereafter maintain in legible condition copies of the Schedule of Air Terminal Charges, with any and all amendments made thereto, in or immediately outside of the Operator's Pilot's Lounge at the premises and such other location or locations at the Airport as may be specified by the Manager of the Airport from time to time.

(g) Notwithstanding the provisions of the Schedule of Air Terminal Charges and anything contained herein the Port Authority, in its sole discretion, may waive the Public Landing Area, Public Ramp and Apron Area and/or Public Aircraft Parking and Storage Area charges for particular aircraft or particular aircraft operators and in any such instance upon written notice from the Port Authority to such effect the Operator shall not be responsible for and shall not enforce collection of the user's charges set forth in the Schedule of Air Terminal Charges which have been so waived nor shall the Operator's compensation set forth in paragraph (j) hereof be applicable to such waived user's charges.

(h) For and during all such time that the Operator continues as special agent of the Port Authority for the collection of the user's charges as aforesaid and for one year after the termination of such special agency and for a further period extending until the Operator shall receive written permission from the Port Authority to do otherwise, the Operator shall, in addition to the books, records and accounts which the Operator is required to keep and maintain under Section 4 of this Agreement, maintain books, records and accounts so as to adequately and accurately record all arrivals and

departures of Chargeable Aircraft at the Airport and such other aircraft as the Port Authority may designate, and the times and dates of said arrivals and departures, type of aircraft (in sufficient detail to determine the maximum gross weight for take-off thereof including but not limited to the aircraft nomenclature as set forth in the periodical, "Aviation Week and Space Technology") and the user's charges incurred by all operators of Chargeable Aircraft during their stay at the Airport and such additional information as the Port Authority may from time to time designate. All such books, records and accounts shall be subject to examination, inspection and audit by the officers, employees and representatives of the Port Authority in such manner and at such time as provided in Section 4(d) of this Agreement.

(i) On the 20<sup>th</sup> day of the month following the month in which the Commencement Date falls and on the 20<sup>th</sup> day of each and every succeeding month thereafter during the term of this Agreement and the month following the month in which the date of expiration or termination of this Agreement falls the Operator shall furnish to the Port Authority a statement by a responsible fiscal officer of the Operator covering its operations under this Section 42 for the preceding calendar month, which statement shall set forth such information as the Port Authority may require with respect to the use of the Public Landing Area, Public Ramp and Apron Area and any Public Aircraft Parking and Storage Area by Chargeable Aircraft at the Airport. The Operator shall furnish such information as the Port Authority may request on the form or forms as may be supplied by the Port Authority from time to time. The statement required to be provided by the Operator hereunder shall be submitted by the Operator together with the report required pursuant to Section 4(f) of this Agreement.

(j) The Operator, for performing its obligations under this Section 42 and otherwise under this Agreement, shall be entitled to the following compensation:

(1) 91% of the Public Ramp and Apron Area and Public Aircraft Parking and Storage Area charges the Operator actually collects hereunder; and

(2) \$12.00 for each Public Landing Area charge or portion thereof the Operator actually collects hereunder for the period from the Commencement Date through the day preceding the second anniversary of the Commencement Date; at the rate of \$13.00 for each Public Landing Area charge or portion thereof the Operator actually collects hereunder for the period from the second anniversary of the Commencement Date through the day preceding the balance of the initial term of the Agreement; at the rate of \$14.00 for each Public Landing Area charge or portion thereof the Operator actually collects hereunder for the first option period, if any; at the rate of \$15.00 for each Public Landing Area charge or portion thereof the Operator actually collects hereunder for the section option period, if any; at the rate of \$16.50 for each Public Landing Area

charge or portion thereof the Operator actually collects hereunder for the third option period, if any.

(k) On or before the 20<sup>th</sup> day of each month the Operator shall pay to the Port

Authority a full remittance of all user's charges for the preceding calendar month less deduction of the compensation provided in subparagraphs (1) and (2) of paragraph (j) above.

(1) For the purposes hereof all user's charges provided for in paragraph (a) of this Section 42 shall be deemed to have been collected by the Operator when the same have been incurred by the operators of Chargeable Aircraft using the Airport whether or not the same have been collected by the Operator. Under no circumstances (except where specifically requested in writing by the Port Authority as hereinbefore set forth) shall the Operator waive any of the user's charges the collection of which are provided for in paragraph (c) hereof. The Operator shall be solely responsible for all uncollected user's charges.

(m) The Port Authority shall have the right at any time and from time to time during the term of this Agreement to suspend the right of the Operator under this Section to collect user's charges and during the period of the suspension the Operator shall not perform the collection of user's charges hereunder and the Port Authority shall have the right during said period to itself or by any third person or persons selected by it to perform the obligation of the Operator hereunder using such equipment which is used by the Operator in its operations hereunder as the Port Authority deems necessary, and without cost to the Port Authority. The compensation entitlement of the Operator set forth in paragraph (j) of this Section 42 shall be abated only with respect to item (2) thereof regarding the Public Landing Area charge during any period of suspension hereunder. Prior to the exercise of such right by the Port Authority, it shall give the Operator notice thereof, which notice may be oral. No exercise by the Port Authority of the rights granted to it by this paragraph (m) shall be or deemed to be a waiver of termination contained in this Agreement or a waiver of termination contained in this Agreement or a waiver of any other rights or remedies which may be available to the Port Authority under this Agreement or otherwise.

(n) The Operator shall use all means reasonably available to it for the determination of what Chargeable Aircraft use the Public Landing Area, the Public Ramp and Apron Area and the Public Aircraft Parking and Storage Area at the Airport. Without limiting the Operator's obligation and responsibility for the collection of the charges hereunder the Operator shall monitor for the purpose of determining at what time or times Chargeable Aircraft use the aforesaid facilities and the duration of such use, the following radio frequencies: 121.7 megacycles (Ground Control), 118.7 megacycles (Tower Control) and such other radio frequencies as directed by the Port Authority from time to time and shall comply with the procedures as may be established from time to

time by the Manager of the Airport in connection with monitoring and determining such times. The determination of the user's charges for Chargeable Aircraft shall be based upon all available data including, but not limited to, the Federal Aviation Administration control tower activity logs and information derived therefrom.

**Section 43. THERE IS NO SECTION 43**

**Section 44. Consolidated Passenger Service Counter**

(a) Without limiting the generality of any other term or provision of this Agreement and subject to all the terms and provisions of this Agreement, including but not limited to Section 15, if and when required by the Manager of the Airport, the Operator shall sell, operate and conduct a consolidated passenger service counter for scheduled commuter aircraft operators, air taxi aircraft operators and charter aircraft operators certified by the Federal Aviation Administration and offering regular service at the Airport (hereinafter in this Section 44 called the "Section 44 aircraft operators") for the following purposes:

(i) For the reservation of space and the sale of tickets for transportation on aircraft of the Section 44 aircraft operators; and

(ii) For the handling of the baggage, including unclaimed baggage and lost-and-found articles of passengers of the Section 44 aircraft operators; and

(iii) For the conduct of operations, communication, reservation, information and administrative functions in connection with the foregoing.

(b) The Operator shall utilize the portion of Area A as shown in diagonal hatching on Exhibit A, or so much of said space as is necessary to meet the demand thereof, for the operation of the consolidated passenger service counter hereunder.

(c) The foregoing activities of the Operator for the Section 44 aircraft operators shall be performed by the Operator on their behalf or, upon request of a Section 44 aircraft operator, by means of a Section 44 aircraft operator's own employees. Upon request by a Section 44 aircraft operator to perform the aforesaid functions with its own employees the Operator shall allocate, assign and schedule the use of space at the service counter by such employees, provide general supervision over the use of such space by such employees, and perform the maintenance, cleaning and other obligations imposed on the Operator by the terms of this Agreement arising from the use of the ticket counter by such employees. The Operator shall staff and operate the consolidated passenger service counter hereunder during such hours of the day and such days of the week as may properly serve the needs of the Section 44 aircraft operators. The Port Authority's determination of proper business hours, days and staffing hereunder shall control.

**Section 45. Personnel**

The Operator shall furnish sufficient trained personnel to perform the services required of the Operator under this Agreement. If any of such personnel do not perform the services to be furnished hereunder in a manner satisfactory to the Port Authority, the Operator shall remove any such personnel and replace them with personnel who can and shall perform satisfactorily.

The Operator shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Airport which interfere or are likely to interfere with the operation of the Airport by the Port Authority or with the operations of lessees, permittees, licensees or other users of the Airport or with operations of the Operator under this Agreement.

The Operator shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Operator shall use its best efforts to resolve any such complaint, trouble, dispute or controversy.

If any type of strike, boycott, picketing, work stoppage, slowdown or other labor activity is directed against the Operator at the Airport or against any operations of the Operator under this Agreement, whether or not the same is due to the fault of the Operator and whether or not caused by the employees of the Operator, and if any of the foregoing, in the opinion of the Port Authority, results or is likely to result in any curtailment or diminution of the services to be performed hereunder or to interfere with or affect the operations of Operators, permittees, licensees or other users of the Airport, or if as a result of any other cessation or stoppage of operations by the Operator hereunder for any reason whatsoever, or in the event of the Operator's non-compliance with Section 51 hereof, the Port Authority shall have the right at any time during the continuance thereof to suspend the operations of the Operator under this Agreement, and during the period of the suspension the Operator shall not perform the Fixed Base Operation or any other operations hereunder and the Port Authority shall have the right during said period to itself or by any third person or persons selected by it to perform the Fixed Base Operation and all other operations hereunder. The period of suspension shall end not more than twenty-four (24) hours after the cause thereof has ceased or been cured. The Operator shall notify the Port Authority of such cessation or cure.

Prior to the exercise of such right by the Port Authority, it shall give the Operator notice thereof, which notice may be oral. No exercise by the Port Authority of the rights granted to it in this Section 45 or in Section 49 shall be or be deemed to be a waiver of any rights of termination contained in this Agreement or a waiver of any rights or remedies which may be available to the Port Authority under this Agreement or otherwise.

From time to time upon request therefor the Operator shall furnish to the Port Authority information showing the number of persons employed by the Operator at the Airport, the scheduling of such employees and such other information as the Port Authority may require.

**Section 46. Additional Port Authority Right of Termination**

Notwithstanding any other term or provision of this Agreement, and in addition to any other right of termination hereunder, this Agreement may be terminated by the Port Authority at any time and without cause on thirty (30) days' prior written notice to the Operator. In the event of termination pursuant to this Section, this Agreement shall cease and expire as if the effective date of termination stated in the notice were the date originally stated herein for the expiration thereof.

**Section 47. Accident Reports**

The Operator shall promptly report in writing to the Manager of the Airport, and to the Claims Attorney of the Port Authority, and shall make all other reports as may be required by law, rule or regulation in connection with all accidents whatsoever arising out of or in connection with its operations hereunder. In addition to the foregoing, accidents which result in death, personal injury or serious damage shall be immediately reported by telephone to the aforesaid representatives of the Port Authority.

In the event any claim is made by any person against the Operator arising out of any accident on the premises or the Public Aircraft Parking and Storage Areas or the Public Ramp and Apron Area as a result of the Operator's operations hereunder, the Operator shall promptly report such claim in writing to the aforementioned representatives of the Port Authority. In addition, the Operator shall promptly furnish to the Port Authority copies of all reports given to the Operator's insurance carrier.

**Section 48. Operator's Representations**

The Operator represents and warrants that it is financially solvent and experienced in and competent to perform the type of work required hereunder; that the facts stated or shown in the papers accompanying its Proposal are true, and, if the Operator be a corporation, that it is authorized to do the type of work required hereunder and is qualified to do business in the State of New York, that it is familiar with all applicable federal, state, municipal and local laws, ordinances and regulations, if any, which may in any way affect the services to be rendered by the Operator hereunder; that it has carefully examined and studied the attached exhibits and schedules, all terms and provisions of this Agreement; that it is familiar with the Airport and the nature of the work, the general and local conditions prevailing including without limitation thereto, the labor conditions, and with all other pertinent matters and circumstances, which may in any way affect the performance of the work; that no Commissioner, officer, agent or

employee of the Port Authority is personally interested, directly or indirectly in this Agreement or the compensation to be paid thereunder; and that no representation, statement, or promise, oral or in writing of the Port Authority, its Commissioners, officers, agents or employees, has induced it to enter into this Agreement except only those that may be contained herein.

**Section 49. Facilities Non-Discrimination**

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

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

(c) The Operator's noncompliance with the provisions of this Section shall constitute a material breach of this Agreement. In the event of the breach by the Operator of any of the above non-discrimination provisions, the Port Authority may take any appropriate action to enforce compliance or by giving twenty-four (24) hours' notice, may terminate this Agreement; or may pursue such other remedies as may be provided by law; and as to any or all of the foregoing, the Port Authority may take such action as the United States may direct.

(d) The Operator shall indemnify and hold harmless the Port Authority from any claims and demands of third persons including the United States of America resulting from the Operator's noncompliance with any of the provisions of this Section

and the Operator shall reimburse the Port Authority for any loss or expense incurred by reason of such noncompliance.

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

**Section 50. Affirmative Action; DBE Requirements; Labor Force Utilization**

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

(b) Without limiting any other provision of this Agreement, the Operator shall conform to the requirements set forth in Schedule E attached hereto and hereby made a part of and make a good faith effort to meet the goal indicated therein.

(c) The Operator will be expected to make good faith efforts to achieve a supervisory and non-supervisory work force in connection with its operations at the Airport under this Agreement that is representative of the local community labor force with respect to minority and female participation and to work with the Port Authority's Office of Business and Job Opportunity and the Manager of the Airport to identify referral sources when needed. The Operator also will be expected to fully utilize apprentices or other training positions as appropriate.

**Section 51. Non-Discrimination**

During the performance of this Agreement, the Operator agrees as follows:

(a) The Operator will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. The Operator will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for

training, including apprenticeship. The Operator agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(b) The Operator will, in all solicitations or advertisements for employees placed by or on behalf of the Operator, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin.

(c) The Operator will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or worker's representative of the Operator's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Operator will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Operator will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor pursuant thereto, and will permit access to such official's books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(f) In the event of the Operator's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this Agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Operator will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Operator will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the Operator becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Operator may request the United States to enter into such litigation to protect the interests of the United States.

The foregoing shall not be deemed to constitute Port Authority consent to any such subcontract.

**Section 52. Maintenance of Fueling Trucks and Other Automotive Equipment**

(a) Without limiting the generality of any other term or provision hereof, the Operator understands and acknowledges that the Operator's fueling trucks and other automotive equipment used by the Operator in providing the Fixed Base Operation and each and every part thereof shall at all times be kept by the Operator in first-class condition to and in the highest standard of maintenance, repair, and cleanliness.

(b) The Operator understands and agrees that notwithstanding anything in Section 5 hereof or elsewhere in this Agreement to the contrary, no washing, maintenance or repair of vehicles, equipment or other personal property shall take place within the premises.

**Section 53. Fueling Trucks**

Without limiting the generality of any other term or provision hereof the Operator understands and agrees that the Operator shall supply, furnish and maintain, throughout the term of this Agreement, such equipment, furnishings and supplies, including, but not limited to, a sufficient number of fueling trucks meeting the specifications contained in the Port Authority Rules and Regulations including, but not limited to, Addendum 1 thereof entitled "Ground Vehicle Specifications" (Introduction and Chapters I and IV) as the same may be supplemented and amended from time to time, as are necessary for the operation of the Fueling Service as set forth in paragraph (e) of Sections 6.

**Section 54. Radio Communications - UNICOM**

(a) Without limiting the generality of any other term of provision hereof and in addition to the obligations of the Operator to monitor airport air traffic control frequencies and the provisions of the Airport Rules and Regulations concerning the operation of ground vehicles on aeronautical areas of the Airport, the Operator agrees that all the ramp service vehicles the Operator shall operate on the Public Landing Area, Public Ramp and Apron Area and Public Aircraft Parking and Storage Areas (1) shall be equipped with a functioning two-way radio tuned to appropriate Airport ground control frequencies and (2) shall be equipped with a functioning two-way radio tuned to the Operator's Airport UNICOM radio service or Operator's discreet company radio frequency, if any, and that all such vehicles when operating in said areas shall continuously monitor such frequencies for the purpose of receiving information and responding to requests and directions.

(b) In order to receive requests from and for transmitting advisories to aircraft operators requesting the same, the Operator shall at its sole cost and expense, man, operate and provide Airport UNICOM radio services for the Airport. The Operator shall apply for and shall secure from the Federal Aviation Administration and/or Federal Communications Commission and shall maintain throughout the term of this Agreement all appropriate licenses and authority for the operation of the Airport UNICOM radio service hereunder and shall provide all radio equipment necessary or desirable in connection with the operation thereof.

(c) From time to time, and at any time, upon request therefor by the Port Authority, the Operator shall turn over operation of the Airport Unicom radio service (including the Operator's radio equipment used in providing the same if so requested) to the Port Authority and the Port Authority shall operate the Airport UNICOM radio services hereunder during such periods.

#### **Section 55. Definitions**

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

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

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

(c) "Agreement" shall mean this Agreement.

(d) "Letting" shall mean the letting under this Agreement for the original term stated herein, and shall include any extension hereof.

(e) "Premises" shall mean and include the land, the buildings, structures and other improvements located or to be located or to be constructed therein or thereon, the equipment permanently affixed or permanently located therein, such as electrical, plumbing, sprinkler fire protection and fire alarm, heating, steam, sewage, drainage, refrigerating, communications, gas and other systems, and their pipes, wires, mains, lines, tubes, conduits, equipment and fixtures, and all paving, drains, culverts, ditches and catch-basins.

(f) "Public Landing Area" shall mean the area of the Airport designated and made available from time to time by the Port Authority for the landing and taking off of aircraft.

(g) "Public Ramp and Apron Area" shall mean the area of the Airport adjacent to the Public Landing Area designated and made available from time to time by the Port Authority for common use for the loading or unloading of passengers or cargo to or from aircraft using the Public Landing Area.

(h) "Public Aircraft Parking and Storage Area" shall mean the area of the Airport designated and made available from time to time by the Port Authority for the parking of aircraft.

(I) "Runways" (including approaches thereto) shall mean the portion of the airport used for the purpose of the landing and taking-off of aircraft.

(j) "Scheduled Aircraft Operator" shall mean a Civil Aircraft Operator engaged in transportation by aircraft operated wholly or in part on regular flights to and from the Airport in accordance with published schedules; but so long as the Federal Aviation Act of 1958, or any similar federal statute providing for the issuance of Foreign Air Carrier Permits or Certificates of Public Convenience and Necessity or substantially similar permits or certificates, is in effect, no person shall be deemed to be a Scheduled Aircraft Operator within the meaning of this Agreement unless he also holds such a permit or certificate.

(k) "Taxiways" shall mean the portion of the Airport used for the purpose of the ground movement of aircraft to, from and between the Runways, the Public Ramp and Apron Area, the Public Aircraft Parking and Storage Area and other portions of the Airport (not including, however, any taxiways, the exclusive use of which is granted to any person by lease, permit or otherwise.)

(l) "Governmental Authority", "Governmental Board", "Governmental Agency" shall mean federal, state, municipal and other governmental authorities, boards and agencies of any state, nation or government, except that it shall not be construed to include the Port Authority of New York and New Jersey, the lessor under this Agreement.

(m) "Subsidiary" shall mean any corporation or company in which the Operator owns sixty percent (60%) or more of the total outstanding voting stock (other than treasury stock).

(n) "Aircraft Operator" shall mean (a) a Person owning one or more aircraft which are not leased or chartered to any other person for operation, and (b) a Person to whom one or more aircraft are leased or chartered for operation – whether the aircraft so owned, leased or chartered are military or non-military, or are used for private

business, pleasure or governmental business, or for carrier or non-carrier operations, or for scheduled or nonscheduled operations or otherwise. Said phrase shall not mean the pilot of an aircraft unless he is also the owner or Operator thereof or a Person to whom it is chartered.

(o) "Civil Aircraft Operator" shall mean a Person engaged in civil transportation by aircraft or otherwise operating aircraft for civilian purposes, whether governmental or private. If any such Person is also engaged in the operation of aircraft for military, naval or air force purposes, such Person shall be deemed to be a Civil Aircraft Operator only to the extent that such Person engages in the operation of aircraft for civilian purposes.

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

(q) The terms "general aviation", "air taxi", "itinerant" and "scheduled commuter" as used to described aircraft or aircraft operators shall have the meaning ascribed by the Federal Aviation Regulations or, if there be none, common usage in the aviation industry.

#### **Section 56. Quiet Enjoyment**

The Port Authority covenants and agrees that as long as it remains the Operator of the Airport, the Operator, 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 peacefully and quietly have and enjoy the premises free of any act or acts of the Port Authority except as expressly agreed upon in this Agreement.

#### **Section 57. Entire Agreement**

This Agreement consists of the following: Sections 1 through 59 inclusive, and Exhibits A, B, C, Y, Z-1 and Z-2 and Schedules E and F and the Contract of Guaranty. It constitutes the entire agreement of the parties on the subject matter hereof and may not be changes, modified, discharged or extended except by written instrument duly executed by the Port Authority and the Operator. The Operator agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the 24<sup>th</sup> day of June, 2004.

ATTEST:

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

*Linda C. Hensel*  
Asst. Secretary

By: *[Signature]*  
(Title) Chief Operating Officer

ATTEST:

FORT LAUDERDALE JET CENTER, LLC

*[Signature]*  
Secretary

By: *Geoffrey M. Holland, Sr.*  
(Title) President  
(Corporate Seal)

APPROVED	
Form <i>[Signature]</i>	Terms <i>[Signature]</i>

*[Signature]*

Fixed Base Operations Lease No. AGA-658  
June 9, 2004

EX. 4

EXHIBIT A

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EX. 4

Exhibit B

EX. 4

EXHIBIT C

AGREEMENT, dated as of November 15, 1972, by and among LA GUARDIA FUEL FACILITIES CORPORATION ("Facilities Corporation"), as Sublessor, ALLIED AVIATION SERVICE COMPANY OF NEW YORK, INC. ("Allied"), and AMERICAN AIRLINES, INC., DELTA AIR LINES, INC., EASTERN AIR LINES, INC., TRANS WORLD AIRLINES, INC., and UNITED AIR LINES, INC. (all of which airlines are herein collectively called "Original Contracting Airlines"), and ALLEGHENY AIRLINES, INC., BRANIFF AIRWAYS, INCORPORATED, NATIONAL AIRLINES, INC., NORTH CENTRAL AIRLINES, INC., NORTHWEST AIRLINES, INC., OZARK AIR LINES, INC., PIEDMONT AVIATION, INC., SOUTHERN AIRWAYS, INC., and SHELL OIL COMPANY (all of which are herein collectively called the "Additional Contracting Airlines") (the Original Contracting Airlines and the Additional Contracting Airlines are herein collectively called "The Contracting Airlines"), as Sublessee:

WITNESSETH:

1. Prior to the execution of this agreement ("Facilities Agreement"), the Original Contracting Airlines have entered into an Agreement of Lease with The Port Authority of New York and New Jersey ("Port Authority"), the operator of LaGuardia Airport ("Airport"), pursuant to which the Port Authority has leased to the Original Contracting Airlines certain premises at the Airport ("demised premises") and pursuant to which the Original Contracting Airlines have the right and obligation to construct and install facilities at the Airport for the receipt, storage and dispensing of aviation fuel ("Original Facilities"), subject to the payments and obligations specified in such Agreement of Lease, a copy of which is annexed hereto as Exhibit A (which Agreement of Lease, as the same may be amended, is herein called the "Site Lease").

2. Concurrently with the execution of the Facilities Agreement, the Original Contracting Airlines and Facilities Corporation have entered into an agreement pursuant to which the Original Contracting Airlines have assigned the Site Lease to Facilities Corporation, and Facilities Corporation has agreed to assume all the obligations thereunder of the Original Contracting Airlines, which agreement has been consented to by the Port Authority, a copy of which is annexed hereto

PART OF EXHIBIT Y

as Exhibit B1 (which agreement, as the same may be amended, is herein called "Assignment and Assumption Agreement"); and the Port Authority, Facilities Corporation, Allied and The Contracting Airlines have entered into an agreement pursuant to which the Port Authority has consented to the Facilities Agreement, subject to the terms and conditions specified therein, a copy of which is annexed hereto as Exhibit B2.

3. Concurrently with the execution of the Facilities Agreement, Allied has entered into agreements, identical in form, with the Suppliers (as defined herein) for the receipt at the Original Facilities of aviation fuel and the delivery thereof to that part of the Original Facilities known as the truck loading island, a copy of which is annexed hereto as Exhibit C (which form of agreement, as the same may be amended, is herein called the "Fuel Storage Service Agreement").

4. Concurrently with the execution of the Facilities Agreement, Facilities Corporation has entered into agreements for the construction and installation of the Original Facilities, subject to the payments and obligations specified therein (which agreements, as the same may be amended, are herein called the "Fuel Storage Construction Contract").

5. Concurrently with the execution of the Facilities Agreement, Facilities Corporation has entered into an agreement with Buckeye Pipe Line Company ("BPL") for the construction of the Original Pipeline (as defined herein), subject to the payments and obligations specified therein (which agreement, as the same may be amended, is herein called the "Pipeline Construction Contract").

6. Concurrently with the execution of the Facilities Agreement, Facilities Corporation has leased the Pipeline (as defined herein) to Allied, and, in turn, Allied has entered into an agreement with BPL for the sublease and operation of the Pipeline, as a common carrier pipeline, pursuant to the terms and conditions set forth therein, a copy of which, together with copies of the consent of Facilities Corporation to the subleasing by Allied to BPL and the consent of the Port Authority to such agreement, is annexed hereto as Exhibit D (which agreement with any "Pipeline Operator" [as defined herein], as the same may be amended, is herein called the "Pipeline Operating Agreement").

7. Facilities Corporation has entered into the Assignment and Assumption Agreement, the Pipeline Construction Contract, and the Fuel Storage Construction Contract, and Allied has entered into the Fuel Storage Service Agreement and the Pipeline Operating Agree-

ment, after consultation with The Contracting Airlines and with their full knowledge and consent.

8. The Contracting Airlines have entered into the Facilities Agreement to induce Facilities Corporation to pay the Cost of Construction (as defined herein) of the Original Facilities and of the Original Pipeline and to induce Facilities Corporation and Allied to enter into the agreements referred to in the preceding paragraph 7, and The Contracting Airlines have entered into the Facilities Agreement in consideration of Facilities Corporation and Allied so doing.

It Is AGREED:

## ARTICLE 1

### *Definitions*

The following terms shall have the respective meanings given below when used in the Facilities Agreement, unless the context clearly indicates a different meaning:

101. The term the "Facilities Agreement" shall mean this Agreement, and if the same be amended, this Agreement as so amended.

102. The term "The Contracting Airlines" shall mean all air carriers which, on the date in question, are parties to the Facilities Agreement, and the term shall also include the Fixed Base Operator (as defined in paragraph 126), if it is a party on the date in question, and the term "Contracting Airline" shall mean any one of The Contracting Airlines which is a party to this Facilities Agreement on the date in question.

103. The term "majority of The Contracting Airlines" shall mean at least a numerical majority of The Contracting Airlines, which majority must also have had not less than 75% of the total gallonage (as defined in paragraph 121) of all The Contracting Airlines for the 6 months immediately preceding the month in which the date in question occurs.

104. The term "aviation fuel" shall mean aviation turbine fuel and any other fuel now or hereafter used in the propulsion of aircraft.

105. (a) The term "Facilities" shall mean the Original Facilities together with the Additional Facilities.

(b) The term "Original Facilities" shall mean the fuel storage tanks, pipelines, and related facilities to be constructed by Facilities Corporation pursuant to paragraph 201 of this Facilities Agreement.

(c) The term "Additional Facilities" shall mean any replacements of, and additions or extensions to, the Original Facilities, of the type similar to the Original Facilities or to parts thereof.

106. (a) The term "Pipeline" shall mean the Original Pipeline together with any Pipeline Additions.

(b) The term "Original Pipeline" shall mean the pipeline constructed pursuant to the Pipeline Construction Contract from the boundary line of the Long Island City Terminal of BPL to the connecting point of the Pipeline Receiving Station.

(c) The term "Pipeline Additions" shall mean any replacements of, and additions or extensions to, the Original Pipeline of the type similar to the Original Pipeline or to parts thereof.

(d) The term "Pipeline Receiving Station" shall mean that portion of the Original Facilities designated or described as such on the plans for the Original Facilities.

107. The term "Pipeline Franchise", or the term "Rights-of-Way Documents", shall mean the New York City franchise, licenses, leases and rights-of-way, and any other legal documents required for the construction, operation and maintenance of the Pipeline.

108. The term "Pipeline Operator" shall mean BPL or such other person or corporation which, pursuant to paragraph 303 and paragraph 802, is a party to the Pipeline Operating Agreement.

109. The term "Supplier" shall mean any person, firm or corporation which, on the date in question, has a contract with any of The Contracting Airlines for the supply of aviation fuel.

110. The term "effective date" shall mean the date hereof.

111. (a) The term "Site Lease commencement date" shall mean the date on which the term of the Site Lease begins.

(b) The term "Site Lease expiration date" shall mean the date on which the term of the Site Lease expires.

(c) The term "Site Lease completion date" shall have the same meaning as the term "Completion Date", as defined in subparagraph (1) of paragraph (f) of Section 2 of the Site Lease.

112. The term "operation commencement date" shall mean the first day on which the Original Facilities are put into use dispensing aviation fuel delivered to the Airport through the Pipeline.

113. The term "amortization commencement date" shall mean the earlier of the following dates: (i) the first day of the second month following the month in which the Site Lease completion date occurs, or (ii) December 31, 1974.

114. The term "purchase agreement" shall mean the agreement or agreements, which is or are in effect on the date in question, pursuant to which Facilities Corporation has obtained any part of the Cost of the Original Facilities or the Cost of any Additional Facility, or any part of the Cost of the Original Pipeline or the Cost of any Pipeline Addition.

115. The term "purchasers" shall mean the persons, firms or corporations with whom Facilities Corporation shall have entered into the purchase agreement.

116. (a) The term "Cost of the Original Facilities", or the "Cost of the Original Pipeline", as the case may be, (i) after the last day of the month in which the Certificate of Established Cost of the Original Facilities, or the Certificate of Established Cost of the Original Pipeline, as the case may be, is executed as provided in paragraph 204 of this Facilities Agreement, shall mean the amount set forth in said Certificate, and (ii) prior to the last day of the month in which said Certificate is so executed, shall mean the greater of (1) an amount equal to all costs and expenses incurred by Facilities Corporation prior to the date in question includible under subparagraphs (a) and (b) of paragraph 117 as part of the Cost of Construction of the Original Facilities, or the Cost of Construction of the Original Pipeline, as the case may be, less the amount, if any, referred to in subparagraph (c) of paragraph 117 received by Facilities Corporation prior to the date in question or (2) the amount obtained by Facilities Corporation from the purchasers pursuant to the purchase agreement with respect to the Original Facilities, or the Original Pipeline, as the case may be.

(b) The term "Cost of the Additional Facility" with respect to each respective Additional Facility, or "Cost of the Pipeline Addition", with respect to each respective Pipeline Addition, (i) after the last day of the month in which the Certificate of Established Cost of the Additional Facilities or Certificate of Established Cost of the Pipeline Additions, with respect thereto, is executed as provided in paragraph 204 of this Facilities Agreement, shall mean the amount

set forth in said Certificate, and (ii) prior to the last day of the month in which said Certificate is so executed, shall mean an amount equal to all costs and expenses incurred by Facilities Corporation with respect to each respective Additional Facility or Pipeline Addition prior to the date in question includible under subparagraphs (a) and (b) of paragraph 117 as part of the Cost of Construction of the Additional Facilities or Cost of Construction of the Pipeline Addition, less the amount, if any, referred to in subparagraph (c) of paragraph 117 received by Facilities Corporation prior to the date in question with respect to such respective Additional Facility or such respective Pipeline Addition.

117. The term "Cost of Construction" of the Original Facilities, or an Additional Facility, or the Original Pipeline, or a Pipeline Addition, as the case may be, shall mean the sum of the amounts referred to in subparagraphs (a) and (b) of this paragraph 117, less the amount, if any, referred to in subparagraph (c) of this paragraph 117:

- (a) An amount equal to the aggregate of the following:
  - (i) the cost to Facilities Corporation of the construction of the Original Facilities or the Additional Facility, or the Original Pipeline, or the Pipeline Addition, as the case may be;
  - (ii) the expenses of Facilities Corporation for engineering, land surveying, professional, printing, consultation, inspection and insurance costs and for boring tests incurred in connection with the construction of the Original Facilities or the Additional Facility, or the Original Pipeline, or the Pipeline Addition, as the case may be;
  - (iii) the cost of testing, flushing and maintaining the Original Facilities and the Pipeline until the operation commencement date;
  - (iv) the cost, including any deposit, of obtaining any licenses, permits or certificates in order to construct or install the Original Facilities or any Additional Facility, and the cost of obtaining and maintaining the Pipeline Franchise, and assigning the same to Facilities Corporation;
  - (v) with respect to the period from the effective date to the operation commencement date, all expenses, including rent, incurred by Facilities Corporation or Allied required to be paid by the Lessee under, or in order to comply with, the Site Lease, all

utilities service charges payable with respect to any part of the demised premises pursuant to the Site Lease or otherwise, and all expenses in connection with the Pipeline and the Pipeline Franchise which are not required to be borne by the Pipeline Operator during such period under the Pipeline Operating Agreement, including, without limitation, all property, franchise, ad valorem and other taxes (other than taxes measured by net income) and fees assessed or charged with respect to the Pipeline and the cost of obtaining all Rights-of-Way Documents.

(vi) the cost of such modifications, if any, in the design or construction of, and the cost of repairs, if any, to (1) the Original Facilities, or the Original Pipeline, which are made prior to the expiration of 120 days after the operation commencement date, or (2) any Additional Facility, or any Pipeline Addition, which are made within 60 days after such Additional Facility or such Pipeline Addition is put into use, provided that such cost is properly classifiable as a cost of construction in accordance with generally accepted engineering and accounting practice, and further provided that the effecting of such modifications and the incurring of such costs have been approved by a majority of The Contracting Airlines;

including the amount of any reimbursement made by Facilities Corporation to any person, firm, association or corporation with respect to any payments made by it for any of the foregoing items.

(b) An amount equal to the aggregate of the following:

(i) in the case of the Original Facilities, and in the case of the Original Pipeline, the amount of interest incurred by Facilities Corporation on the amount provided for in subparagraph (a) of this paragraph 117, with respect to the Original Facilities, and the Original Pipeline, as the case may be, from the date incurred to the amortization commencement date, and in the case of each Additional Facility and each Pipeline Addition, the amount of interest incurred by Facilities Corporation on the amount provided for in subparagraph (a) of this paragraph 117 with respect to such respective Additional Facility or Pipeline Addition from the date incurred until the last day of the month in which the Certificate of Established Cost of the Additional Facilities with respect to such Additional Facility, or the Certificate of Established Cost of the Pipeline Addition, with respect to such Pipeline Addition, is executed as provided in paragraph 204 of this Facilities Agreement;

(ii) commitment fees agreed to be paid to the purchasers pursuant to the purchase agreement;

(iii) the fees, if any, payable to an investment banker for arranging the financing for the Original Facilities, any Additional Facility, the Original Pipeline, or any Pipeline Addition, as the case may be;

(iv) the fees or charges, if any, payable by Facilities Corporation to a bank, or other institution for acting as escrow agent, trustee or disbursing agency with respect to the funds for the Original Facilities, any Additional Facility, or the Original Pipeline, or any Pipeline Addition, as the case may be.

(c) There shall be deducted from the Cost of Construction of the Original Facilities, or of an Additional Facility, or of the Original Pipeline, or of a Pipeline Addition, as the case may be, the amount, if any, of damages received by Facilities Corporation by reason of the failure of Facilities Corporation's contractor to complete the work within the time specified in the contract for the construction of the Original Facilities or of an Additional Facility or of the Original Pipeline, or of a Pipeline Addition, as the case may be.

118. The term "Original Facilities and Additional Facilities amortization balance" shall mean, on the date in question, an amount equal to the sum of the "Original Facilities amortization balance" (as defined in subparagraph (a) of paragraph 120) and the "Additional Facilities amortization balance" (as defined in subparagraph (b) of paragraph 120).

119. The term "Original Pipeline and Additional Pipeline amortization balance" shall mean, on the date in question, an amount equal to the sum of the "Original Pipeline amortization balance" (as defined in subparagraph (a) of paragraph 120) and the "Additional Pipeline amortization balance" (as defined in subparagraph (b) of paragraph 120).

120. (a) The term "Original Facilities amortization balance" or "Original Pipeline amortization balance", as the case may be, shall mean, on the date in question, an amount equal to

(i) the Cost of the Original Facilities, or the Cost of the Original Pipeline, if the date in question occurs on or prior to the amortization commencement date, or

(ii) if the date in question occurs after the amortization commencement date, the Cost of the Original Facilities,

or the Cost of the Original Pipeline, multiplied by the percentage shown on Exhibit F3 applicable to the monthly period during which the date in question occurs, unless the date in question is the first day of a month, in which event such term shall mean the Cost of the Original Facilities, or the Cost of the Original Pipeline, multiplied by the percentage shown on Exhibit F3 applicable to the monthly period immediately preceding the month in which the date in question occurs (the monthly periods shown on Exhibit F3 shall be consecutive commencing with the month in which the amortization commencement date occurs, except that if the amortization commencement date is December 31, 1974, the monthly periods shall be consecutive commencing January 1, 1975), provided that if, on the date in question, any monthly payments theretofore due pursuant to paragraphs 304 and 305 shall not have been paid in full, the percentage shown on Exhibit F3 applicable to the monthly period through which such payments shall have been made in full shall be used in the preceding calculation,

plus, whether the date in question occurs before or after the amortization commencement date, the "prepayment premium" (as defined in subparagraph (c) of this paragraph 120), if any.

(b) The term "Additional Facilities amortization balance", or the "Additional Pipeline amortization balance," as the case may be, shall mean, on the date in question, an amount equal to the sum of the following, plus the prepayment premium, if any:

(i) with respect to each Additional Facility, or Pipeline Addition, whichever of the following is applicable: either (1) the Cost of the Additional Facility, or the Cost of the Pipeline Addition, less the aggregate of such fraction of the cost thereof, agreed upon as provided in paragraph 203, multiplied by the number of full calendar months from the beginning of the amortization period, determined as provided in paragraph 203, to the date in question; or (2) the Cost of the Additional Facility, or the Cost of the Pipeline Addition, multiplied by the percentage applicable to the monthly period during which the date in question occurs, derived from the table agreed upon as provided in paragraph 203;

(ii) with respect to each respective deficiency, if any, between (1) the expense of Facilities Corporation in connection with the cost of repairing, or replacing the Facilities, or the Pipe-

line or any part thereof, necessitated by damage, destruction, loss, condemnation or appropriation, and (2) the amount of insurance proceeds or the amount of any award or damages or purchase price in lieu thereof payable to Facilities Corporation by reason of such damage, destruction, loss, condemnation or appropriation, as the case may be, whichever of the following is applicable: either the amount of such deficiency, less the aggregate of such fraction thereof, agreed upon as provided in paragraph 501 or 602, as the case may be, multiplied by the number of full calendar months from the beginning of the amortization period, determined as provided in paragraph 501 or 602, as the case may be, to the date in question; or the amount of such deficiency, multiplied by the percentage applicable to the monthly period during which the date in question occurs, derived from the table agreed upon as provided in paragraph 501 or 602, as the case may be.

(c) The term "prepayment premium" shall mean such amount, if any, as may be required under the purchase agreement as a condition of prepaying, on the date in question, all or part of the principal amount remaining unpaid under the purchase agreement.

121. The term "gallonage" shall mean the aggregate number of gallons of aviation fuel dispensed from the Facilities into vehicles operated by or for a Contracting Airline, except that for any period prior to the operation commencement date, the term "gallonage" shall mean the aggregate number of gallons of aviation fuel delivered into aircraft operated by or for a Contracting Airline at the Airport.

122. The term "general purchase provisions" shall mean the provisions of paragraphs 706, 707 and 708 of this Facilities Agreement, as the case may be.

123. The term "entire business of Facilities Corporation" shall mean all Facilities Corporation's right, title and interest in and to (a) the Facilities and the Pipeline, (b) the Site Lease, and (c) the Assignment and Assumption Agreement.

124. The term "Facilities Stock" shall mean all the issued and outstanding capital stock of Facilities Corporation.

125. The term "purchase option" shall mean either (a) the option of a majority of The Contracting Airlines to acquire the entire business of Facilities Corporation or (b) the option of a majority of The Contracting Airlines to acquire the Facilities Stock.

126. The term "Fixed Base Operator" shall mean each person, firm or corporation, which, on the date in question, is a party to an agreement which is then in full force and effect with the Port Authority authorizing it to supply aircraft fueling services and other aircraft services at the Airport, and which has been designated by written notice to Facilities Corporation by the Port Authority as a Fixed Base Operator, it being understood that on the effective date the term "Fixed Base Operator" shall mean Shell Oil Company.

## ARTICLE 2

### *Construction of Facilities and Pipeline*

201. Facilities Corporation is authorized to enter into contracts (including the Fuel Storage Construction Contract, estimated to cost \$6,240,000) and perform all work necessary for the construction and installation of the entire Original Facilities, including the incorporation therein of such existing fuel storage tanks and related facilities as is provided for in the Fuel Storage Construction Contract. Facilities Corporation shall use its best efforts to cause the construction of the Original Facilities to be completed as soon as practicable.

202. Facilities Corporation is authorized to enter into contracts (including the Pipeline Construction Contract, estimated to cost \$2,760,000) and perform all work necessary for the construction and installation of the Original Pipeline. Facilities Corporation shall use its best efforts to cause the construction of the Original Pipeline to be completed as soon as practicable.

203. Facilities Corporation shall not be obligated to construct or install any Additional Facility or any Pipeline Addition, unless, prior thereto, Facilities Corporation and a majority of The Contracting Airlines shall have entered into a written agreement providing for (a) the maximum cost of such Additional Facility or Pipeline Addition; (b) the period of amortization therefor ("amortization period"); (c) the rental or payment with respect thereto payable by The Contracting Airlines to Facilities Corporation pursuant to subparagraph (c) of paragraph 304, or subparagraph (b) of paragraph 305, of this Facilities Agreement; and (d) either (i) the fraction by which the cost of such Additional Facility or Pipeline Addition shall be amortized each month during the amortization period, together with the rate of interest payable on the unamortized balance, or (ii) a table designed to show the amortization, by constant monthly payments each month during the amortization period, of the cost of such Additional Facility or Pipeline Addition over the amortization period, with interest at the rate at

which Facilities Corporation actually borrows the funds necessary to install or construct such Additional Facility or Pipeline Addition, which table shall show in terms of percentages the unamortized balance of the cost of the Additional Facility or Pipeline Addition each month during the amortization period.

204. Facilities Corporation shall keep a complete, accurate and detailed accounting of the Cost of Construction of the Original Facilities, the Cost of Construction of each respective Additional Facility, the Cost of Construction of the Original Pipeline and the Cost of Construction of each respective Pipeline Addition. Those items of cost which are not specifically identifiable as being allocable to the Original Facilities or the Original Pipeline shall be allocated by Facilities Corporation between the two. Within 180 days after the completion of the Original Facilities, Facilities Corporation shall furnish such an accounting with respect to the Cost of Construction of the Original Facilities and the Cost of Construction of the Original Pipeline, certified by a certified public accountant, to American Airlines, Inc. ("American"), as the agent of all The Contracting Airlines for the purposes specified in this paragraph 204, all of which Contracting Airlines hereby irrevocably designate and appoint American as such agent. Within 120 days after the completion of each Additional Facility and each Pipeline Addition, Facilities Corporation shall furnish a similar certified accounting to American as such agent. American shall have a period of 60 days after receipt of each such accounting to verify the same. After the same shall have been verified by American, a Certificate of Established Cost of the Original Facilities, a Certificate of Established Cost of the Original Pipeline, a Certificate of Established Cost of the Additional Facilities, or a Certificate of Established Cost of the Pipeline Addition, as the case may be, in accordance herewith, shall be executed in duplicate originals by American, as agent for and in the names of all The Contracting Airlines, and by Facilities Corporation. Facilities Corporation shall deliver certified copies of each such Certificate to each of The Contracting Airlines other than American.

### ARTICLE 3

#### *Lease of Facilities and Pipeline; Rentals and Payments*

301. Facilities Corporation does hereby lease to The Contracting Airlines, and The Contracting Airlines do hereby hire and take from Facilities Corporation, the demised premises and the Facilities, subject

to the provisions of the Site Lease, for a term commencing on the Site Lease commencement date and continuing until the day preceding the Site Lease expiration date, subject to earlier termination as hereinafter provided.

302. The Contracting Airlines grant Allied a license for \$1 per year to use the demised premises and the Facilities for the purpose of performing all the obligations of the Lessee under the Site Lease, which are required to be performed by Allied in the performance of its obligations under the Fuel Storage Service Agreement. Allied shall perform all the obligations on the part of the Lessee to be performed under the Site Lease, except the obligations with respect to construction set forth in Section 2 of the Site Lease, the obligation to pay rental referred to in Section 4 of the Site Lease and the obligations with respect to obtaining and maintaining the insurance referred to in Section 11 of the Site Lease, which obligations under Sections 2, 4 and 11 shall be performed by Facilities Corporation. The Contracting Airlines also grant Allied the right to sublicense to the Pipeline Operator the right to use the Pipeline Receiving Station. The Port Authority concurrently herewith has consented to such grant. The Contracting Airlines also grant Allied a license to use storage tanks and related facilities constituting part of the Original Facilities prior to the operation commencement date, subject to the provisions of the Site Lease and to the approval of the Port Authority.

303. Facilities Corporation does hereby lease the Pipeline to Allied, and Allied does hereby hire and take the Pipeline from Facilities Corporation, for a term beginning on the date the construction of the Original Pipeline is completed and continuing until the day prior to the Site Lease expiration date ("Pipeline Lease term"), subject to earlier termination as hereinafter provided, at a rental of \$1 per year, for each year, or part thereof, during the Pipeline Lease term. Facilities Corporation, concurrently herewith, has consented to the sublease by Allied of the Pipeline to BPL for the Pipeline Lease term, pursuant to the form of consent, a copy of which is annexed as part of Exhibit D. If BPL ceases, during the Pipeline Lease term, to be the Pipeline Operator, Allied shall sublease the Pipeline to such other Pipeline Operator as shall have been designated by a majority of The Contracting Airlines and enter into such form of Pipeline Operating Agreement as shall have been mutually agreed upon by Allied and such other Pipeline Operator and consented to by such majority. During the Pipeline Lease term, Facilities Corporation shall pay or cause to be paid all property, franchise, ad valorem and other taxes (other than

taxes measured by net income) and fees assessed or charged with respect to the Pipeline and all costs, of whatever nature, required to be paid by Allied under, or in order to comply with, the Pipeline Operating Agreement, and all expenses, of whatever nature, required in order to keep the Pipeline Franchise in effect.

304. The Contracting Airlines shall pay to Facilities Corporation monthly, or as otherwise provided in paragraph 306, as rental, an amount equal to the sum of the following:

(a) from and after the operation commencement date, the rent and charges provided for in the Site Lease, the costs to Facilities Corporation of all insurance required to be maintained pursuant to the Site Lease, all utility service charges payable with respect to any part of the demised premises pursuant to the Site Lease or otherwise, and all other amounts, of whatever nature, in addition to rent, required to be paid by the Lessee under, or in order to comply with, the Site Lease other than those required to be paid by Allied, and chargeable to the Suppliers, in performing its obligations under the Fuel Storage Service Agreement.

(b) from and after the amortization commencement date, and so long as the Original Facilities amortization balance is more than zero, a monthly rental equal to 0.86782323% of the amount set forth in the Certificate of Established Cost of the Original Facilities executed as provided in paragraph 204 of this Facilities Agreement, except that, during the period beginning on the amortization commencement date and ending on the last day of the month in which the Certificate of Established Cost of the Original Facilities is so executed (which period is herein called the "verification period"), The Contracting Airlines shall pay to Facilities Corporation \$61,753 per month (representing 0.86782323% of \$7,115,908, estimated to be the amount which will be set forth in said Certificate), and on the first day of the month following the month in which the Certificate of Established Cost of the Original Facilities is so executed

(i) if the amount set forth in said Certificate exceeds \$7,115,908, The Contracting Airlines shall pay to Facilities Corporation an amount equal to the sum of (1) such excess multiplied by the percentage calculated by subtracting from 100% the percentage of the Original Facilities amortization balance shown on Exhibit F3 annexed to this Facilities Agreement applicable to the monthly period following the month in which said Certificate is executed, and (2) the amount of inter-

est, if any, actually paid by Facilities Corporation on such excess, from the amortization commencement date to the last day of the month in which said Certificate is executed; or

(ii) if the amount set forth in said Certificate is less than \$7,115,908, Facilities Corporation shall credit The Contracting Airlines, in reduction of the rental then payable by them hereunder, with an amount equal to 0.86782323% of the difference between \$7,115,908 and the amount set forth in said Certificate multiplied by the number of months in the verification period, less an amount equal to interest for the verification period at the annual rate of 8½% on the amount of such difference;

(c) so long as the Additional Facilities amortization balance is more than zero, such monthly rental, if any, for each respective Additional Facility as shall have been agreed upon by Facilities Corporation and a majority of The Contracting Airlines in a written agreement entered into pursuant to paragraph 203 of this Facilities Agreement;

(d) so long as the Original Facilities and Additional Facilities amortization balance is more than zero, such monthly rental, if any, as shall have been agreed upon by Facilities Corporation and a majority of The Contracting Airlines in a written agreement entered into pursuant to paragraph 501 or paragraph 602 of this Facilities Agreement to amortize the amount of each respective deficiency, if any, between (i) the amount of any insurance proceeds or the amount of any award or damages or purchase price in lieu thereof received by Facilities Corporation by reason of such damage, destruction, loss, condemnation or appropriation, as the case may be; and (ii) the expense of Facilities Corporation with respect to the cost of properly repairing, replacing, restoring or rebuilding the Original Facilities and Additional Facilities, or any part thereof, necessitated by damage, destruction, loss, condemnation or appropriation; and

(e) from and after the effective date (i) an amount equal to all property, business, privilege and other taxes (other than taxes measured by net income) assessed against Facilities Corporation, (ii) the fees or charges (other than those included in clause (iv) of subparagraph (b) of paragraph 117), if any, payable by Facilities Corporation to a bank, or other institution for acting as escrow agent, trustee or disbursing agency with

respect to the funds for the Original Facilities, any Additional Facility, or the Original Pipeline, or any Pipeline Addition, as the case may be, and (iii) an amount equal to all other operating expenses of Facilities Corporation.

305. The Contracting Airlines shall pay to Facilities Corporation monthly, or as otherwise provided in paragraph 306, an amount equal to the sum of the following:

(a) from and after the amortization commencement date, and so long as the Original Pipeline amortization balance is more than zero, a monthly payment equal to 0.86782323% of the amount set forth in the Certificate of Established Cost of the Original Pipeline executed as provided in paragraph 204 of this Facilities Agreement, except that, during the period beginning on the amortization commencement date and ending on the last day of the month in which the Certificate of Established Cost of the Original Pipeline is so executed (which period is herein called the "pipeline verification period"), The Contracting Airlines shall pay to Facilities Corporation \$30,032 per month (representing 0.86782323% of \$3,460,625, estimated to be the amount which will be set forth in said Certificate), and on the first day of the month following the month in which the Certificate of Established Cost of the Original Pipeline is so executed

(i) if the amount set forth in said Certificate exceeds \$3,460,625, The Contracting Airlines shall pay to Facilities Corporation an amount equal to the sum of (1) such excess multiplied by the percentage calculated by subtracting from 100% the percentage of the Original Pipeline amortization balance shown on Exhibit F3 annexed to this Facilities Agreement applicable to the monthly period following the month in which said Certificate is executed, and (2) the amount of interest, if any, actually paid by Facilities Corporation on such excess, from the amortization commencement date to the last day of the month in which said Certificate is executed; or

(ii) if the amount set forth in the Certificate is less than \$3,460,625, Facilities Corporation shall credit The Contracting Airlines, in reduction of the amounts payable by The Contracting Airlines pursuant to this paragraph 305, with an amount equal to 0.86782323% of the difference between \$3,460,625 and the amount set forth in said Certificate, multiplied by the number of months in the pipeline verification period, less an amount equal to interest for the pipeline verifi-

cation period at the annual rate of  $8\frac{1}{2}\%$  on the amount of such difference;

(b) so long as the Additional Pipeline amortization balance is more than zero, such monthly payment, if any, for each respective Pipeline Addition as shall have been agreed upon by Facilities Corporation and a majority of The Contracting Airlines in a written agreement entered into pursuant to paragraph 203 of this Facilities Agreement;

(c) so long as the Original Pipeline and Additional Pipeline amortization balance is more than zero, such monthly payment, if any, as shall have been agreed upon by Facilities Corporation and a majority of The Contracting Airlines in a written agreement entered into pursuant to paragraph 501 or paragraph 602 of this Facilities Agreement to amortize the amount of each respective deficiency, if any, between (i) the amount of any insurance proceeds or the amount of any award or damages or purchase price in lieu thereof received by Facilities Corporation by reason of the damage, destruction, loss, condemnation or appropriation, as the case may be; and (ii) the expense of Facilities Corporation with respect to the cost of properly repairing, replacing, restoring or rebuilding the Original Pipeline and Pipeline Additions, or any part thereof, necessitated by damage, destruction, loss, condemnation or appropriation; and

(d) from and after the operation commencement date, all property, franchise, ad valorem and other taxes (other than taxes measured by net income) and fees assessed or charged with respect to the Pipeline and all other costs, including the cost of repairs, which are not required to be paid by the Pipeline Operator pursuant to the Pipeline Operating Agreement, and all costs incurred by or chargeable to Facilities Corporation for and in connection with obtaining, maintaining, renewing and extending the Pipeline Franchise.

306. (a) The rentals provided in paragraph 304 and the payments provided in paragraph 305 shall be paid to Facilities Corporation at Facilities Corporation's office, or at such other place or places as Facilities Corporation may from time to time designate, without any setoff or deduction whatsoever and, except as provided in subparagraph (e) of this paragraph 306, without any prior demand therefor.

(b) The rentals, charges and amounts provided in subparagraph (a) of paragraph 304 shall be paid to Facilities Corporation, not less than 5 days before the same are required to be paid by Facilities Corporation to the Port Authority pursuant to the Site Lease.

(c) The rentals provided in subparagraph (b) of paragraph 304 and the payments provided in subparagraph (a) of paragraph 305 shall be payable in advance on the amortization commencement date and on the first day of each month thereafter (or, if the amortization commencement date is December 31, 1974, on February 1, 1975 and the first day of each month thereafter) so long as the respective amortization balance is more than zero, and, with respect to the last month during which the respective amortization balance is more than zero, whether or not such month is a full or only a part of a calendar month.

(d) The rentals, if any, payable pursuant to subparagraphs (c) and (d) of paragraph 304 and the payments, if any, payable pursuant to subparagraphs (b) and (c) of paragraph 305 shall be paid to Facilities Corporation on the first day of each month during the period when the same are payable as provided in the written agreements referred to in said subparagraphs.

(e) The rentals provided in subparagraph (e) of paragraph 304 and subparagraph (d) of paragraph 305 shall be paid to Facilities Corporation within 10 days after demand therefor.

307. If Facilities Corporation is required, pursuant to the purchase agreement, to pay, and does pay, the fees and expenses of the purchasers or of any institution referred to in clause (iv) of subparagraph (b) of paragraph 117, including reasonable fees and expenses of counsel, in connection with the enforcement of any provision of the purchase agreement or of the promissory notes issued thereunder, The Contracting Airlines shall reimburse Facilities Corporation for the amounts of the same within 10 days after demand by Facilities Corporation therefor. The share of each of The Contracting Airlines of such amounts shall be equal to that proportion thereof which the total amount payable by such Contracting Airline to Facilities Corporation pursuant to paragraphs 404 and 405 of this Facilities Agreement beginning on the amortization commencement date and ending on the last day of the month preceding the month in which such fees and expenses were first demanded by the purchasers or such institution bears to the total amount payable by all The Contracting Airlines to Facilities Corporation during such period.

#### ARTICLE 4

##### *Guaranteed Percentages*

401. Each of The Contracting Airlines shall pay its "guaranteed percentage" of the rentals provided in paragraph 304 and the pay-

ments provided in paragraph 305, which guaranteed percentage, subject to the provisions of paragraph 402, shall be the percentage set forth below opposite its name:

<u>Contracting Airlines</u>	<u>Guaranteed Percentage</u>
American Airlines, Inc. ....	34.66%
Delta Air Lines, Inc. ....	3.15%
Eastern Air Lines, Inc. ....	22.27%
Trans World Airlines, Inc. ....	14.29%
United Air Lines, Inc. ....	11.98%
Allegheny Airlines, Inc. ....	3.70%
Braniff Airways, Incorporated ....	1.60%
National Airlines, Inc. ....	3.53%
North Central Airlines, Inc. ....	1.00%
Northwest Airlines, Inc. ....	1.09%
Ozark Air Lines, Inc. ....	.10%
Piedmont Aviation, Inc. ....	.55%
Southern Airways, Inc. ....	.19%
Shell Oil Company ....	1.89%

402. If this Facilities Agreement is terminated with respect to any Contracting Airline pursuant to paragraph 904 or 905 (such Contracting Airline in this paragraph 402 being called a "terminated airline"), from and after the date of such termination, the guaranteed percentage of each other Contracting Airline shall be the amount thereof immediately prior to the date of such termination plus an amount equal to that proportion of the guaranteed percentage of the terminated airline immediately prior to the date of such termination which the amount of the guaranteed percentage of such other Contracting Airline immediately prior to the date of such termination bears to the aggregate amount of the guaranteed percentages of all The Contracting Airlines, other than the terminated airline, immediately prior to the date of such termination.

403. As among The Contracting Airlines only, the provisions of paragraphs 404 and 405 shall apply. Nothing contained in paragraphs 404 and 405 shall in any way affect the obligation of each of The Contracting Airlines to Facilities Corporation provided in paragraphs 401 and 402.

404. (a) From and after the operation commencement date, each Contracting Airline shall pay Facilities Corporation monthly that proportion of the aggregate amount required to be paid by all The Con-

tracting Airlines pursuant to paragraphs 304 and 305 ("aggregate amount") for the month in question which the gallonage of such Contracting Airline during the month in question bears to the total gallonage of all The Contracting Airlines during the month in question.

(b) If, for any full calendar month after the operation commencement date, none of The Contracting Airlines has any gallonage, each Contracting Airline shall pay that proportion of the aggregate amount for such month which the gallonage of such Contracting Airline for the 6 months immediately preceding such month bears to the gallonage of all The Contracting Airlines for such 6 months.

(c) If, during any full calendar month during the term of this Facilities Agreement after the operation commencement date, any Contracting Airline shall not have gallonage for a period of at least 10 consecutive days, such Contracting Airline, for the purpose of computing its liability under this paragraph 404, shall be deemed to have had gallonage equal to whichever of the following results in the greater charge to such Contracting Airline: (i) its actual gallonage for the month in question, or (ii) its average gallonage (including gallonage attributed to such Contracting Airline pursuant to this paragraph for any such month) during the last 3 full calendar months immediately preceding the month in question in which the regular operations of such Contracting Airline were not interrupted for 10 days or more.

405. If, prior to the operation commencement date, The Contracting Airlines are required to make any payment to Facilities Corporation pursuant to subparagraph (b) or subparagraph (e) of paragraph 304 or subparagraph (a) of paragraph 305 of this Facilities Agreement, each Contracting Airline shall pay Facilities Corporation monthly, for such period prior to the operation commencement date, its guaranteed percentage of each such payment.

406. Facilities Corporation shall make, or cause to be made, such computations and billings as may be required pursuant to paragraphs 404, 405 and 711 and distribute the same to The Contracting Airlines.

## ARTICLE 5

### *Insurance*

501. In the event of damage, destruction or loss to the Facilities, or the Pipeline, as the case may be, if Facilities Corporation is re-

quired, pursuant to the Site Lease, or has elected, pursuant to its consent to the Pipeline Operating Agreement, as the case may be, to repair or replace the Facilities as provided therein,

(a) Facilities Corporation shall, as provided in the Site Lease, or such consent, repair or replace, or cause to be repaired or replaced, such damage, destruction or loss to the extent of the insurance proceeds received by Facilities Corporation; and

(b) if such amount of insurance proceeds is insufficient properly to repair or replace such damage, destruction or loss, Facilities Corporation shall pay the amount of the deficiency and properly repair or replace, or cause to be repaired or replaced, such damage, destruction or loss, provided that, prior thereto, Facilities Corporation and a majority of The Contracting Airlines shall have entered into a written agreement providing for (i) the maximum amount of such deficiency; (ii) the amortization period therefor; (iii) the rental or payment with respect thereto payable by The Contracting Airlines to Facilities Corporation pursuant to subparagraph (d) of paragraph 304 or subparagraph (c) of paragraph 305 of this Facilities Agreement; and (iv) either (1) the fraction by which the amount of such deficiency shall be amortized each month during the amortization period, together with the rate of interest payable on the unamortized balance of such deficiency, or (2) a table designed to show the amortization, by constant monthly payments each month during the amortization period, of the amount of such deficiency over the amortization period, with interest at the rate at which Facilities Corporation actually borrows the amount of such deficiency, which table shall show in terms of percentages the unamortized balance of the amount of such deficiency each month during the amortization period.

## ARTICLE 6

### *Condemnation; Termination of Pipeline Franchise*

601. If the Federal Government, the State Government, or any agency, instrumentality or political subdivision thereof, takes in condemnation or appropriates all or a material part (as defined in the Site

Lease) of the Facilities, or the Public Landing Area (as defined in the Site Lease), the general purchase provisions shall apply, or if all or a substantial part of the Pipeline is taken in condemnation or appropriated, or if the Pipeline Franchise is terminated (without being immediately renewed), paragraph 710 shall apply, and on the date that The Contracting Airlines have paid in full the amount required to be paid by them pursuant to the general purchase provisions or pursuant to paragraph 710, as the case may be, Facilities Corporation shall assign to The Contracting Airlines all its right, title and interest in and to any damages or award and the interest payable thereon or purchase price in lieu thereof by reason of such taking or appropriation. Facilities Corporation shall execute and deliver to The Contracting Airlines any and all instruments that may be required to effectuate the provisions of this paragraph 601.

602. If less than a material part of the Facilities is so taken in condemnation or appropriated and the Site Lease is not terminated by reason thereof, or if less than a substantial part of the Pipeline is so taken in condemnation or appropriated and neither the Pipeline Operating Agreement nor the Pipeline Franchise is terminated by reason thereof,

(a) Facilities Corporation shall repair, replace, restore or rebuild the part of the Facilities or the Pipeline, as the case may be, not so taken or appropriated to the extent of the amount of any damages or award received by it; and

(b) if the amount of such damages or award with respect to such taking or appropriation received by Facilities Corporation is insufficient properly to repair, replace, restore or rebuild the part not so taken or appropriated, Facilities Corporation shall pay the amount of the deficiency and properly repair, replace, restore or rebuild the part of the Facilities or the Pipeline, as the case may be, not so taken, provided that, prior thereto, a majority of The Contracting Airlines and Facilities Corporation shall have entered into a written agreement providing for the same matters as are referred to in clauses (i) through (v) of subparagraph (b) of paragraph 501; and

(c) if the amount of such damages or award is in excess of the full cost of such repair, replacement, restoration or rebuilding and Facilities Corporation receives the amount of such excess, Facilities Corporation shall retain the amount of such excess to the extent of the Original Facilities and Additional Facilities amortization balance, or the Original Pipeline and Additional Pipeline amortization balance, as the case may be, and after such receipt of the amount of such excess by Facilities Corporation, the Original Facilities and Additional Facilities amortization balance or the Original Pipeline and Additional Pipeline amortization balance, as the case may be, shall be reduced to the extent of the amount so received by it. If the amount so received by it exceeds the Original Facilities and Additional Facilities amortization balance, or the Original Pipeline and Additional Pipeline amortization balance, as the case may be, Facilities Corporation shall pay over to The Contracting Airlines the amount of such excess. Each Contracting Airline's share of such excess shall be that proportion which the amount payable by such Contracting Airline to Facilities Corporation pursuant to paragraphs 404 and 405 of this Facilities Agreement for the period beginning on the amortization commencement date and ending on the last day of the month immediately preceding the month in which such taking or appropriation occurred bears to the total amount payable by all The Contracting Airlines to Facilities Corporation pursuant to such paragraphs for such period.

#### ARTICLE 7

##### *Purchase of Business or Stock of Facilities Corporation*

701. If (a) the Facilities Agreement is terminated prior to the expiration of its term, for any reason, or (b) the Site Lease is terminated prior to the expiration of its term, for any reason, or (c) if at any time there is no Fuel Storage Service Agreement in effect, for any reason, The Contracting Airlines shall be obligated to acquire either the entire business of Facilities Corporation or the Facilities Stock, as determined by The Contracting Airlines, all as provided for in this Article 7, and payment for the entire business of Facilities Corporation or the Facilities Stock, as the case may be, shall be made in accordance with the provisions of this Article 7.

The holder of the Facilities Stock, concurrently with the execution of this Facilities Agreement, has executed the Escrow Agreement and the Indemnity and Contingent Claim Agreement, in the form annexed hereto as Exhibits F1 and F2, respectively, and has delivered to the Secretary of American, as escrow agent ("Escrow Agent"), the certificate for the Facilities Stock, together with such executed Indemnity and Contingent Claim Agreement to be held in escrow, pursuant to the terms of this Facilities Agreement, and more particularly, pursuant to the terms of the Escrow Agreement and the Indemnity and Contingent Claim Agreement.

Facilities Corporation shall not issue any new or additional shares of stock unless the acquisition and ownership of such shares are made conditional upon the execution by the holder of such new or additional shares of an Escrow Agreement similar to Exhibit F1 and an Indemnity and Contingent Claim Agreement similar to Exhibit F2 and upon the delivery of the certificates for such new or additional shares and of such executed Indemnity and Contingent Claim Agreement to the Escrow Agent to be held in escrow pursuant to the terms of this Facilities Agreement and the terms of the Escrow Agreement and the Indemnity and Contingent Claim Agreement.

The Contracting Airlines, and each of them, consent and agree to the terms and conditions of the Escrow Agreement and the Indemnity and Contingent Claim Agreement, and agree and acknowledge that, upon the execution thereof by the holder of the Facilities Stock, The Contracting Airlines, and each of them, shall perform, keep and observe all the obligations, terms and conditions therein contained on the part of The Contracting Airlines, and each of them, to be performed, kept and observed.

Facilities Corporation shall cause all certificates for the Facilities Stock, including the certificate presently outstanding, to have endorsed on the face thereof an endorsement stating that said certificates are subject to the provisions of the Facilities Agreement and to the provisions of the Escrow Agreement and the Indemnity and Contingent Claim Agreement.

Facilities Corporation's stock book or books and its stock transfer ledger shall, at all reasonable times, be accessible to, and open for inspection by, each of The Contracting Airlines and its attorneys.

702. During the term of the Facilities Agreement, a majority of The Contracting Airlines shall have the option, if such majority elects to terminate this Facilities Agreement, to acquire either the entire business of Facilities Corporation or the Facilities Stock in the manner

provided for in paragraph 703 by paying an amount equivalent to the following items (1) and (2) if a majority of The Contracting Airlines elects to acquire the entire business of Facilities Corporation, or the following items (1) and (2) plus the following item (3) if a majority of The Contracting Airlines elects to acquire the Facilities Stock:

(1) the Original Facilities and Additional Facilities amortization balance;

(2) the Original Pipeline and Additional Pipeline amortization balance;

(3) an amount equal to the value of all assets, tangible or intangible, of Facilities Corporation, on the effective date of termination, other than the right to receive the Original Facilities and Additional Facilities amortization balance and the Original Pipeline and Additional Pipeline amortization balance, determined in accordance with generally accepted principles of accounting, and without any value being attributed to good will or to the Facilities, the Pipeline, the lease of the Facilities to The Contracting Airlines pursuant to paragraph 301 of this Facilities Agreement, or the Pipeline Franchise, less any obligations or indebtedness of Facilities Corporation other than the indebtedness of Facilities Corporation under the purchase agreement, provided that in no event shall the application of this item (3) result in a deduction of any amount from the amounts determined under items (1) and (2).

703. The time and the manner in which the obligation or the option referred to in paragraph 701 or 702 shall be exercised or fulfilled are as follows: (a) a majority of The Contracting Airlines shall deliver to Facilities Corporation, as escrow agent, if it elects to acquire the entire business of Facilities Corporation, or to the Escrow Agent, on behalf of the holder of the Facilities Stock, if it elects to acquire the Facilities Stock, a certified check or checks for the aggregate of the amounts specified in items (1) and (2) of paragraph 702 (the date in question for the determination of the amounts of such items (1) and (2) of paragraph 702 being the last day of the third month following the month during which said check or checks for such amounts are so delivered either to Facilities Corporation or to the Escrow Agent, which date shall be the effective date of termination), to be held in escrow pursuant to the terms of this paragraph 703, and shall deliver a notice to Facilities Corporation and to the Escrow Agent

that such majority of The Contracting Airlines intends to terminate the Facilities Agreement and specifying which purchase option such majority of The Contracting Airlines has elected to exercise; (b) on the last day of the third month following the month during which the said check or checks and notice were so delivered, the Facilities Agreement and the Pipeline Operating Agreement and all the Fuel Storage Service Agreements shall terminate and, upon the delivery of the instruments referred to in paragraph 707 or 708, as the case may be, such check or checks shall be released from escrow and Facilities Corporation, or the holder of the Facilities Stock, as the case may be, shall thereupon be entitled to the free and full use of the same, subject to the provisions of clause (d) of paragraph 708 of this Facilities Agreement; and (c) within 30 days after the effective date of termination, The Contracting Airlines shall pay in cash or by certified check to the Escrow Agent, on behalf of the holder of the Facilities Stock, if The Contracting Airlines have elected to acquire the Facilities Stock, the amount due under item (3) of paragraph 702.

During the period from the delivery of said check or checks and notice referred to in subparagraph (a) of this paragraph 703 until the effective date of termination, the lease provided in paragraph 301 and the lease and sublease of the Pipeline provided in paragraph 303 shall each continue in effect, Allied shall continue to render service under the Fuel Storage Service Agreements and the Contracting Airlines shall continue to make all payments required to be made pursuant to Article 3 of this Facilities Agreement.

704. If notice of termination of this Facilities Agreement is given by Facilities Corporation pursuant to paragraph 903, a majority of The Contracting Airlines, on or before 15 days before the effective date of termination, shall deliver to Facilities Corporation and the Escrow Agent a notice specifying which purchase option such majority of The Contracting Airlines has elected to exercise, and each Contracting Airline shall pay, in cash or by certified check to Facilities Corporation, or to the Escrow Agent, on behalf of the holders of the Facilities Stock, as the case may be, (a) on or before 15 days before the effective date of termination, its share of the aggregate of the amounts specified in items (1) and (2) of paragraph 702 (the date for the determination of such items (1) and (2) of paragraph 702 being the effective date of termination), and (b) on or before 30 days after the effective date of

termination, its share of the amount specified in item (3) of paragraph 702, if such majority of The Contracting Airlines has elected to acquire the Facilities Stock. Each Contracting Airline's share of such amounts shall be equal to its guaranteed percentage of such amounts on the date in question.

705. If notice of termination of this Facilities Agreement is given by Facilities Corporation pursuant to paragraph 903 hereof, and any Contracting Airline fails to pay in cash or by certified check to Facilities Corporation, or the Escrow Agent, such Contracting Airline's full share of the amount specified in paragraph 704 required to be paid on or before the effective date of termination, Facilities Corporation shall have the option, on or before the effective date of termination either (a) to retain such payments made to it pursuant to paragraph 704 (or to direct the Escrow Agent to release the payments made to him, free of escrow, either to the holder of the Facilities Stock, if there is no indebtedness then outstanding under the purchase agreement, or to the purchasers, if there is any indebtedness then outstanding [whether or not due] under the purchase agreement) and preserve all its rights and remedies, whether in law or in equity, against each such Contracting Airline which fails to pay to Facilities Corporation, or to the Escrow Agent, such Contracting Airline's full share of the amount specified in paragraph 704, or (b) to return all payments made to it pursuant to paragraph 704 (or to direct the Escrow Agent to return all payments made to him) in which event Facilities Corporation shall rescind its notice of termination and this Facilities Agreement, the Pipeline Operating Agreement and all the Fuel Storage Service Agreements shall each continue in full force and effect as if no notice of termination had been given.

706. If this Facilities Agreement is terminated otherwise than pursuant to paragraph 902 or 903 hereof, (a) on the effective date of termination, a majority of The Contracting Airlines shall deliver to Facilities Corporation and the Escrow Agent a notice specifying which purchase option such majority of The Contracting Airlines has elected to exercise, and (b) on the effective date of termination, the entire business of Facilities Corporation or the Facilities Stock, as the case may be, shall become the property of The Contracting Airlines, and (c) on or before 90 days after the effective date of termination, each Con-

tracting Airline shall pay, in cash or by certified check, to Facilities Corporation, or to the Escrow Agent, on behalf of the holder of the Facilities Stock, as the case may be, with interest at  $8\frac{1}{2}\%$  per annum from the effective date of termination, its share (determined in the manner provided in the last sentence of paragraph 704) of the amount specified in paragraph 702 for the acquisition of the entire business of Facilities Corporation or the Facilities Stock, as a majority of The Contracting Airlines shall have elected, the date in question for the determination of items (1) and (2) of paragraph 702 being the effective date of termination.

707. If a majority of The Contracting Airlines has elected to acquire the entire business of Facilities Corporation and The Contracting Airlines have made the payments, if any, to Facilities Corporation required to be made prior to the effective date of termination, on such date (a) the Facilities Agreement shall terminate, and (b) the Pipeline Operating Agreement shall terminate, and (c) the entire business of Facilities Corporation shall become the property of The Contracting Airlines, and (d) Facilities Corporation shall deliver to them a duly executed assignment of all its right, title and interest in and to (i) the Pipeline and the Pipeline Franchise, in the form annexed hereto as Exhibit F4, and (ii) the Site Lease, in the form annexed to Exhibit B1 as Exhibit B1A, and (e) The Contracting Airlines shall deliver to Facilities Corporation a duly executed agreement, in the form annexed hereto as Exhibit F5, by which The Contracting Airlines assume all the terms and conditions on the part of Facilities Corporation to be performed under the Pipeline Franchise, and (f) the Escrow Agreement referred to in paragraph 701 shall terminate.

Facilities Corporation hereby irrevocably designates and appoints the person then holding the office of Treasurer of American as its attorney-in-fact to execute and deliver the instrument referred to in clause (d) of this paragraph 707, if Facilities Corporation shall fail so to execute and deliver such instrument. The Contracting Airlines, and each of them, hereby irrevocably designate and appoint the person then holding the office of Treasurer of Facilities Corporation as their, and each of their, attorney-in-fact to execute and deliver the instruments referred to in clause (e) of this paragraph 707, if The Contracting Airlines shall fail so to execute and deliver such instruments.

From time to time at the request of a majority of The Contracting Airlines, whether on or after the effective date of termination, and without additional consideration, Facilities Corporation shall execute and deliver to The Contracting Airlines such other and further instruments or documents to transfer effectually to them the entire business of Facilities Corporation, as a majority of The Contracting Airlines may request, in form satisfactory to counsel to such majority, but the delivery of such other and further instruments or documents shall not be a condition of the release from escrow of the check or checks or cash delivered to Facilities Corporation in escrow or of the making of the payments required to be made to Facilities Corporation pursuant to the provisions of this Article 7.

The payments required to be made by The Contracting Airlines to Facilities Corporation subsequent to such effective date of termination, pursuant to paragraph 703, 704 or 706, as the case may be, shall be made within the time specified in the applicable paragraph.

708. If a majority of The Contracting Airlines has elected to acquire the Facilities Stock and The Contracting Airlines have made the payments, if any, to the Escrow Agent on behalf of the holder of the Facilities Stock required to be made prior to the effective date of termination (a) on the effective date of termination, this Facilities Agreement shall terminate, and (b) on the effective date of termination, the Facilities Stock held by the Escrow Agent shall be released from escrow and shall be delivered to, and become the property of, The Contracting Airlines, and (c) on the effective date of termination, the Indemnity and Contingent Claim Agreements held by the Escrow Agent shall be released from escrow and shall be delivered to The Contracting Airlines and shall become immediately effective in all respects, and (d) if there is any indebtedness then outstanding (whether or not due) under the purchase agreement, the Escrow Agent, if he receives the same on or prior to the effective date of termination, shall pay the Original Facilities and Additional Facilities amortization balance and the Original Pipeline and Additional Pipeline amortization balance to the purchasers on the effective date of termination, or, if he receives the same after the effective date of termination, shall, upon receipt thereof, pay the same to the purchasers.

The payments required to be made by The Contracting Airlines to the Escrow Agent, on behalf of the holder of the Facilities Stock,

subsequent to such effective date of termination, pursuant to paragraph 703, 704 or 706, as the case may be, shall be made within the times specified in the applicable paragraph.

709. If any Contracting Airline fails to pay to Facilities Corporation any amount payable by it pursuant to this Article 7, any one or more of the other of The Contracting Airlines shall have the right to pay such amount to Facilities Corporation, and such one or more of The Contracting Airlines making such payment shall have the election either (a) to take title in its name or their names to the interest in the entire business of Facilities Corporation or the Facilities Stock, as the case may be, which is paid for by such payment, in which event such defaulting Contracting Airline shall have no rights in or to said interest, or (b) to have such payment credited to the account of such defaulting Contracting Airline and the interest in the entire business of Facilities Corporation or the Facilities Stock, as the case may be, transferred to such defaulting Contracting Airline, in which event such defaulting Contracting Airline shall be indebted to such one or more of The Contracting Airlines making such payment in the amount of such payment.

710. If (a) all or a substantial part of the Pipeline is taken in condemnation or appropriated, or (b) the Pipeline is damaged or destroyed and the provisions of paragraph 501 apply, or (c) the Pipeline Franchise is terminated (without being immediately renewed) prior to the Site Lease expiration date, or (d) the Pipeline is abandoned for a period of at least 30 days, or (e) the operation of the Pipeline is restrained or prohibited by any court of competent jurisdiction or governmental agency for a period of at least 30 days, then, if a majority of The Contracting Airlines shall not have elected to exercise its option to acquire the entire business of Facilities Corporation or the Facilities Stock, The Contracting Airlines, upon demand by Facilities Corporation, shall be obligated to pay the Original and Additional Pipeline amortization balance to Facilities Corporation. Each Contracting Airline's share of such amount shall be equal to its guaranteed percentage of such amount on the date in question.

711. As among The Contracting Airlines only, and without affecting each Contracting Airline's obligations to Facilities Corporation as provided in paragraphs 704, 706 and 710, each Contracting Airline's

share of the amounts to be paid by all of The Contracting Airlines pursuant to paragraph 704, 706 or 710, as the case may be, shall be

(a) with respect to the payments made pursuant to paragraph 704 or 706, as the case may be, an amount equal to that proportion thereof which the total amount payable by such Contracting Airline to Facilities Corporation pursuant to paragraphs 404 and 405 of this Facilities Agreement beginning on the amortization commencement date and ending on the last day of the month preceding the month of the effective date of termination bears to the total amount payable to Facilities Corporation pursuant to said paragraphs for such period by all The Contracting Airlines, and

(b) with respect to the payments made pursuant to paragraph 710, an amount equal to that proportion thereof which the total amount payable by such Contracting Airline to Facilities Corporation pursuant to paragraphs 404 and 405 of this Facilities Agreement beginning on the amortization commencement date and ending on the last day of the month preceding the month in which Facilities Corporation has made the demand referred to in paragraph 710 bears to the total amount payable to Facilities Corporation pursuant to said paragraphs for such period by all The Contracting Airlines.

Upon payment to Facilities Corporation of the amounts required to be paid pursuant to this Article 7, the respective share of each Contracting Airline of the entire business of Facilities Corporation or the Facilities Stock, as the case may be, unless otherwise agreed to by all The Contracting Airlines, shall be in proportion to such Contracting Airline's contribution to the purchase price thereof in accordance with this Article 7. The Contracting Airlines shall make such adjustments among themselves as shall be necessary to carry into effect the provisions of this paragraph 711.

## ARTICLE 8

### *Amendment etc. of Agreements*

801. Except as provided in paragraphs 802 and 803, without obtaining the consent of a majority of The Contracting Airlines, (a) Facilities Corporation shall not agree to any amendment, modification

or supplement to the Assignment and Assumption Agreement, to the Site Lease, or to the consent to the Pipeline Operating Agreement, (b) Allied shall not agree to any amendment, modification or supplement to the Pipeline Operating Agreement or any of the Fuel Storage Service Agreements, (c) Facilities Corporation shall not terminate the Assignment and Assumption Agreement, or Site Lease, and (d) Allied shall not terminate the Pipeline Operating Agreement or any of the Fuel Storage Service Agreements. Facilities Corporation and Allied shall each furnish promptly to each of The Contracting Airlines a copy of any amendment, modification or supplement to any of the above documents prepared by any of the parties, and upon any such amendment, modification or supplement becoming effective, subject to the aforesaid consent of a majority of The Contracting Airlines, Facilities Corporation or Allied, as the case may be, shall furnish promptly to each of The Contracting Airlines a certified copy thereof.

802. If a majority of The Contracting Airlines gives notice to Allied that such majority requests Allied as of a specified date to terminate the Pipeline Operating Agreement, in accordance with its terms, with the then Pipeline Operator, and to enter into the Pipeline Operating Agreement with such other Pipeline Operator as shall be designated in such notice, Allied shall give notice of termination to the then Pipeline Operator and, as provided in paragraph 303 of this Facilities Agreement, enter into the Pipeline Operating Agreement with the new Pipeline Operator, as of the date specified in such notice.

803. If any Contracting Airline changes its Supplier, it shall give notice thereof to Allied and of the effective date of such change, and, as of the effective date, Allied shall terminate the Fuel Storage Service Agreement previously in effect and offer to enter into a new Fuel Storage Service Agreement with the new Supplier in accordance with such notice.

804. Facilities Corporation shall deliver to The Contracting Airlines a copy of any notice of termination of the Assignment and Assumption Agreement or Site Lease immediately after the giving or the receipt thereof, as the case may be.

805. Allied shall deliver to The Contracting Airlines a copy of any notice of termination of any Fuel Storage Service Agreement given either by it or by a Supplier (except in cases where a new Sup-

plier is substituted), or of any notice of termination of the Pipeline Operating Agreement, given either by it or by the Pipeline Operator, immediately after the giving or the receipt thereof, as the case may be.

806. So long as this Facilities Agreement is effective, neither Facilities Corporation nor Allied shall violate any of the terms, covenants and conditions on the part of the Lessee to be performed, kept and observed under the Site Lease.

## ARTICLE 9

### *Term*

901. The term of this Facilities Agreement shall commence on the effective date and shall terminate on the day preceding the date of expiration or earlier termination of the Site Lease.

902. A majority of The Contracting Airlines shall have the right to terminate this Facilities Agreement at any time with the consequences specified in paragraph 701 and upon compliance with the provisions of paragraphs 702 and 703.

903. Facilities Corporation shall have the right to terminate this Facilities Agreement with respect to all The Contracting Airlines at any time by giving to each of The Contracting Airlines at least 180 days' prior notice of termination, in which event the general purchase provisions shall apply. Except as provided in paragraphs 904 and 905, Facilities Corporation shall not have the right to terminate this Facilities Agreement with respect to less than all The Contracting Airlines without the prior consent of all The Contracting Airlines.

904. In the event that any Contracting Airline other than a Fixed Base Operator discontinues and abandons the conduct and operation of its air transportation service at the Airport or if a Fixed Base Operator abandons the conduct and operation of its services at the Airport or no longer has in full force and effect an agreement with the Port Authority, as specified in paragraph 126, or if any of them shall make a general assignment for the benefit of creditors, or if a petition in bankruptcy shall be filed by it, or if it files a petition or answer seeking its reorganization or the readjustment of its indebtedness under any present or future Federal bankruptcy law or other Federal or state law, or if a receiver, trustee or liquidator of all or

substantially all of its property shall be appointed or applied for, or if a judgment, decree or order shall be entered by a court of competent jurisdiction determining that proceedings for reorganization, arrangement, adjustment, composition, liquidation, dissolution or winding up or any similar relief under any present or future Federal bankruptcy law or other Federal or state law have been properly instituted otherwise than by it and such judgment, decree or order shall remain unstayed and in effect for 30 days, this Facilities Agreement may, at the option of Facilities Corporation, be terminated forthwith with respect to such Contracting Airline but shall nevertheless continue in full force and effect with respect to all of the other of The Contracting Airlines.

905. If any Contracting Airline (a "defaulting airline") shall fail to pay any of its bills when due and payable as provided in paragraph 306, Facilities Corporation may, as long as such bill remains unpaid, give to such defaulting airline a notice of termination of this Agreement with respect to the defaulting airline, and such termination shall take effect on the twentieth day after the date of giving such notice, unless the defaulting airline shall pay such bill before such twentieth day.

906. In the event that Facilities Corporation shall fail to perform, keep, and observe any of the terms, covenants, or conditions herein contained on the part of Facilities Corporation to be performed, kept, and observed, then, in that event, if a majority of The Contracting Airlines give Facilities Corporation notice to correct or cure such default and if any such default shall continue for 30 days after the receipt of such notice by Facilities Corporation, a majority of The Contracting Airlines may, after the lapse of such 30-day period and prior to the correction or curing of such default, terminate this Facilities Agreement by giving notice to Facilities Corporation specifying the date of termination, which date shall not be earlier than 15 days after the date of the receipt by Facilities Corporation of such notice specifying the date of termination, and on such date this Facilities Agreement shall thereupon be terminated unless such default shall have sooner been cured.

907. This Facilities Agreement may be terminated forthwith (a) by giving notice of termination to Facilities Corporation by a

majority of The Contracting Airlines if Facilities Corporation shall make a general assignment for the benefit of creditors, or if a petition in bankruptcy shall be filed by it, or if it files a petition or answer seeking its reorganization or the readjustment of its indebtedness under any present or future Federal bankruptcy law or other Federal or state law, or if a receiver, trustee or liquidator of all or substantially all of its property shall be appointed or applied for, or if a judgment, decree or order shall be entered by a court of competent jurisdiction determining that proceedings for reorganization, arrangement, adjustment, composition, liquidation, dissolution or winding up or any similar relief under any present or future Federal bankruptcy law or other Federal or state law have been properly instituted otherwise than by Facilities Corporation and such judgment, decree or order shall remain unstayed and in effect for 30 days, or (b) by giving notice of termination to The Contracting Airlines by Facilities Corporation if, in good faith, Facilities Corporation shall make a general assignment for the benefit of creditors, or file a petition in bankruptcy, or file a petition or answer seeking its reorganization or the readjustment of its indebtedness under any present or future Federal bankruptcy law or other Federal or state law, or if, in good faith, a receiver, trustee or liquidator of all or substantially all of its property shall be appointed or applied for, or if a judgment, decree or order shall be entered by a court of competent jurisdiction determining that proceedings for reorganization, arrangement, adjustment, composition, liquidation, dissolution or winding up or any similar relief under any present or future Federal bankruptcy law or other Federal or state law have been properly instituted otherwise than by Facilities Corporation and such judgment, decree or order shall, in good faith, remain unstayed and in effect for 30 days.

## ARTICLE 10

### *Miscellaneous*

1001. Facilities Corporation shall devote itself exclusively to the performance of the terms, covenants and conditions on its part to be performed under this Facilities Agreement, and shall not engage in any other business at the Airport or elsewhere.

1002. If (a) Facilities Corporation, pursuant to the purchase agreement, shall have the right to prepay any or all of the amount borrowed under the purchase agreement, and (b) a majority of The Contracting Airlines shall request Facilities Corporation to prepay on a specified date a specified amount pursuant to the purchase agreement, and (c) The Contracting Airlines, prior to the specified date, shall tender to Facilities Corporation a certified check or checks for the specified amount, together with the prepayment premium, then Facilities Corporation on such specified date shall prepay the specified amount and thereupon the Original Facilities and Additional Facilities amortization balance, or the Original Pipeline and Additional Pipeline amortization balance, as the case may be, shall be reduced to the extent of the specified amount.

1003. If an underground into-plane fueling system is installed at the Airport and Allied is designated as the operator of such system, the fee referred to in clause (c) of paragraph 1501 of the Fuel Storage Service Agreement shall be discontinued as of the date Allied commences operation of such into-plane fueling system, pursuant to such terms as shall have been mutually agreed upon.

1004. Paragraph 1302 of the Fuel Storage Service Agreement is herein incorporated by reference, except that whenever the term "Suppliers" is used in such paragraph, such term shall mean and be deemed to mean "The Contracting Airlines", and The Contracting Airlines, and each of them, agree to be bound by the provisions of such paragraph so incorporated by reference.

1005. The Contracting Airlines understand that because of the pressure of time, the Pipeline Franchise will initially be in the name of BPL which has entered into an agreement with Facilities Corporation to assign the Pipeline Franchise to Facilities Corporation as soon as practicable after the construction of the Original Pipeline has been completed. The Contracting Airlines further understand such Pipeline Franchise will expire on July 1, 1976. Facilities Corporation shall use its best efforts to renew, and keep renewing, the Pipeline Franchise so that the same shall not expire earlier than the Site Lease expiration date.

1006. American shall file the Facilities Agreement with the Civil Aeronautics Board and each of The Contracting Airlines hereby concurs in such filing.

#### ARTICLE 11

##### *Additional Air Carriers*

1101. It is the intention of The Contracting Airlines and of Facilities Corporation that any other air carrier in addition to The Contracting Airlines signatory hereto, engaged, or which may hereafter engage, in scheduled air transportation at the Airport with the right so to do and any other Fixed Base Operator shall have the right to become a party to this Facilities Agreement upon such equitable terms and conditions as may be mutually agreed upon. Any such carrier or Fixed Base Operator becoming a party to this Facilities Agreement shall thereafter be deemed to be included and referred to in the term "The Contracting Airlines" as used herein and for all purposes hereof and such carrier or Fixed Base Operator shall be and become one of the entities constituting the Sublessee under the agreement set forth as Exhibit B2 and said entity and Facilities Corporation shall execute and deliver to the Port Authority a consent agreement in a form satisfactory to the Port Authority.

#### ARTICLE 12

##### *Counterparts*

1201. The Facilities Agreement may be executed in any number of counterparts, all of which, taken together, shall constitute one and only one instrument.

#### ARTICLE 13

##### *Governing Law*

1301. The Facilities Agreement shall be governed by, and construed in accordance with, the law of the State of New York.

**ARTICLE 14***Notices*

1401. Any notice, direction, consent or approval which may be or is required to be given or delivered hereunder shall be in writing and shall be sent by registered or certified mail, postage prepaid, addressed to Facilities Corporation at Two Pennsylvania Plaza, New York, New York 10001 (or at such other address as it may designate in writing), and to Allied at Two Pennsylvania Plaza, New York, New York 10001 (or to such other address as it may designate in writing), and to each Contracting Airline at its main or executive office (or to such other address as it may designate in writing) with a copy to its office at the Airport.

**ARTICLE 15***Article Headings*

1501. The article headings are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of any provision of the Facilities Agreement.

**ARTICLE 16***Benefits and Obligations Accrue to Successors*

1601. (a) Facilities Corporation may not assign the Facilities Agreement, the Site Lease, the Pipeline or the Pipeline Franchise, without the consent of a majority of The Contracting Airlines, but Facilities Corporation, without the consent of any of The Contracting Airlines, may assign moneys due or to become due under the Facilities Agreement or the Site Lease.

(b) Allied may not assign the Facilities Agreement, the Fuel Storage Service Agreement, or the Pipeline Operating Agreement without the consent of a majority of The Contracting Airlines, but Allied, without the consent of any of The Contracting Airlines, may assign moneys due or to become due under the Facilities Agreement, the Fuel Storage Service Agreement, or the Pipeline Operating Agreement.

1602. None of The Contracting Airlines may assign the Facilities Agreement without the consent of Facilities Corporation and the other Contracting Airlines, provided, however, that nothing in this paragraph 1602 shall prevent the assignment of the Facilities Agreement by any Contracting Airline to a corporation with which it may merge or be consolidated or which may acquire substantially all of its business.

1603. All the terms and conditions of this Facilities Agreement shall accrue to and be binding upon the successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed.

LAGUARDIA FUEL FACILITIES  
CORPORATION  
By D. H. McCAMPBELL  
*President*  
(Corporate Seal)

Attest:

J. N. BUZANGA  
*Secretary*

ALLIED AVIATION SERVICE COMPANY  
OF NEW YORK, INC.

By D. H. McCAMPBELL  
*President*  
(Corporate Seal)

Attest:

J. N. BUZANGA  
*Ass't Secretary*

AMERICAN AIRLINES, INC.

By GENE E. OVERBECK  
*Senior Vice President*  
(Corporate Seal)

Attest:

H. WAYNE WILE  
*Secretary*

DELTA AIR LINES, INC.

By H. T. FINCHER  
Senior Vice President —  
Operations  
(Corporate Seal)

Attest:

IKE LASSETER  
Assistant Secretary

EASTERN AIR LINES, INC.

By G. W. McCARTER  
Vice President  
Properties  
(Corporate Seal)

Attest:

J. E. CREIGHTON  
Secretary

TRANS WORLD AIRLINES, INC.

By A. E. JORDAN  
Vice President  
Technical Services  
(Corporate Seal)

Attest:

E. HILLEN FLEMING  
Assistant Secretary

UNITED AIR LINES, INC.

By CHARLES F. McERLEAN  
Executive Vice President  
and Chief Operating Officer  
(Corporate Seal)

Attest:

F. H. CARTER  
Ass't Secretary

ALLEGHENY AIRLINES, INC.

By L. THOMAS FERGUSON  
*Executive Vice President*  
(Corporate Seal)

Attest:

MARY S. MORRIS  
*Ass't Secretary*

BRANIFF AIRWAYS, INCORPORATED

By HORACE BOLDING  
*Vice President*  
(Corporate Seal)

Attest:

JAY M. JACKSON  
*Secretary*

NATIONAL AIRLINES, INC.

By G. R. WOODY  
*Executive Vice-President*  
(Corporate Seal)

Attest:

J. M. LINDSEY  
*Secretary*

NORTH CENTRAL AIRLINES, INC.

By BERNARD SWEET  
*President*  
(Corporate Seal)

Attest:

JOHN P. DOW  
*Vice President &  
Secretary*

NORTHWEST AIRLINES, INC.

By R. W. CHAMBERS  
*Vice President — Properties*  
(Corporate Seal)

Attest:

A. E. FLOAN  
*Secretary*

OZARK AIR LINES, INC.

By A. J. ROSE  
*V. P. Finance &  
Treasurer*  
(Corporate Seal)

Attest:

VYONNE OVERHOLSER  
*Assistant Secretary*

PIEDMONT AVIATION, INC.

By H. K. SAUNDERS  
*Senior Vice President*  
(Corporate Seal)

Attest:

T. W. MORTON  
*Secretary*

SOUTHERN AIRWAYS, INC.

By GRAYDON HALL  
*Ex. V.P. & Gen. Mgr.*  
(Corporate Seal)

Attest:

J. K. COURTENAY  
*Secretary*

## SHELL OIL COMPANY

By E. F. LOVELAND  
*Vice President*  
 (Corporate Seal)

Attest:

C. M. WRIGHT  
*Assistant Secretary*

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

On the 26th day of March, 1973, before me personally came DONALD H. McCAMPBELL, to me known, who, being by me duly sworn, did depose and say that he resides at 17 West 54th Street, New York, New York 10019; that he is the President of LAGUARDIA FUEL FACILITIES CORPORATION, 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; that he signed his name thereto by like order.

ANNA F. MCKIERNAN

ANNA F. MCKIERNAN  
 Notary Public, State of New York  
 No. 03-7853485 Qual. in Bronx County  
 Certificate filed in New York County  
 Commission Expires March 30, 1974

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

On the 26th day of March, 1973, before me personally came DONALD H. McCAMPBELL, to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

that he is the President of ALLIED AVIATION SERVICE COMPANY OF NEW YORK, 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 fixed by order of the Board of Directors of the said corporation; and that he signed his name thereto by like order.

ANNA F. McKIERNAN

ANNA F. McKIERNAN  
 Notary Public, State of New York  
 No. 03-7853465 Qual. in Bronx County  
 Certificate filed in New York County  
 Commission Expires March 30, 1974

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

On the 5th day of December, 1972, before me personally came GENE E. OVERBECK 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 AIRLINES 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.

GALE KAY WALL

GALE KAY WALL  
 Notary Public, State of New York  
 No. 31-9509200  
 Qualified in New York County  
 Commission Expires March 30, 1973

STATE OF GEORGIA }  
 COUNTY OF FULTON } ss.:

On the 13th day of December, 1972, before me personally came H. T. FINCHER to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the Sr. Vice President of Operations, DELTA AIR LINES, 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.

JEAN M. SMITH

Notary Public, Georgia State at Large  
 My Commission Expires Sept. 21, 1975

STATE OF FLORIDA }  
 COUNTY OF DADE } ss.:

On the 11th day of December, 1972, before me personally came G. W. McCARTER to me known, who, being by me duly sworn, did depose and say that he resides at

that he is a Vice President of EASTERN AIR LINES, 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.

ARTHUR D. MEYER

Notary Public, State of Florida at Large  
 My Commission Expires Aug. 2, 1976  
 Bonded thru Maynard Bonding Agency

STATE OF MISSOURI }  
COUNTY OF PLATTE } ss.:

On the 7th day of December, 1972, before me personally came A. E. JORDAN to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the Vice President of TRANS WORLD AIRLINES, 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.

E. ANITA McLAUGHLIN  
My Commission Expires May 7, 1976

E. ANITA McLAUGHLIN  
Notary Public in and for Clay County, Mo.,  
which adjoins Platte County, Mo.

STATE OF ILLINOIS }  
COUNTY OF COOK } ss.:

On the 20th day of December, 1972, before me personally came CHARLES F. McERLEAN to me known, who, being by me duly sworn, did depose and say that he resides at that he is the Executive Vice President of UNITED AIR LINES 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.

CHARLES W. JOHNSON  
My Commission Expires July 22, 1973

STATE OF VIRGINIA }  
 COUNTY OF AT LARGE } ss.:

On the 19th day of December, 1972, before me personally came L. THOMAS FERGUSON to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

; that he is the Ex. Vice President of ALLEGHENY, 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.

JERRY L. DEPOY

My Commission Expires November the 5th, 1975

STATE OF TEXAS }  
 COUNTY OF DALLAS } ss.:

On the 12th day of December, 1972, before me personally came HORACE BOLDING to me known, who, being by me duly sworn, did depose and say that he resides at ; that he is the Vice President of BRANIFF AIRWAYS, INCORPORATED, 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.

KATHERINE JOHNSTON

Notary Public, Dallas County, Texas

STATE OF FLORIDA }  
 COUNTY OF DADE } ss.:

On the 25th day of January, 1973, before me personally came G. R. Woody to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the Executive Vice President of NATIONAL AIRLINES, 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.

SHIRLEY J. TIGAR

Notary Public State of Florida At Large  
 My Commission Expires February 5, 1977  
 Bonded Thru General Insurance Underwriters

STATE OF MINNESOTA }  
 COUNTY OF HENNEPIN } ss.:

On the 8th day of December, 1972, before me personally came BERNARD SWEET to me known, who, being by me duly sworn, did depose and say that he resides at

that he is the President of NORTH CENTRAL AIRLINES, 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.

BARBARA WELDY

BARBARA WELDY  
 Notary Public, Hennepin County, Minn.  
 My Commission Expires April 29, 1977

STATE OF MINN. }  
 COUNTY OF DAKOTA } ss.:

On the 6th day of Dec., 1972, before me personally came R. W. CHAMBERS to me known, who, being by me duly sworn, did depose and say that he resides at EX.1 that he is the Vice President of NORTHWEST AIRLINES, 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.

JANYCE R. STE. MARIE

JANYCE R. STE. MARIE  
 Notary Public, Dakota County, Minn.  
 My Commission Expires May 23, 1974

STATE OF MISSOURI }  
 COUNTY OF ST. LOUIS } ss.:

On the 22nd day of December, 1972, before me personally came A. J. ROSE to me known, who, being by me duly sworn, did depose and say that he resides at that he is the Vice President of Finance of OZARK AIR LINES, 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.

R. GLORIA KRUEGER

My Commission Expires April 26, 1974

STATE OF NORTH CAROLINA }  
 COUNTY OF FORSYTH } ss.:

On the 5th day of December, 1972, before me personally came H. K. SAUNDERS to me known, who, being by me duly sworn, did depose and say that he resides at <sup>EX. 1</sup>; that he is the Sr. Vice-President of PIEDMONT AVIATION, 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.

NEDRA R. VAN ZEE

Notary Public of Forsyth County  
 My Commission Expires 10/14/76

STATE OF GEORGIA }  
 COUNTY OF FULTON } ss.:

On the 10th day of January, 1973, before me personally came GRAYDON HALL to me known, who, being by me duly sworn, did depose and say that he resides at that he is the Exec. Vice President & Gen. Mgr. of SOUTHERN AIRWAYS, 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.

MARY C. HAYES

Notary Public Fulton County, Georgia  
 My Commission Expires May 16, 1976

STATE OF TEXAS }  
COUNTY OF HARRIS } ss.:

On the 19th day of February, 1972, before me personally came E. F. LOVELAND to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

that he is a Vice President of SHELL OIL COMPANY, 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.

M. J. McPHAIL

M. J. McPHAIL  
Notary Public in and for Harris County, Texas  
My Commission Expires June 1, 1973

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## EXHIBIT F1

## ESCROW AGREEMENT

To: Secretary, American Airlines, Inc., as Escrow Agent

Dear Sir:

To induce The Contracting Airlines, and each of them, to enter into the Agreement to which this is attached (herein called "Facilities Agreement"), and to continue as parties thereto, the undersigned, the holder of the Facilities Stock (as that term is defined in paragraph 124 of the Facilities Agreement) hands to you herewith, as Escrow Agent, certificate numbered 1 for 100 shares of the capital stock of Facilities Corporation, such shares constituting the Facilities Stock, which certificate has been endorsed by the undersigned in blank, and which certificate is in proper form for transfer, with transfer tax stamps affixed thereto, to be held by you in escrow pursuant to the provisions of the Facilities Agreement and this Escrow Agreement. The undersigned further agrees that any and all other certificates for any and all other shares of stock of Facilities Corporation that may hereafter be issued to the undersigned shall, immediately upon such issuance, be delivered to you endorsed in blank and in proper form for transfer, with transfer tax stamps affixed thereto, to be held by you in escrow pursuant to the terms of the Facilities Agreement and this Escrow Agreement.

The undersigned also hands to you herewith an Indemnity and Contingent Claim Agreement, in the form annexed as Exhibit F2 to the Facilities Agreement, which has been duly executed by the undersigned and which is to be held by you in escrow pursuant to the terms of the Facilities Agreement and this Escrow Agreement.

If, as provided in the Facilities Agreement, The Contracting Airlines, or a majority of The Contracting Airlines (such term as used in this Escrow Agreement shall have the meaning set forth in paragraph 103 of the Facilities Agreement), deliver notice to you that they or it intend to acquire the Facilities Stock, you shall forthwith transmit a copy of such notice to the undersigned at its address set forth below or at such other address as the undersigned may from time to time designate in writing.

If such a notice is delivered to you and, prior to the effective date of termination of the Facilities Agreement, there is required to be, and there is, paid to you in full, on behalf of the undersigned, the amount provided for in the Facilities Agreement,

(a) you are hereby authorized, on the effective date of termination, to turn over, free of escrow, to The Contracting Airlines which have paid such amount the certificates for the Facilities Stock and the Indemnity and Contingent Claim Agreement held by you, provided that, on the effective date of termination, you either (1) pay to the purchasers (as that term is defined in paragraph 115 of the Facilities Agreement) the Original Facilities and Additional Facilities amortization balance and the Original Pipeline and Additional Pipeline amortization balance (as those terms are defined in paragraphs 118 and 119 of the Facilities Agreement), if there is any indebtedness then outstanding (whether or not due) under the purchase agreement (as that term is defined in paragraph 114 of the Facilities Agreement), or (2) pay to the undersigned the amount paid to you by such Contracting Airlines, if there is no indebtedness then outstanding under the purchase agreement, and

(b) upon the receipt by you, on behalf of the undersigned, subsequent to the effective date of termination, of any payments made by The Contracting Airlines, you shall immediately pay the same to the undersigned.

If such a notice is delivered to you and, prior to the effective date of termination of the Facilities Agreement, there is required to be, but, as set forth in paragraph 705 of the Facilities Agreement, there is not paid to you in full, on behalf of the undersigned, the amount provided for in the Facilities Agreement, and

(a) if, on or before the effective date of termination, you receive a direction from Facilities Corporation, pursuant to paragraph 705 of the Facilities Agreement, to release the payments made to you, free of escrow, either to the undersigned or to the purchasers, you are hereby authorized, on the effective date of termination, to turn over, free of escrow, to such Contracting Airlines which have made such payments the certificates for the Facilities Stock and the Indemnity and Contingent Claim

Agreement held by you, provided that, on the effective date of termination, you either (1) pay to the purchasers the amount of such payments, whether or not such amount constitutes the full amount of the Original Facilities and Additional Facilities amortization balance and the Original Pipeline and Additional Pipeline amortization balance, if there is any indebtedness then outstanding (whether or not due) under the purchase agreement, or (2) pay to the undersigned the payments made to you by such Contracting Airlines, if there is no indebtedness then outstanding under the purchase agreement, or

(b) if, on or before the effective date of termination, you receive a direction from Facilities Corporation, pursuant to paragraph 705 of the Facilities Agreement, to return such payments made to you, you are hereby authorized, on the effective date of termination, to return such payments to such Contracting Airlines which have made the same and you shall continue to hold in escrow the certificates for the Facilities Stock and the Indemnity and Contingent Claim Agreement pursuant to the terms of the Facilities Agreement and this Escrow Agreement.

If such a notice is delivered to you and, pursuant to the Facilities Agreement, The Contracting Airlines are not required to pay any amount to you, on behalf of the undersigned, prior to the effective date of termination,

(a) you are hereby authorized, on the effective date of termination, to turn over, free of escrow, to The Contracting Airlines the certificates for the Facilities Stock and the Indemnity and Contingent Claim Agreement held by you, and

(b) upon the receipt by you, on behalf of the undersigned, subsequent to the date of termination, of any payments made by The Contracting Airlines, you shall immediately either (1) pay to the purchasers the Original Facilities and Additional Facilities amortization balance and the Original Pipeline and Additional Pipeline amortization balance, if there is any indebtedness then outstanding (whether or not due) under the purchase agreement, and pay to the undersigned the balance, if any, of the amount paid to you by The Contracting Airlines, or (2) pay to

the undersigned the amount paid to you by The Contracting Airlines, if there is no indebtedness then outstanding under the purchase agreement.

If, under the purchase agreement, Facilities Corporation is required to pay to the purchasers any amount which may be required as a condition of prepayment of the indebtedness then outstanding under the purchase agreement and such amount is not required to be paid by The Contracting Airlines as the "prepayment premium" (as that term is defined in subparagraph (c) of paragraph 120 of the Facilities Agreement), the undersigned shall pay such amount to the purchasers at the time you pay to the purchasers the Original Facilities and Additional Facilities amortization balance and the Original Pipeline and Additional Pipeline amortization balance.

If a majority of The Contracting Airlines has elected to acquire the entire business of Facilities Corporation, you shall, upon request of the undersigned after receipt of a notice to such effect executed by a majority of The Contracting Airlines, return to the undersigned the certificates for the Facilities Stock delivered by the undersigned to you hereunder together with the Indemnity and Contingent Claim Agreement and this Escrow Agreement shall terminate forthwith.

This Escrow Agreement shall terminate on the expiration of the term of the Facilities Agreement. Upon the termination of this Escrow Agreement, you shall return to the undersigned the certificates for the shares of stock deposited by the undersigned hereunder, together with the Indemnity and Contingent Claim Agreement likewise deposited hereunder.

You understand that the undersigned may transfer any of the Facilities Stock, on the express condition that the transferee of such shares duly executes an Escrow Agreement similar to this Agreement and an Indemnity and Contingent Claim Agreement similar to Exhibit F2 attached to the Facilities Agreement and delivers or causes to be delivered to you as Escrow Agent such duly executed Agreements and the certificates for all the transferee's shares of stock of Facilities Corporation.

To effectuate such a transfer subject to such conditions (and only for such purpose), the undersigned, upon written request to you, may obtain a release of any of the certificates held by you hereunder for

a period not to exceed 5 days. In the event you receive such written request, you shall deliver the certificate or certificates in question to the Secretary of Facilities Corporation, who shall, within the specified period, deliver to you as Escrow Agent the new certificate or certificates endorsed in blank by the transferee and in proper form for transfer, with transfer tax stamps affixed thereto, together with an Escrow Agreement and an Indemnity and Contingent Claim Agreement duly executed by such transferee. The delivery by you to the Secretary of Facilities Corporation, pursuant to such written request, of any certificate or certificates for shares of stock of Facilities Corporation shall be a conditional delivery only and, upon the failure of such Secretary to deliver to you within the specified time the agreements and new certificate or certificates above referred to, he shall forthwith return to you the certificate or certificates delivered by you to him and such certificate or certificates shall continue to be held by you pursuant to this Escrow Agreement. The undersigned irrevocably designates and appoints the person then currently holding the office of Secretary of Facilities Corporation as the attorney in fact of the undersigned to perform, on behalf of the undersigned, the duties above referred to. In the event of a transfer in accordance with all the above terms and conditions, the result of which is that the undersigned no longer is a shareholder of Facilities Corporation and you receive written confirmation of such fact from the Secretary of Facilities Corporation, this Escrow Agreement shall terminate and you shall deliver to the undersigned its Indemnity and Contingent Claim Agreement deposited hereunder, provided that such transfer has been approved by a majority of The Contracting Airlines, as provided in the Indemnity and Contingent Claim Agreement.

It is mutually understood that you are acting as Escrow Agent by virtue of your position as Secretary of American Airlines, Inc. and that in the event you leave such position for any reason your successor or successors shall act as Escrow Agent hereunder.

The undersigned agrees, provided Facilities Corporation and each of The Contracting Airlines likewise agree, to indemnify and hold you and American Airlines, Inc., jointly and severally, harmless from and against any and all loss, damages, costs and expenses that may be incurred by reason of your compliance with the terms of this Escrow Agreement.

Nothing contained in this Escrow Agreement shall entitle you to vote the stock held by you hereunder or receive dividends thereon, it being understood that, while this Escrow Agreement is in effect, such rights are reserved to the undersigned.

All the terms and conditions of this Escrow Agreement shall accrue to and be binding upon the successors, heirs, distributees, executors, administrators and legal representatives of the parties bound hereby.

Dated November 15, 1972

Very truly yours,

ALLIED MAINTENANCE SECURITIES, INC.

By D. H. McCAMPBELL  
*Vice President*

I hereby agree and undertake to act as Escrow Agent in accordance with the terms of the above Escrow Agreement and the Agreement to which it is attached.

H. WAYNE WILE  
*Secretary*  
AMERICAN AIRLINES, INC.

LaGuardia Fuel Facilities Corporation consents and agrees to be bound by so much of the above Escrow Agreement as is relevant to it.

LAGUARDIA FUEL FACILITIES CORPORATION

By D. H. McCAMPBELL  
*President*

American Airlines, Inc. consents and agrees to be bound by so much of the above Escrow Agreement as is relevant to it.

AMERICAN AIRLINES, INC.

By GENE E. OVERBECK  
*Senior Vice President*

Delta Air Lines, Inc. consents and agrees to be bound by so much of the above Escrow Agreement as is relevant to it.

DELTA AIR LINES, INC.

By H. T. FINCHER  
*Vice President  
Operations*

Eastern Air Lines, Inc. consents and agrees to be bound by so much of the above Escrow Agreement as is relevant to it.

EASTERN AIR LINES, INC.

By G. W. McCARTER  
*Vice President  
Properties*

Trans World Airlines, Inc. consents and agrees to be bound by so much of the above Escrow Agreement as is relevant to it.

TRANS WORLD AIRLINES, INC.

By A. E. JORDAN  
*Vice President  
Technical Services*

United Air Lines, Inc. consents and agrees to be bound by so much of the above Escrow Agreement as is relevant to it.

UNITED AIR LINES, INC.

By CHARLES F. McHURLEAN  
*Executive Vice President  
and Chief Operating  
Officer*

Allegheny Airlines, Inc. consents and agrees to be bound by so much of the above Escrow Agreement as is relevant to it.

ALLEGHENY AIRLINES, INC.

By L. THOMAS FERGUSON

Braniff Airways, Incorporated consents and agrees to be bound by so much of the above Escrow Agreement as is relevant to it.

BRANIFF AIRWAYS, INCORPORATED

By HORACE BOLDING  
*Vice President*

National Airlines, Inc. consents and agrees to be bound by so much of the above Escrow Agreement as is relevant to it.

NATIONAL AIRLINES, INC.

By G. R. WOODY

North Central Airlines, Inc. consents and agrees to be bound by so much of the above Escrow Agreement as is relevant to it.

NORTH CENTRAL AIRLINES, INC.

By JOHN P. DOW  
*Vice President  
& Secretary*

Northwest Airlines, Inc. consents and agrees to be bound by so much of the above Escrow Agreement as is relevant to it.

NORTHWEST AIRLINES, INC.

By R. W. CHAMBERS  
*Vice President-  
Properties*

Ozark Air Lines, Inc. consents and agrees to be bound by so much of the above Escrow Agreement as is relevant to it.

OZARK AIR LINES, INC.

By A. J. ROSE

Piedmont Aviation, Inc. consents and agrees to be bound by so much of the above Escrow Agreement as is relevant to it.

PIEDMONT AVIATION, INC.

By H. K. SAUNDERS  
*Senior Vice President*

Southern Airways, Inc. consents and agrees to be bound by so much of the above Escrow Agreement as is relevant to it.

SOUTHERN AIRWAYS, INC.

By GRAYDON HALL  
*Ex. V. P. & Gen. Mgr.*

Shell Oil Company consents and agrees to be bound by so much of the above Escrow Agreement as is relevant to it.

SHELL OIL COMPANY

By E. F. LOVELAND  
*Vice President*

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## EXHIBIT F2

## INDEMNITY AND CONTINGENT CLAIM AGREEMENT

To: The Contracting Airlines and each of you,  
c/o Secretary, American Airlines, Inc.

Gentlemen:

To induce The Contracting Airlines, and each of them, to enter into the Agreement to which this is attached (herein called the "Facilities Agreement") and to continue as parties thereto, the undersigned agrees as follows:

If a majority of The Contracting Airlines (such term as used in this Indemnity and Contingent Claim Agreement shall have the meaning set forth in paragraph 103 of the Facilities Agreement) has elected to acquire and has duly acquired the Facilities Stock, as provided for in the Facilities Agreement, the undersigned agrees to indemnify and hold harmless Facilities Corporation and The Contracting Airlines, and each of them, from and against any and all claims, bills or statements of debt or liability which exceed the amount of any obligation, liability or claim which was disclosed as an obligation, liability or claim against Facilities Corporation for the purposes of the computation contemplated in item (3) of paragraph 702 of the Facilities Agreement, and from and against any and all undisclosed obligations, liabilities and claims of every description against Facilities Corporation, including, without limitation, tax liabilities and claims and litigations incurred, accrued, or arising by reason of any operations of Facilities Corporation prior to the effective date of termination of the Facilities Agreement.

If at any time, after the effective date of termination, there should be presented to Facilities Corporation any claim, bill or statement of debt or liability of Facilities Corporation which was not disclosed as an obligation, liability or claim against Facilities Corporation for purposes of the computation contemplated in item (3) of paragraph 702 of the Facilities Agreement, or which exceeds the amount of any obligation, liability or claim which was disclosed, such claim, bill or statement of debt or liability shall be submitted by Facilities Corporation to the person who was the President of Facilities Corporation

immediately prior to the effective date of termination (or if he be unavailable, to the undersigned) as the representative of all the holders of the Facilities Stock on the effective date of termination and if approved in writing by the said person for and on behalf of such holders, or if not disapproved in writing by him within 15 days after receipt by him of written notice of the same, shall be considered and deemed to be a liability of Facilities Corporation as of the effective date of termination, as to which the undersigned shall be liable as herein provided, and the undersigned hereby irrevocably designates and appoints such person as his attorney in fact to approve or disapprove any such claim, bill or statement. If any claim, bill or statement of the type referred to above is disapproved in writing by such person within the 15-day period herein provided for that purpose, the undersigned at its own expense and without cost or liability on the part of Facilities Corporation in connection therewith, shall take whatever steps may be necessary finally to determine the validity or amount of the debt or liability covered by such claim, bill or statement and upon the final determination thereof shall immediately discharge the obligations of the undersigned in connection therewith as herein provided for.

The indemnity provisions of this Agreement shall continue in full force and effect for 3 years after the effective date of termination, except that insofar as income tax liabilities are concerned, such provisions shall remain in full force and effect until the expiration of 1 year after such income tax liabilities shall have been finally and completely determined.

The undersigned further agrees and consents that the disposition and treatment, for purposes of the computation contemplated in item (3) of paragraph 702 of the Facilities Agreement, of any disputed, contingent, accrued or unliquidated accounts receivable or payable referred to in such item (3) and of any obligations, liabilities and claims against or in favor of Facilities Corporation with which such accounts are concerned shall be as follows:

One representative designated by the undersigned and one representative designated by a majority of The Contracting Airlines shall decide by agreement which of such accounts and the amounts thereof shall be included in the computation contemplated in such item (3) of paragraph 702 of the Facilities Agreement. In the event that such two

representatives fail to reach agreement and there shall be a controversy with respect to any such account or the amount thereof, such controversy shall be determined by a third impartial person who shall be selected by such two representatives or by the American Arbitration Association if the two representatives fail to agree on such third person.

In the event that it shall subsequently appear that such determination resulted in the crediting to the undersigned of an amount in excess of the final liquidation of any such account, the provisions of this Agreement with respect to indemnity shall apply and in the event the undersigned has been credited with an amount which is less than the final liquidation of any such account, Facilities Corporation shall pay over to the Escrow Agent the difference between such amounts for the account of the undersigned.

Any obligations on the part of the undersigned provided for herein shall extend to any other air carrier or Fixed Base Operator (as defined in the Facilities Agreement) which becomes a party to the Facilities Agreement and such air carrier or Fixed Base Operator shall have the same obligations to the undersigned provided for herein as any Contracting Airline.

This Agreement shall not become effective unless and until The Contracting Airlines duly acquire the Facilities Stock as provided for in the Facilities Agreement. In the event the undersigned desires to transfer or otherwise dispose of any of the Facilities Stock, it will notify The Contracting Airlines in writing of the identity of the transferee. Provided a majority of The Contracting Airlines approves such transferee, which approval it agrees not to withhold as to any financially responsible person or concern, the undersigned shall be released from its obligations and liabilities under this Indemnity and Contingent Claim Agreement to the extent of the shares so transferred.

All the terms and conditions of this Indemnity and Contingent Claim Agreement shall accrue to and be binding upon the successors of the parties bound hereby.

Dated: November 15, 1972

Very truly yours,

ALLIED MAINTENANCE SECURITIES, INC.

By D. H. McCAMPBELL  
Vice President

Accepted and Agreed To:

LAGUARDIA FUEL FACILITIES CORPORATION

By D. H. McCAMPBELL  
*President*

AMERICAN AIRLINES, INC.

By GENE E. OVERBECK  
*Senior Vice President*

DELTA AIR LINES, INC.

By H. T. FINCHER  
*Senior Vice President-Operations*

EASTERN AIR LINES, INC.

By G. W. McCARTER  
*Vice President  
Properties*

TRANS WORLD AIRLINES, INC.

By A. E. JORDAN  
*Vice President  
Technical Services*

UNITED AIR LINES, INC.

By CHARLES F. McERLEAN  
*Executive Vice President and  
Chief Operating Officer*

ALLEGHENY AIRLINES, INC.

By L. THOMAS FERGUSON  
*Executive Vice President*

BRANIFF AIRWAYS, INCORPORATED

By HORACE BOLDING  
*Vice President*

NATIONAL AIRLINES, INC.

By G. R. WOODY

NORTH CENTRAL AIRLINES, INC.

By JOHN P. DOW  
*Vice President & Secretary*

NORTHWEST AIRLINES, INC.

By R. W. CHAMBERS  
*Vice President-Properties*

OZARK AIR LINES, INC.

By A. J. ROSE

PIEDMONT AVIATION, INC.

By H. K. SAUNDERS  
*Senior Vice President*

SOUTHERN AIRWAYS, INC.

By GRAYDON HALL  
*Exec. V.P. &  
Gen. Mgr.*

SHELL OIL COMPANY

By E. F. LOVELAND  
*Vice President*

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## EXHIBIT F3

TABLE SHOWING MONTHLY PERCENTAGE  
OF AMORTIZATION BALANCE

<u>Monthly Period</u>	<u>Percentage of Amortization Balance of Original Facilities or Original Pipeline</u>	<u>Monthly Period</u>	<u>Percentage of Amortization Balance of Original Facilities or Original Pipeline</u>	<u>Monthly Period</u>	<u>Percentage of Amortization Balance of Original Facilities or Original Pipeline</u>
1	99.84051010	21	96.40248047	41	92.44318611
2	99.67989048	22	96.21750814	42	92.23016878
3	99.51813314	23	96.03122559	43	92.01564258
4	99.35523002	24	95.84362354	44	91.79959682
5	99.19117300	25	95.65469264	45	91.58202073
6	99.02595391	26	95.46442348	46	91.36290348
7	98.85956452	27	95.27230658	47	91.14223415
8	98.69199654	28	95.07983240	48	90.92000175
9	98.52324162	29	94.88549132	49	90.69619520
10	98.35329135	30	94.68977365	50	90.47080335
11	98.18213727	31	94.49266965	51	90.24381498
12	98.00977085	32	94.29416950	52	90.01521877
13	97.83618350	33	94.09426330	53	89.78500334
14	97.66136657	34	93.89294110	54	89.55315722
15	97.48531135	35	93.69019287	55	89.31966885
16	97.30800908	36	93.48600851	56	89.08452661
17	97.12945091	37	93.28037784	57	88.84771878
18	96.94962796	38	93.07329062	58	88.60923356
19	96.76853126	39	92.86473653	59	88.36905907
20	96.58615179	40	92.65470518	60	88.12718334

## EXHIBIT F3

TABLE SHOWING MONTHLY PERCENTAGE  
OF AMORTIZATION BALANCE

(Continued)

Monthly Period	Percentage of Amortization Balance of Original Facilities or Original Pipeline	Monthly Period	Percentage of Amortization Balance of Original Facilities or Original Pipeline	Monthly Period	Percentage of Amortization Balance of Original Facilities or Original Pipeline
61	87.88359433	81	82.63268963	101	76.58565702
62	87.63827989	82	82.35018128	102	76.26031553
63	87.39122781	83	82.06567183	103	75.93266954
64	87.14242578	84	81.77914711	104	75.60270272
65	86.89186140	85	81.49059284	105	75.27039863
66	86.63952219	86	81.19999464	106	74.93574072
67	86.38539558	87	80.90733804	107	74.59871232
68	86.12948890	88	80.61260845	108	74.25929664
69	85.87172941	89	80.31579120	109	73.91747676
70	85.61216426	90	80.01687149	110	73.57323566
71	85.35076053	91	79.71583443	111	73.22655618
72	85.08750519	92	79.41266503	112	72.87742106
73	84.82238512	93	79.10734818	113	72.52581290
74	84.55538712	94	78.79986867	114	72.17171418
75	84.28649788	95	78.49021118	115	71.81510726
76	84.01570401	96	78.17836028	116	71.45597437
77	83.74299202	97	77.86430044	117	71.09429763
78	83.46834832	98	77.54801600	118	70.73005901
79	83.19175922	99	77.22949122	119	70.36324036
80	82.91321095	100	76.90871022	120	69.99382342

## EXHIBIT F3

TABLE SHOWING MONTHLY PERCENTAGE  
OF AMORTIZATION BALANCE

(Continued)

<u>Monthly Period</u>	<u>Percentage of Amortization Balance of Original Facilities or Original Pipeline</u>	<u>Monthly Period</u>	<u>Percentage of Amortization Balance of Original Facilities or Original Pipeline</u>	<u>Monthly Period</u>	<u>Percentage of Amortization Balance of Original Facilities or Original Pipeline</u>
121	69.62178977	141	61.60207987	161	52.36644336
122	69.24712088	142	61.17060471	162	51.86954910
123	68.86979809	143	60.73607328	163	51.36913518
124	68.48980260	144	60.29846388	164	50.86517666
125	68.10711547	145	59.85775477	165	50.35764843
126	67.72171764	146	59.41392397	166	49.84652521
127	67.33358991	147	58.96694937	167	49.33178153
128	66.94271294	148	58.51680870	168	48.81339175
129	66.54906726	149	58.06347953	169	48.29133004
130	66.15263326	150	57.60693928	170	47.76557040
131	65.75339118	151	57.14716520	171	47.23608663
132	65.35132114	152	56.68413439	172	46.70285235
133	64.94640310	153	56.21782378	173	46.16584099
134	64.53861689	154	55.74821014	174	45.62502580
135	64.12794220	155	55.27527007	175	45.08037984
136	63.71435856	156	54.79898000	176	44.53187597
137	63.29784537	157	54.31931621	177	43.97948686
138	62.87838188	158	53.83625480	178	43.42318500
139	62.45594719	159	53.34977171	179	42.86294266
140	62.03052025	160	52.85984270	180	42.29873194

## EXHIBIT F3

TABLE SHOWING MONTHLY PERCENTAGE  
OF AMORTIZATION BALANCE

(Continued)

Monthly Period	Percentage of Amortization Balance of Original Facilities or Original Pipeline	Monthly Period	Percentage of Amortization Balance of Original Facilities or Original Pipeline	Monthly Period	Percentage of Amortization Balance of Original Facilities or Original Pipeline
181	41.73052473	201	29.48201703	221	15.37642383
182	41.15629272	202	28.82302475	222	14.61751694
183	40.58200740	203	28.15936461	223	13.85323445
184	40.00164006	204	27.49100355	224	13.08353830
185	39.41716178	205	26.81790826	225	12.30839013
186	38.82854345	206	26.14004521	226	11.52775133
187	38.23575574	207	25.45738063	227	10.74158301
188	37.63876911	208	24.76988051	228	9.94984599
189	37.03755383	209	24.07751060	229	9.15250084
190	36.43207994	210	23.38023640	230	8.34950782
191	35.82231728	211	22.67802318	231	7.54082694
192	35.20823546	212	21.97083595	232	6.72641790
193	34.58980390	213	21.25863947	233	5.90624013
194	33.96699178	214	20.54139827	234	5.08025277
195	33.33976808	215	19.81907661	235	4.24841466
196	32.70810154	216	19.09163851	236	3.41068437
197	32.07196070	217	18.35904772	237	2.56702015
198	31.43131386	218	17.62126774	238	1.71737998
199	30.78612910	219	16.87826182	239	.86172152
200	30.13637428	220	16.12999294	240	.00000000

## EXHIBIT F4

## ASSIGNMENT OF LEASE

KNOW THAT, LA GUARDIA FUEL FACILITIES CORPORATION, a New York corporation, having an office at Two Pennsylvania Plaza, New York, New York 10001, Assignor, in consideration of \$1 and other good and valuable consideration paid by

[here insert the names of The Contracting Airlines],  
Assignees, hereby assigns unto the Assignees all its right, title and interest in and to

(a) the Pipeline, as defined in the Agreement dated as of November 15, 1972, by and among LaGuardia Fuel Facilities Corporation, Allied Aviation Service Company of New York, Inc., and American Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc. and Allegheny Airlines, Inc., Braniff Airways, Incorporated, National Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., Piedmont Aviation, Inc., Southern Airways, Inc. and Shell Oil Company ("Facilities Agreement"); and

(b) the Pipeline Franchise, as defined in the Facilities Agreement, subject to such approval, if any, as may be required by any governmental authority having jurisdiction with respect to the Pipeline Franchise and any assignment thereof.

To HAVE AND TO HOLD the same unto the Assignees, their successors and assigns, until [here insert the effective date of termination of the Facilities Agreement].

The Assignor warrants that it has good title to the Pipeline, subject only to such rights as may have been assigned to the "purchasers" as defined in the Facilities Agreement, and the Assignor further warrants that, upon payment by the Assignees of the "Original Pipeline and Additional Pipeline amortization balance" (as defined in the Facilities Agreement) as required by the Facilities Agreement, any rights of the purchasers will be extinguished.

IN WITNESS WHEREOF, the Assignor has hereto set its hand and seal this      day of                      , 19 .

LA GUARDIA FUEL FACILITIES CORPORATION

By .....

[CORPORATE ACKNOWLEDGMENT]

EXHIBIT F5

ASSUMPTION AGREEMENT

KNOW THAT [here insert the names of The Contracting Airlines] (hereinafter called the "Assignees") in consideration of the assignment to them of the "Pipeline" and the "Pipeline Franchise", by assignment of even date, hereby assume the performance of all the terms and conditions on the part of LaGuardia Fuel Facilities Corporation ("Facilities Corporation") to be performed under the Pipeline Franchise, and hereby agree to indemnify and save harmless Facilities Corporation from all manner of suits, actions, damages, charges, and expense, including reasonable attorneys' fees, that Facilities Corporation may sustain by reason of the Assignees' failure so to perform all such terms and conditions.

IN WITNESS WHEREOF, the Assignees have signed, sealed and delivered this instrument on [here insert the effective date of termination of the Facilities Agreement].

[to be executed by each of  
THE CONTRACTING AIRLINES]

By .....

[SEAL]

[CORPORATE ACKNOWLEDGMENTS]



EXHIBIT B2

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CONSENT TO FACILITIES AGREEMENT

AMONG

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

AND

L<sup>A</sup>GUARDIA FUEL FACILITIES CORPORATION

AND

ALLIED AVIATION SERVICE COMPANY  
OF NEW YORK, INC.

AND

AMERICAN AIRLINES, INC.  
TRANS WORLD AIRLINES, INC.  
EASTERN AIR LINES, INC.  
UNITED AIR LINES, INC.  
DELTA AIR LINES, INC.  
ALLEGHENY AIRLINES, INC.  
BRANIFF AIRWAYS, INCORPORATED  
NATIONAL AIRLINES, INC.  
NORTH CENTRAL AIRLINES, INC.  
NORTHWEST AIRLINES, INC.  
OZARK AIR LINES, INC.  
PIEDMONT AVIATION, INC.  
SOUTHERN AIRWAYS, INC.  
SHELL OIL COMPANY

---

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THIS AGREEMENT, made by and among THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority"), a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States of America, having an office for the transaction of business at 111 Eighth Avenue in the Borough of Manhattan, City, County and State of New York and LA GUARDIA FUEL FACILITIES CORPORATION (hereinafter called the "Sublessor"), a corporation of the State of New York, with an office for the transaction of business at 2 Pennsylvania Plaza, New York, New York, and ALLIED AVIATION SERVICE COMPANY OF NEW YORK, INC. (hereinafter called "Allied"), a corporation organized and existing under the laws of the State of New York, with an office for the transaction of business at 2 Pennsylvania Plaza, New York, New York, and AMERICAN AIRLINES, INC., a corporation of the State of Delaware, having an office and place of business at 633 Third Avenue, New York and TRANS WORLD AIRLINES, INC., a corporation of the State of Delaware having an office and place of business at 605 Third Avenue, New York, New York and EASTERN AIR LINES, INC., a corporation of the State of Delaware having an office and place of business at Building 23, Miami International Airport, Miami, Florida and UNITED AIR LINES, INC., a corporation of the State of Delaware having an office and place of business at 1200 Algonquin Road, Elk Grove Township, Illinois and DELTA AIR LINES, INC., a corporation of the State of Louisiana having an office and place of business at Atlanta Municipal Airport, Atlanta, Georgia and SHELL OIL COMPANY, a corporation of the State of Delaware, having an office and place of business at 1 Shell Plaza, Houston, Texas; ALLEGHENY AIRLINES, INC., a corporation of the State of Delaware having an office and place of business at National Airport, Washington, D. C., and BRANIFF AIRWAYS, INCORPORATED, a corporation of the State of Oklahoma having an office and place of business at Braniff Tower, P. O. Box 35001, Exchange Park, Dallas, Texas, and NATIONAL AIRLINES, INC., a corporation of the State of Florida having an office and place of business at P. O. Box 2055, Airport Mail Facility, Miami, Florida 33159, and NORTH CENTRAL AIRLINES,

NOTE: The counterparts signed by Delta Air Lines, Inc. were changed to state that Delta Air Lines, Inc. is a corporation of the State of Delaware having an office and place of business at Hartsfield Atlanta International Airport, Atlanta, Georgia.

INC., a corporation of the State of Wisconsin having an office and place of business at 7500 Northliner Drive, Minneapolis, Minnesota, and NORTHWEST AIRLINES, INC., a corporation of the State of Minnesota having an office and place of business at Minneapolis-St. Paul International Airport, St. Paul, Minnesota, and OZARK AIR LINES, INC., a corporation of the State of Missouri having an office and place of business at Box 10007, Lambert Field, St. Louis, Missouri, and PIEDMONT AVIATION, INC., a corporation of the State of North Carolina having an office and place of business at Smith Reynolds Airport, Winston-Salem, North Carolina, and SOUTHERN AIRWAYS, INC., a corporation of the State of Delaware having an office and place of business at Atlanta Airport, Atlanta, Georgia (hereinafter collectively called "the Sublessee"),

WITNESSETH, That:

WHEREAS, the Port Authority leased to American Airlines, Trans World Airlines, United Air Lines, Eastern Air Lines and Delta Air Lines (hereinafter jointly, severally and collectively called the "Assignor") and the Assignor hired and took from the Port Authority certain premises at LaGuardia Airport as described in a certain agreement of lease dated as of November 1, 1972 (said agreement of lease being hereinafter called the "Lease"), and

WHEREAS, the Assignor has assigned its entire interest as lessee under the Lease to the Sublessor with the consent of the Port Authority pursuant to the Assignment of Lease with Assumption and Consent dated as of November 15, 1972, among the Port Authority, the Assignor and the Sublessor (said instrument being hereinafter called the "Assignment"), and

WHEREAS, pursuant to the provisions of the Assignment and the Lease, the Sublessor and the Sublessee are about to enter into a Facilities Lease and Agreement dated as of November 15, 1972, a copy of which is attached hereto, made a part hereof and hereinafter called the "Facilities Agreement", and

WHEREAS, certain rights are granted in the Facilities Agreement to Allied, which will be a party thereto, and

WHEREAS, the prior written consent of the Port Authority to the Facilities Agreement is required;

NOW, THEREFORE, in consideration of the covenants and mutual agreements of all the parties hereto, it is hereby agreed by the parties, effective from and after November 15, 1972, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents to the Facilities Agreement.

2. Neither this Consent to Facilities Agreement nor anything herein nor the consent granted hereunder shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, variation or change in the rights, powers and privileges granted to the lessee under the Lease or to any of the parties under the Assignment nor shall they impair or affect any of the duties, liabilities and obligations imposed on the lessee under the Lease or on any of the parties under the Assignment. The terms, provisions, covenants, conditions and agreements of the Lease and the Assignment shall, in all respects, be controlling, effective and determinative. The specific mention of or reference to the Port Authority in any part of the Facilities Agreement including without limitation thereto any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent to Facilities Agreement or shall thereafter grant its consent or approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion as to granting any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provision of the Facilities Agreement to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Lease and the Assignment shall in all respects be controlling, effective and determinative.

No provision of the Facilities Agreement including but not limited to those imposing obligations on the Sublessee or Allied with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the

same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Facilities Agreement covering future actions which may be undertaken by the Sublessee or Allied, including but not limited to those covering construction of Additional Facilities (as defined in the Facilities Agreement), an underground into-plane fuel system or any other construction on the premises or the Airport, be deemed to imply or infer that Port Authority consent or approval thereto will be given or that Port Authority discretion with respect thereto will in any way be affected or impaired. Reference in this paragraph to specific matters and provisions as contained in the Facilities Agreement shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to granting or withholding approvals or consents as to other matters and provisions in the Facilities Agreement which are not specifically referred to herein.

3. The granting of this consent by the Port Authority shall not be or be deemed to operate as a waiver of consent to any subsequent subleasing (including but not limited to any by the Sublessor, the Sublessee or Allied) or assignment of the Lease, the Facilities Agreement or of any rights under any of them, whether in whole or in part.

4. The Facilities Agreement shall in any event terminate, without notice to the Sublessee, on the day preceding the date of expiration or earlier termination of the Lease, or on such earlier date as the Sublessor and Sublessee may agree upon.

5. The Facilities Agreement shall not be changed, modified, discharged or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

6. The Sublessee and Allied in their operations under or in connection with the Facilities Agreement and in their occupancy of the premises, agree to assume, observe, be bound by and comply with all the terms, provisions, covenants and conditions of the Lease.

7. Without in any wise affecting the obligations of the Sublessor under the Lease and under this Consent to Facilities Agreement, the Sublessee and Allied agree with respect to their acts and omissions to indemnify the Port Authority and to make repairs and replacements

as if they were the lessee under the Lease. However, all acts and omissions of the Sublessee (including acts and omissions of each and every Contracting Airline, as defined in the Facilities Agreement) and Allied shall be deemed to be acts and omissions of the lessee under the Lease and the Sublessor shall also be severally responsible therefor, including but not limited to the obligations of indemnification and repair.

8. References herein to the Sublessee and Allied shall mean and include the Sublessee (including each and every Contracting Airline comprising the Sublessee) and Allied and their officers, agents, employees and also others on the premises or the Airport with the consent of the Sublessee or Allied.

9. This Consent to Facilities Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10. No Commissioner, director, officer, stockholder, agent or employee of any party to this Consent to Facilities Agreement shall be charged personally or held contractually liable by or to any other party under any term or provision of this Consent to Facilities Agreement or of any supplement, modification or amendment to this Consent to Facilities Agreement, or because of any breach thereof, or because of its or their execution or attempted execution.

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

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

By C. B. PATTARINI  
*Deputy Director of  
Aviation*  
(Seal)

Attest:

DORIS E. LANDRE  
*Secretary*

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SUBLESSOR:

LAGUARDIA FUEL FACILITIES  
CORPORATION

By D. H. McCAMPBELL  
*President*  
(Corporate Seal)

Attest:

J. N. BUZANGA  
*Secretary*

ALLIED AVIATION SERVICE COMPANY  
OF NEW YORK, INC.

By D. H. McCAMPBELL  
*President*  
(Corporate Seal)

Attest:

J. N. BUZANGA  
*Ass't Secretary*

SUBLESEE:

AMERICAN AIRLINES, INC.

By GENE E. OVERBECK  
*Senior Vice President*  
(Corporate Seal)

Attest:

H. WAYNE WILE  
*Secretary*

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## TRANS WORLD AIRLINES, INC.

By A. E. JORDAN  
*Vice President*  
*Technical Services*  
 (Corporate Seal)

Attest:

E. EILEEN FLEMING  
*Assistant Secretary*

## EASTERN AIR LINES, INC.

By G. W. McCARTER  
*Vice President*  
*Properties*  
 (Corporate Seal)

Attest:

J. E. CREIGHTON  
*Secretary*

## UNITED AIR LINES, INC.

By CHARLES F. McERLEAN  
*Executive Vice President*  
*and Chief Operating*  
*Officer*  
 (Corporate Seal)

Attest:

R. H. CARTER  
*Assistant Secretary*

## DELTA AIR LINES, INC.

By H. T. FINCHER  
*Senior Vice President —*  
*Operations*  
 (Corporate Seal)

Attest:

IKE LASSETER  
*Assistant Secretary*

ALLEGHENY AIRLINES, INC.

By L. THOMAS FERGUSON  
*Executive Vice President*  
(Corporate Seal)

Attest:

MARY S. MORRIS  
*Ass't Secretary*

BRANIFF AIRWAYS, INCORPORATED

By HOBACE BOLDING  
*Vice President*  
(Corporate Seal)

Attest:

JAY M. JACKSON  
*Secretary*

NATIONAL AIRLINES, INC.

By G. R. WOODY  
*Executive Vice-President*  
(Corporate Seal)

Attest:

J. M. LINDSEY  
*Secretary*

NORTH CENTRAL AIRLINES, INC.

By BERNARD SWEET  
*President*  
(Corporate Seal)

Attest:

JOHN P. DOW  
*Vice President & Secretary*

NORTHWEST AIRLINES, INC.

By R. W. CHAMBERS  
*Vice President —  
Properties*  
(Corporate Seal)

Attest:

A. E. FLOAN  
*Secretary*

OZARK AIR LINES, INC.

By A. J. ROSE  
*V. P. Finance &  
Treasurer*  
(Corporate Seal)

Attest:

VYONNE OVERHOLSER  
*Assistant Secretary*

PIEDMONT AVIATION, INC.

By H. K. SAUNDERS  
*Senior Vice  
President*  
(Corporate Seal)

Attest:

T. W. MORTON  
*Secretary*

SOUTHERN AIRWAYS, INC.

By GRAYDON HALL  
*Ex. V. P. and  
Gen. Mgr.*  
(Corporate Seal)

Attest:

J. K. COURTENAY  
*Secretary*

SHELL OIL COMPANY

By E. F. LOVELAND  
*Vice President*  
(Corporate Seal)

Attest:

C. M. WRIGHT  
*Assistant Secretary*

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

On the 27th day of March, 1973, before me personally came CAESAR B. PATTARINI, to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

; that he is the Deputy Director of Aviation of The Port Authority of New York and New Jersey, one of the corporations described in and which executed the foregoing instrument; that he knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Commissioners of the said corporation; and that he signed his name thereto by like order.

ANNA F. McKIERNAN

ANNA F. McKIERNAN  
 Notary Public, State of New York  
 No. 03-7853485 Qual. in Bronx County  
 Certificate filed in New York County  
 Commission Expires March 30, 1974

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

On the 26th day of March, 1973, before me personally came DONALD H. McCAMPBELL, to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

that he is the President of LAGUARDIA FUEL FACILITIES CORPORATION, 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.

ANNA F. McKIERNAN

ANNA F. McKIERNAN  
 Notary Public, State of New York  
 No. 03-7853485 Qual. in Bronx County  
 Certificate filed in New York County  
 Commission Expires March 30, 1974

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

On the 26th day of March, 1973, before me personally came DONALD H. McCAMPBELL, to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

that he is the President of ALLIED AVIATION SERVICE COMPANY OF NEW YORK, 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.

ANNA F. MCKIERNAN

ANNA F. MCKIERNAN  
 Notary Public, State of New York  
 No. 03-7853465 Qual. in Bronx County  
 Certificate filed in New York County  
 Commission Expires March 30, 1974

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

On the 5th day of December, 1972, before me personally came GENE E. OVERBECK to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

that he is the Vice President of American Airlines, 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.

GALE KAY WALL

GALE KAY WALL  
 Notary Public, State of New York  
 No. 31-9509200  
 Qualified in New York County  
 Commission Expires March 30, 1973

STATE OF GEORGIA }  
 COUNTY OF FULTON } ss.:

On the 13th day of December, 1972, before me personally came H. T. FINCHER to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the Sr. Vice President of operations, Delta Air Lines, 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.

JEAN M. SMITH

Notary Public, Georgia State at Large  
 My Commission Expires Sept. 21, 1975

STATE OF FLORIDA }  
 COUNTY OF DADE } ss.:

On the 11th day of December, 1972, before me personally came G. W. McCARTER to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

; that he is a Vice President of Eastern Air Lines, 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.

ARTHUR D. MEYER

Notary Public, State of Florida at Large  
 My Commission Expires Aug. 2, 1978  
 Bonded thru Maynard Bonding Agency

STATE OF MISSOURI }  
 COUNTY OF PLATTE } ss.:

On the 7th day of December, 1972, before me personally came A. E. JORDAN to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the Vice President of Trans World Airlines, 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.

E. ANITA McLAUGHLIN  
 Notary Public in and for Clay  
 County, Mo., which adjoins  
 Platte County, Mo.

E. ANITA McLAUGHLIN  
 My Commission Expires May 7, 1976

STATE OF ILLINOIS }  
 COUNTY OF COOK } ss.:

On the 20th day of December, 1972, before me personally came CHARLES F. McERLEAN to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the Executive Vice President of United Air Lines, 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.

CHARLES W. JOHNSON  
 My Commission Expires  
 July 22, 1973

STATE OF VIRGINIA }  
 COUNTY OF AT LARGE } ss.:

On the 19th day of December, 1972, before me personally came L. THOMAS FERGUSON to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

that he is the Ex. Vice President of Allegheny, 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.

JERRY L. DEPOY

My Commission Expires  
 November the 5th, 1975

STATE OF TEXAS }  
 COUNTY OF DALLAS } ss.

On the 12th day of December, 1972, before me personally came HORACE BOLDING to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

that he is the Vice President of Braniff Airways, Incorporated, 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.

KATHERINE JOHNSTON  
 Notary Public  
 Dallas County, Texas

STATE OF FLORIDA }  
 COUNTY OF DADE } ss.

On the 25th day of January, 1973, before me personally came G. R. Woody to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 ; that he is the Executive Vice President of National Airlines, 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.

SHIBLEY J. TIGAR  
 Notary Public State of Florida At Large  
 My Commission Expires Feb. 5, 1977  
 Bonded Thru General Insurance  
 Underwriters

STATE OF MINNESOTA }  
 COUNTY OF HENNEPIN } ss.

On the 8th day of December, 1972, before me personally came BERNARD SWEET to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

that he is the President of North Central Airlines, 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.

BARBARA WELDY  
 BARBARA WELDY  
 Notary Public, Hennepin County, Minn.  
 My Commission Expires April 29, 1977.

STATE OF MINN. }  
 COUNTY OF DAKOTA } ss.

On the 6th day of Dec., 1972, before me personally came R. W. CHAMBERS to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 ; that he is the Vice President of Northwest Airlines, 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.

JANYCE R. STE. MARIE

JANYCE R. STE. MARIE  
 Notary Public, Dakota County, Minn.  
 My Commission Expires May 23, 1974

STATE OF MISSOURI }  
 COUNTY OF ST. LOUIS } ss.

On the 22nd day of December, 1972, before me personally came A. J. ROSE to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the Vice President of Finance of Ozark Air Lines, 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.

E. GLORIA KRUEGER

My Commission Expires April 25, 1974

STATE OF NORTH CAROLINA }  
 COUNTY OF FORSYTH } SS.

On the 5th day of December, 1972, before me personally came H. K. SAUNDERS to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the Sr. Vice-President of Piedmont Aviation, 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.

NEDRA R. VAN ZEE  
 Notary Public of Forsyth County  
 My Commission Expires 10/14/78

STATE OF GEORGIA }  
 COUNTY OF FULTON } SS.

On the 10th day of January, 1973, before me, personally came GRAYDON HALL to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the Exec. Vice President & Gen. Mgr. of Southern Airways, 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.

MARY C. HAYES  
 Notary Public Fulton County, Georgia  
 My Commission Expires July 13, 1976

STATE OF TEXAS }  
COUNTY OF HARRIS } ss.:

On the 19th day of February, 1973, before me personally came E. F. LOVELAND to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

that he is a Vice President of Shell Oil Company, 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.

M. J. McPHAIL

M. J. McPHAIL  
Notary Public in and for Harris County, Texas  
My Commission Expires June 1, 1973



**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**  
**FIXED BASE OPERATOR LEASE**

**AGREEMENT OF LEASE**

**Between**

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

**And**

**SHELTAIR AVIATION JFK, LLC**

**Date: As of July 1, 2011**

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Schedule E	Affirmative Action – Equal Opportunity – Minority Business Enterprises - Women-Owned Business Enterprises Requirements
Schedule F	Local Business Enterprises Commitment

Agreement No. AYE-083

## LEASE AGREEMENT

THIS AGREEMENT, dated and effective as of July 1, 2011, by and between the PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority"), a body corporate and politic established by Compact between the States of New Jersey and New York with the consent of the Congress of the United States of America, and having an office at 225 Park Avenue South, in the Borough of Manhattan, in the City, County and State of New York 10003, and SheltAir Aviation, JFK, LLC, a limited liability company organized and existing under the laws of the State of Florida, with its principal executive offices at 90 Arrival Avenue, Suite 18, Ronkonkoma, New York 11779 (hereinafter called the "Operator"), whose representative is John Schmatz, President.

WITNESSETH, That:

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

### **Section 1. Definitions.**

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

"Adjustment Period" shall have the meaning set forth in paragraph (b) of the Section hereof entitled "*Rentals and Payments*".

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

"Agreement" shall mean this Agreement of Lease.

“Aircraft Operator” shall mean (a) a Person owning one or more aircraft which are not leased or chartered to any other Person for operation; or (b) a Person to whom one or more aircraft are leased or chartered for operation whether the aircraft so owned, leased or chartered are military or non-military, or are used for private business, pleasure or governmental business, or for carrier or non-carrier operations, or for scheduled or non-scheduled operations or otherwise. Said phrase shall not mean the pilot of an aircraft unless he or she is also the owner or lessee thereof or a Person to whom it is chartered.

“Airport” shall mean John F. Kennedy International Airport in the County of Queens, City and State of New York.

“Anniversary Date” shall have the meaning set forth in paragraph (b) of the Section hereof entitled “*Rentals and Payments*”.

“Annual Index Increase” shall have the meaning set forth in paragraph (b) of the Section hereof entitled “*Rentals and Payments*”.

“Annual Period” shall have the meaning set forth in paragraph (e) of the Section hereof entitled “*Rentals and Payments*”.

“Assignment” shall have the meaning set forth in paragraph (a) of the Section hereof entitled “*Assignment and Subletting*”.

“Basic Lease” shall mean the Amended and Restated Agreement of Lease between The City of New York, as landlord, and the Port Authority, as tenant, dated as of November 24, 2004, as the same from time to time may be supplemented or amended and/or restated. Said agreement dated as of November 24, 2004, has been recorded in the Office of the Register of The City of New York, County of Queens, on December 3, 2004 with a City Register File Number of 2004000748687.

“Chargeable Aircraft” shall have the meaning set forth in the Section hereof entitled “*Collection of Port Authority Fees and Charges*”.

“City” and “City of New York” shall mean the municipal corporation of the State of New York known as The City of New York.

“Civil Aircraft Operator” shall mean a Person engaged in civil transportation by aircraft or otherwise operating aircraft for civilian purposes, whether governmental or private. If any such Person is also engaged in the operation of aircraft for military, naval or air force purposes, such Person shall be deemed to be a Civil Aircraft Operator only to the extent that such Person engages in the operation of aircraft for civilian purposes.

“Claim” and “Claims” shall have the meaning set forth in the Section of this Agreement entitled “*Storage Tanks*”.

"Commencement Date" shall mean the earlier to occur of the following: (a) the date gross receipts (as herein defined) are first generated in or from the Premises by the Operator or (b) ~~September~~ 1, 2011. *to 8*  
~~October~~

"Contractor" shall have the meaning set forth in Schedule E.

"Customer's Aircraft" shall have the meaning set forth in the Section of this Agreement entitled "*Services by the Operator*".

"Discharge" shall have the meaning set forth in the Section of this Agreement entitled "*Storage Tanks*".

"EEO" shall have the meaning set forth in Schedule E.

"Effective Date" shall mean the date of this Agreement.

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

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

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

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

(iii) The Atomic Energy Act of 1954, 42 U.S.C. Section 2011 et seq.; the Clean Water Act also known as the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136 et seq.; the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq.; the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), Section 2701 et seq.; the Emergency Planning and Community Right to Know Act, 42 U.S.C. Section 11001 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Safe Drinking Water Act of 1974, 42 U.S.C. Sections 300f-300h-11 et seq.; the New York State Environmental Conservation Law; the New York State Navigation Law; together, in each case, with any amendment thereto, and the regulations adopted, guidances, memoranda and publications promulgated thereunder and all substitutions thereof.

"Equal Employment Opportunity" or "EEO" shall have the meaning set forth in Schedule E.

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

"FAA" shall mean the Federal Aviation Administration of the United States and any successor thereto.

"Fixed Base Operation" shall have the meaning set forth in the Section hereof entitled "*Rights of User*".

"Fixed Rental" shall have the meaning set forth in the Section hereof entitled "*Rentals and Payments*".

"Fueling Service" shall have the meaning set forth in paragraph (e) of the Section hereof entitled "*Services by the Operator*".

"Fuel Storage Operator Agreement" shall have the meaning set forth in paragraph (e) of the Section hereof entitled "*Services by the Operator*".

"Fuel Storage Permit" shall have the meaning set forth in paragraph (e) of the Section hereof entitled "*Services by the Operator*".

"General Aviation Aircraft Operators" shall mean non-scheduled commuter aircraft operators, air taxi, general aviation, and itinerant aircraft operators, and charter aircraft operators operating general aviation aircraft certificated by the Federal Aviation Administration. The terms "general Aviation", "air taxi", "itinerant", and "non-scheduled commuter" as used to describe aircraft or aircraft operations shall have the meaning ascribed by the Federal Aviation Regulations or, if there be none, common usage in the aviation industry.

"General Aviation Terminal" or "Terminal" or "Building" shall mean Building No. 145 at the Airport.

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

"Governmental Authority", "Governmental Board" and "Governmental Agency" shall mean federal, state, municipal and other governmental authorities, boards and agencies of any state, nation or government, except that it shall not be construed to include the Port Authority of New York and New Jersey, the lessor under this Agreement.

"Gross receipts" as used in this Agreement shall include all monies paid or payable to the Operator for sales made and for services rendered at or from the Airport, regardless of the time or place of receipt of the order therefor, and for sales made and for services rendered outside the Airport, if the order therefor is received at the Airport, and shall include, by way of example, any other revenues of any type arising out of or in connection with the activities of the Operator at the Airport including, but not limited to, each and every sale made or service rendered, allowances of every kind (including but not limited to trade-ins made by the Operator to its customers), and including all fees and commissions paid to the Operator on sales of aircraft, and the "Operator's profits on sales of aircraft" by the Operator (as hereinafter defined), and including all monies paid or payable to the Operator for any charter and leasing of aircraft permitted hereunder, and shall also include any other revenues of any type arising out of or in connection with the activities of the Operator the Airport; provided, however, that the following shall be excluded from gross receipts: (i) charges collected by the Operator on behalf of the Port Authority as set forth in the Section of this Agreement entitled "*Collection of Port Authority Fees and Charges*" hereof; and (ii) and any taxes imposed by law which are separately stated to and paid by customers of the Operator and directly remitted by the Operator to the taxing or to a tax collecting authority. Without limiting the requirement for Port Authority approval, if the Operator conducts any service, operation or any other permitted use under this Agreement through the use of a contractor, and (i) the payments for any of the foregoing are made to the contractor; and (ii) said contractor does not pay fees to the Port Authority based on the receipt of such payments pursuant to an executed agreement between said contractor and the Port

Authority, then said payments received by the contractor shall be deemed a part of gross receipts as if made to the Operator. Where, however, Operator provides services to its customers and charges only an administrative fee with respect thereto, said administrative fee being the only income to Operator with respect to said service, said Gross Receipts attributable to the provision by Operator of said services shall be limited solely to the administrative fee charged therefor. As used herein, the term "Operator's profits on sales of aircraft" shall mean the profits earned by the Operator on sales of aircraft determined in accordance with generally accepted accounting principles consistently applied by the Operator.

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

"Index" shall have the meaning set forth in paragraph (b) of the Section hereof entitled "*Rentals and Payments*".

"Letting" shall mean the letting under this Agreement for the original term stated herein, and shall include any extension hereof.

"Local Business Enterprise" or "LBE" shall have the meaning set forth in Schedule F attached hereto.

"Meaningful Participation" shall have the meaning set forth in Schedule E hereof.

"Minority" shall have the meaning set forth in Schedule E hereof.

"Minority Business Enterprise" or "MBE" shall have the meaning set forth in Schedule E.

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

"Percentage Increase" shall have the meaning set forth in paragraph (b) of the Section hereof entitled "*Rentals and Payments*".

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

“Port Authority” shall mean The Port Authority of New York and New Jersey, a body corporate and politic, established by Compact between the States of New Jersey and New York with the consent of the Congress of the United States of America (“Compact”).

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

“Premises” shall have the meaning set forth in the Section hereof entitled “Letting”.

“Public Aircraft Facilities” or “PAF” shall mean the following facilities, as they may from time to time be provided and maintained by the Port Authority at the Airport for public and common use, including use by Civil Aircraft Operators, for the following purposes and which (except by reason of any of the things mentioned in the Section hereof entitled “Force Majeure”) are usable for such purposes, regardless of whether or not they are actually used or usable in whole or in part by the Operator:

(a) Public Aircraft Parking and Storage Space-by which is meant space for the purpose of parking and storing Aircraft, for the purpose of servicing of aircraft with fuel and lubricants and other supplies for use thereon, and for the purpose of making minor or emergency repairs to aircraft.

(b) Public Ramp and Apron Space-by which is meant space for the purpose of loading and unloading of passengers, baggage, cargo, mail and supplies to or from aircraft, for the purpose of servicing aircraft with fuel and lubricants, for the purpose of performing the operations commonly known as “ramp service,” and for the purpose of performing inspection, minor maintenance and other services upon or in connection with aircraft incidental to performing “ramp service,” and for the purpose of parking of mobile equipment actively used in connection with such operations.

(c) Runways-by which is meant runways (including aerial approaches) at the Airport for the purpose of the landing and taking-off of aircraft.

(d) Taxiways-by which is meant taxiways at the Airport for the purpose of the ground movement of Aircraft to, from and between the Runways, the Public Ramp and Apron Space, the Public Aircraft Parking and Storage Space and other portions of the Airport (not including, however, any taxilanes, the exclusive use of which is granted to the Operator or any other Person by lease, permit or otherwise).

(e) Facilities Incidental to the Runways, Public Ramp and Apron Space, Public Aircraft Parking and Storage Space and Taxiways-by which is meant facilities for the purpose of controlling or assisting arrivals, departures and operation of aircraft using the Airport, such as control towers, signals, beacons, wind indicators, flood lights, landing lights, boundary lights, obstruction lights, navigation lights, radio and electronic aids, or other aids to operation, navigation or ground control of aircraft, whether or not of a type hereinbefore enumerated, and even though located at sites away from the other Public Aircraft Facilities or outside the Airport.

The designation by the Port Authority, by its Rules and Regulations (as published in the "Air Terminal Rules and Regulations" issued or dated March 2002, and such reasonable future Rules and Regulations of the Port Authority, including amendments and supplements thereto), of particular portions of the Public Aircraft Parking and Storage Space or the Public Ramp and Apron Space for use by aircraft of particular Aircraft Operators or for use by particular types of aircraft or for use for particular operations shall not affect the status of such space as Public Aircraft Facilities. Space or facilities especially provided for or reserved for the landing and taking off of helicopters or dirigibles or other lighter-than-air aircraft shall be deemed to be a part of the Public Aircraft Facilities.

"Schedule of Charges" shall mean the Schedule of Charges for Air Terminals published by the Port Authority from time to time.

"Scheduled Aircraft Operator" shall mean a Civil Aircraft Operator engaged in transportation by aircraft operated wholly or in part on regular flights to and from the Airport in accordance with published schedules; but so long as the Federal Aviation Act of 1958, or any similar federal statute providing for the issuance of Foreign Air Carrier Permits or Certificates of Public Convenience and Necessity or substantially similar permits or certificates, is in effect, no person shall be deemed to be a Scheduled Aircraft Operator within the meaning of this Agreement unless he also holds such a permit or certificate.

"Sublease" shall have the meaning set forth in paragraph (a) of the Section hereof entitled "*Assignment and Subletting*".

"Sublease Payments" shall have the meaning set forth in paragraph (f) of the Section hereof entitled "*Rentals and Payments*".

"Subletting Rental" shall have the meaning set forth in paragraph (f) of the Section hereof entitled "*Rentals and Payments*".

"Tank" or "Tanks" shall have the meaning set forth in the Section of this Agreement entitled "*Storage Tanks*".

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

"Transfer" shall have the meaning set forth in paragraph (a) of the Section hereof entitled "*Assignment and Subletting*".

"Unscheduled operations" or "non-scheduled operations" shall mean any common carriage passenger-carrying operation for compensation or hire, using aircraft designed for at least 31 passenger seats, conducted by an air carrier for which the departure time, departure location, and arrival location are specifically negotiated with the customer or the customer's representative. It includes any passenger-carrying supplemental operation conducted under 14 CFR part 121 and any passenger-carrying public charter operation conducted under 14 CFR part 380.

"User's Charges" shall have the meaning set forth in the Section hereof entitled "*Collection of Port Authority Fees and Charges*".

"Women-Owned Business Enterprise" or "WBE" shall have the meaning set forth in Schedule E.

## **Section 2. Letting**

(a) Subject to the fulfillment of the condition precedent to the letting hereunder set forth in paragraph (b) of Section 3, below, and the commencement of the Term as provided in paragraph (a) of Section 3, below, the Port Authority hereby lets to the Operator and the Operator hereby hires and takes from the Port Authority, at the Airport, the following described premises:

(1) The space on the first floor of the Terminal (Building No. 145) as shown in hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A" (hereinafter called "Area A"); and

(2) The space on the first floor of the Terminal (Building No. 145) as shown in hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit B" (hereinafter called "Area B"); and

(3) The outside ground area shown in broken-line hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit C" (hereinafter called "Area C"), and

(4) The outside, paved ground area shown in broken-line hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit D" (hereinafter called "Area D"),

together with all buildings, structures, fixtures, improvements and other property of the Port Authority located therein, thereon or thereunder, and all structures, improvements, additions, buildings, installations and facilities located, constructed or installed, or which may be located, constructed or installed therein, thereon or thereunder, and the equipment permanently affixed or permanently located therein, such as electrical, plumbing, sprinkler, fire protection and fire alarm, heating, steam, sewage, drainage, refrigerating, communications, gas and other systems, and their pipes, wires, mains, lines, tubes, conduits, equipment and fixtures, and all paving, drains, culverts, ditches and catch-basins constructed therein, thereon or thereunder as of the Effective Date (all of the foregoing, collectively, the "Premises").

(b) The Operator hereby acknowledges that the Premises let hereunder constitutes non-residential real property.

(c) Except to the extent required for the performance of any of the obligations of the Operator hereunder, nothing contained in this Agreement shall grant to the Operator any rights

whatsoever in the air space above the Premises above the heights of the structures thereon as of the Effective Date.

**Section 3. Term**

(a) Subject to the provisions of paragraph (b), below, the term of the letting under this Agreement (the "Term") shall commence on the Commencement Date and shall expire on the last day of the sixtieth (60th) calendar month thereafter (as such date of expiration may be extended pursuant to the following paragraph 3(b), the "Expiration Date"), unless sooner terminated in accordance with the terms and provisions of this Agreement.

(b) The Port Authority shall have the right and option, but not the obligation, to extend the Term for one period of five years, upon the same terms as are in effect immediately preceding the period for which such option is exercised; provided, however, the annual Fixed Rental shall be increased as set forth in the Section hereof entitled "*Rentals and Payments*" and said annual Fixed Rental shall be payable in equal, monthly installments each and every month. There shall be no right and option to extend the Term beyond the expiration of the said five-year period for which such option is exercisable. Upon the exercise of any such option, which exercise shall be by notice in writing to the Operator prior to the period for which the option is exercised, the Term shall be deemed extended without the further execution of any further agreement or other instrument.

**Section 4. Rentals and Payments**

(a) The Operator shall pay a fixed rental ("Fixed Rental") during the Term in the following amounts:

(i) Area A:

An annual office space rental at the rate of Ninety Nine Thousand Five Hundred Twenty-six Dollars and Fifty Cents (\$99,526.50) which rental shall be paid in advance in equal monthly installments of Eight Thousand Two Hundred Ninety-three Dollars and Ninety Cents (\$8,293.90) on the Commencement Date and on the first day of each and every month thereafter during the balance of the Term, subject to annual escalation as herein provided in this paragraph; provided, however, that if the Commencement Date shall be, or this Agreement shall expire or be terminated on other than, the first day or the last day of the month, respectively, the Fixed Rental for the portion of the month in which this Agreement is effective shall be the monthly installment pro-rated on a daily basis using the actual number of days in the month. The Fixed Rental set forth in this paragraph shall be increased by two percent (2%) on the first anniversary of the Commencement Date and on each anniversary of the Commencement Date thereafter during the balance of the Term.

(ii) Area B:

An annual office space rental at the rate of Six Thousand Eighteen Dollars and No Cents (\$6,018.00) which rental shall be paid in advance in equal monthly installments of Five Hundred One Dollars and Fifty Cents (\$501.50) on the Commencement Date and on the first day of each

and every month thereafter during the balance of the Term, subject to annual escalation as herein provided in this paragraph; provided, however, that if the Commencement Date shall be, or this Agreement shall expire or be terminated on other than, the first day or the last day of the month, respectively, the fixed rental for the portion of the month in which this Agreement is effective shall be the monthly installment pro-rated on a daily basis using the actual number of days in the month. The Fixed Rental set forth in this paragraph shall be increased by two percent (2%) on the first anniversary of the Commencement Date and on each anniversary of the Commencement Date thereafter during the balance of the Term.

(iii) Areas C and D:

(A) During the period from the Commencement Date through the day preceding the first anniversary of the Commencement Date, the Operator shall pay Fixed Rentals for Areas C and D as follows:

An annual ground rental at the rate of Five Hundred Ten Thousand Six Hundred Fourteen Dollars and No Cents (\$510,614.00) which rental shall be paid in advance in equal monthly installments of Forty-two Thousand Five Hundred Fifty-one Dollars and Seventeen Cents (\$42,551.17) on the Commencement Date and on the first day of each and every month thereafter during said period.

(B) Commencing on the first anniversary of the Commencement Date, and on each anniversary of the Commencement Date thereafter throughout the Term, the Fixed Rentals for Areas C and D shall be escalated at annual rates in accordance with the provisions of the following paragraphs (b) and (c), below, payable in equal monthly installments on the first day of each calendar month.

(b) Rental Escalation Definitions. As used in this Section:

(i) "Adjustment Period" shall mean, as the context requires, the calendar month constituting the Base Period and the same calendar month in each calendar year thereafter during the Term.

(ii) "Anniversary Date" shall mean, as the context requires, the first anniversary of the Commencement Date (the "First Anniversary Date") and each anniversary of such date occurring during the Term.

(iii) "Annual Index Increase" shall mean the percentage of increase in the Index on each Anniversary Date equal to: (x) with respect to the First Anniversary Date, a fraction of which the numerator shall be the Index for the Adjustment Period immediately preceding such Anniversary Date less the Index for the Base Period, and the denominator shall be the Index for the Base Period; and (y) with respect to each Anniversary Date thereafter, a fraction of which the numerator shall be the Index for the Adjustment Period immediately preceding such Anniversary Date less the Index for the next preceding Adjustment Period, and the denominator shall be the Index for such next preceding Adjustment Period.

(iv) "Base Period" shall mean June 2011.

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

(vi) "Percentage Increase" shall mean, with respect to each Anniversary Date, a percentage equal to fifty percent (50%) of Annual Index Increase for that Anniversary Date, unless such Annual Index Increase is less than four percent (4%) percent, in which case the Percentage Increase shall be four percent (4%).

(c) Annual Increases. Commencing on the First Anniversary Date and for the period commencing with such Anniversary Date and continuing through to the day preceding the next Anniversary Date, or the Expiration Date, as the case may be, the Operator shall pay a Fixed Rentals for each of Areas C and D at a rate per annum equal to the sum of the following: (x) the Fixed Rental theretofore payable; and (y) the product obtained by multiplying such theretofore payable Fixed Rental by one hundred percent (100%) of the Percentage Increase for such Anniversary Date.

(d) Adjustments.

(i) In the event the Index to be used in computing any increase referred to in paragraph (c) of this Section is not available on the effective date of such increase, the Operator shall continue to pay the Fixed Rental at the annual rate then in effect, subject to retroactive increase at such time as the specified Index becomes available; provided, however, that the Port Authority may at its option substitute for such Index the Index for the latest preceding month then published to constitute the specified Index. In the event the United States Consumer Price Index for All Urban Consumers - New York-Northern New Jersey-Long Island, NY-NJ-CT (All Items, unadjusted 1982-84=100) shall hereafter be converted to a different standard reference base or otherwise revised, or the United States Department of Labor shall cease to publish the United States Consumer Price Index for All Urban Consumers - New York-Northern New Jersey-Long Island, NY-NJ-CT (All Items, unadjusted 1982-84=100), then for the purposes hereof there shall be substituted for the Index such other appropriate index or indices properly reflecting changes in the value of current United States money in a manner similar to that established in the Index used in the latest increase as the Port Authority may in its discretion determine.

(ii) If, after an increase in Fixed Rental shall have been fixed for any period, the Index used for computing such increase is changed or adjusted, then the rental increase for that period shall be recomputed, and from and after notification of the change or adjustment, the Operator shall make payments based upon the recomputed rental and upon demand shall pay any excess in the Fixed Rental due for such period, as recomputed, over amounts theretofore actually paid on account of the Fixed Rental for such period. If such change or adjustment results in a reduction in the Fixed Rental due for any period prior to notification, the Port Authority will credit the Operator with the difference between the Fixed Rental as recomputed for that period and amounts of Fixed Rental actually paid.

(iii) If any increase in Fixed Rental referred to in paragraph (c) of this Section is effective on a day other than the first day of a calendar month, there shall be payable in advance on the effective date of such rental increase an installment of Fixed Rental equal to 1/12th of the increment of annual Fixed Rental as increased, multiplied by a fraction of which the numerator shall be the number of days from the effective date of the rental increase to the end of the calendar month in which the rental increase became effective and the denominator shall be the number of days in that calendar month.

(e) Percentage Rental.

(i) The Operator shall pay to the Port Authority an annual percentage rental during the Term equivalent to the sum of the percentage rent due during each of the twelve monthly periods comprising each annual period, with the percentage rent that is to be calculated each monthly period being a function of the number of gallons of aviation fuel sold by the Operator during each of such twelve monthly periods, as follows:

<u>Percentage of gross receipts</u>	<u># Gallons Aviation Fuel Sold During Monthly Period</u>
0 %	between 0 and 30,250
1.86	30,251 to 33,000
7.62	33,001 to 40,000
13.38	40,001 to 45,000
19.14	45,001 to 50,000
24.90	50,001 to 55,000
28.28	in excess of 55,001

The percentage rental shall be a percentage of the Operator's gross receipts arising during each monthly period of each annual period during the Term; provided, however, that the annual percentage rental relating specifically to the sale of aviation fuel shall be: (x) Ten Cents (\$.10) per gallon for all aviation fuel sold during each monthly period on monthly sales up to and including 30,250 gallons per month and (y) One Dollar and Twenty-five Cents (\$1.25) per gallon for aviation fuel sold during each monthly period for monthly sales, if any, in excess of 30,250 gallons per month. The computation of percentage rental for each annual period, or a portion of an annual period, as hereinafter provided, shall be individual to such annual period, or such portion of an annual period, and without relation to any other annual period, or any other portion of any annual period.

(ii) "Annual period" for purposes of this Section 3(e) shall mean, as the context requires, the twelve-month period commencing with the Commencement Date established pursuant to the provisions of this Agreement and each of the twelve-month periods thereafter occurring during the term of the letting; provided, however, that if the Commencement Date occurs on other than the first day of a calendar month, the first annual period shall include the portion of the month in which the Commencement Date falls following such date plus the succeeding twelve (12) calendar months and each subsequent annual period shall commence on

the anniversaries of the first day of the first full calendar month following the month in which the Commencement Date occurs.

(f) Time of Payment of Percentage Payment, Computations of Amounts and Accounting.

(i) The Operator shall pay the percentage payment as follows: on the 20th day of the first month following the commencement of each annual period, and on the 20th day of each and every month thereafter, including the month following the end of each annual period, the Operator shall render to the Port Authority a sworn statement from a responsible fiscal officer of the Operator showing: (x) the Operator's gross receipts for the preceding month with respect to each type of good and service provided by the Operator at the Airport, including the applicable percentage fee relating thereto and the calculation of the percentage rent due on such gross receipts; and (y) the cumulative amount of the Operator's gross receipts with respect to each type of good and service provided by the Operator at the Airport from the commencement of the annual period for which the report is made through the last day of the preceding month, including the applicable percentage rent relating thereto and the calculation of the percentage fee due on such gross receipts, from the commencement of the annual period for which the report is made through the last day of the preceding month. The Operator's statement following the close of each annual period shall be certified at the Operator's expense, and shall report total gross receipts for such annual period and the total percentage rental due therefor, designating same by each good/service and in the aggregate. In the event the report shows that the Operator has underpaid the Port Authority, the amount payable to the Port Authority shall be rendered by the Operator at the time such report is made. In the event the report shows that the Operator has overpaid the Port Authority, the Port Authority shall credit the Operator in that amount.

(ii) Upon any termination of this Agreement (even if stated to have the same effect as expiration), the Operator shall, within twenty (20) days after the effective date of such termination, make a percentage rent payment and render to the Port Authority monthly and annual statements consistent with the requirements of subparagraph (i), above.

(g) Abatement.

In the event that the Operator shall become entitled to an abatement of the annual Fixed Rental by the provisions of this Agreement or otherwise, the abatement of rental shall be made on an equitable basis giving effect to the amount and character of the space, the use of which is denied the Operator as compared with the entire Premises (it being understood that there shall be no abatement of rentals under this Agreement for any portion of the Premises or for any portion of the term except as specifically provided herein).

(h) (i) In the event any Person other than the Operator uses or occupies any portion of the Premises other than in the capacity as customers of the Operator as contemplated hereunder, then the Operator shall pay to the Port Authority, in addition to all other rental payable hereunder, a rental (the "Subletting Rental") as described in subparagraph (iii), below. The Operator shall pay to the Port Authority the Subletting Rental with respect to each and every Person who occupies or uses any portion of Premises, notwithstanding any failure of any party to

execute a written consent agreement covering the Port Authority's consent to such occupancy or use, as required pursuant to the Section hereof entitled "*Assignment and Sublease*".

(ii) It is hereby expressly understood and agreed that neither this paragraph (h) nor anything contained herein, nor any payment(s) made or required to be made hereunder shall be deemed to grant any right or rights to the Operator to sublet the Premises or any portion thereof or to permit any Person other than the Operator to use or occupy the Premises or to impose or create any obligation on the Port Authority or to alter, expand or waive the terms and provisions of the Section hereof entitled "*Assignment and Sublease*", including the requirements for the prior written consent of the Port Authority and the execution of a consent agreement, or to release or relieve the Operator from any of the obligations and liabilities under this Agreement with respect to any such sublessee, user or occupant.

(iii) (1) "Sublease Payments" shall include all amounts, monies, revenues, receipts and income of every kind paid or payable to the Operator by the sublessee, and if and to the extent that the full fair market rental value is not charged to or payable by the sublessee, then the fair market rental value as determined by the Port Authority, arising out of or in connection with the sublessee's use and/or occupancy of the subleased space; and if the Sublease Payments are not separately stated from other charges paid or payable by the sublessee to the Operator, then the fair market rental value, as determined by the Port Authority, of the subleased space used and/or occupied by the sublessee shall be deemed to have been paid or payable to the Operator by the sublessee and shall constitute Sublease Payments hereunder.

(2) Effective as of the Commencement Date, the Operator and the sublessee as a joint and several obligation shall pay to the Port Authority a Subletting Rental as follows: on the 20th day of each and every calendar month during the time the subtenancy shall remain in effect and including the calendar month following the expiration or earlier termination of such subtenancy, the Operator or the sublessee shall render to the Port Authority a statement sworn to by a responsible fiscal or executive officer of the Operator or the sublessee showing all the Sublease Payments paid or payable for the preceding month and the Operator or the sublessee shall pay to the Port Authority at the time of rendering such statement an amount equal to ten percent (10%) of the Sublease Payments paid or payable for such preceding month; provided, however, if the subtenancy shall expire or be terminated effective on a day other than the last day of a calendar month, the final payment of the Subletting Rental shall be due and payable within five (5) days after the effective date of such expiration or termination. Payments made hereunder shall be made to the Port Authority in accordance with the Section hereof entitled "*Place of Payments*".

(3) The obligation of the sublessee to pay the Subletting Rental shall be and be deemed a promise to pay a sum of money by the sublessee to the Port Authority and shall be recoverable by the Port Authority from the sublessee in the same manner and with like remedies as a sum of money owed to the Port Authority; provided, however, nothing herein shall preclude the Port Authority from joining the sublessee in a summary proceeding against the Operator.

(4) In connection with the payment of the Subletting Rental hereunder, the Operator and the sublessee shall each, from and after the effective date of the relevant sublease and through the remainder of the time the Port Authority's consent thereto remains in effect, maintain in accordance with accepted accounting practice, for one (1) year after expiration or earlier termination thereof, and for a further period extending until the Operator shall receive written permission from the Port Authority to do otherwise, records and books of account recording all transactions in any wise connected with the sublease and the sublessee's use and occupancy of the subleased space, which records and books of account shall be kept at all times within the Port of New York District. Further the Operator and the sublessee shall each permit in ordinary business hours during the time the sublease shall remain in effect, and for one year thereafter, the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account.

**Section 5. Obligations in Connection with the Conduct of the Operator's Business**

The Operator shall:

- (a) use its best efforts in every proper manner to maintain, develop and increase the business conducted by it hereunder;
- (b) not divert or cause or consent to be diverted, any business from the Airport;
- (c) maintain in accordance with accepted accounting practice during the term of this Agreement and for one (1) year thereafter and for such further period until the Operator shall receive written permission from the Port Authority to do otherwise, records and books of account recording all transactions at, through or in anywise connected with the Airport, which records and books of account shall be kept at all times within the Port of New York District;
- (d) permit in ordinary business hours during the Term and for one (1) year thereafter and during such further period as is mentioned in the preceding subdivision, the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account and also any records and books of account of any company which owns or controls, is controlled by, or is under common control with, the Operator, if said company performs services, similar to those performed by the Operator, anywhere in the Port of New York District;
- (e) permit the inspection by the officers, employees, and representatives of the Port Authority of any equipment used by the Operator, including but not limited to cash registers;
- (f) furnish on or before the twentieth day of each calendar month following the month in which the Commencement Date falls a sworn statement of gross receipts arising hereunder during the preceding month, and furnish within twenty (20) days after the expiration or termination of the letting a statement of all the gross receipts arising hereunder during the period from the last preceding anniversary date of this Agreement up to the date of expiration or

termination, said statement to be certified, at the Operator's expense, by a certified public accountant;

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

(h) provide to the Port Authority from time to time such information, data and reports concerning the Operator's operations under this Agreement as the Port Authority may request and on such forms as may be supplied by the Port Authority.

**Section 6. Rights of User**

The Operator hereby agrees to and shall use the Premises in connection with a fixed base operation ("Fixed Base Operation") for the following purposes only, and including for the ground handling-related services at the Airport described in the Section hereof entitled "*Services by the Operator*", and for no other purpose whatsoever:

(a) Exclusive Areas

Area A

(i) For business and administrative offices in connection with the operations of the Operator hereunder;

(ii) For office space for flight crews, maintenance personnel, inspectors and other supervisory personnel employed by General Aviation Aircraft Operators;

(iii) For waiting rooms, conference facilities and lounges for the crew, passengers and guests of General Aviation Aircraft Operators using the Premises;

(iv) For the sale of aircraft, aircraft assemblies, aircraft accessories and component parts thereof;

(v) For the storage of aircraft parts and supplies (1) owned by the Operator or (2) owned by General Aviation Aircraft Operators;

(vi) For the sale, maintenance, repair and servicing of avionics equipment; and

(vi) For the charter and leasing of aircraft owned or operated by the Operator and for business and operations offices in connection with such charter and leasing of aircraft by the Operator. It is understood and agreed that the foregoing shall not grant or be deemed to grant a right or privilege in the Operator to use the Airport for the purpose of the landing and taking off of aircraft.

Except as expressly authorized in clause (vi), above, relating to the charter and leasing of aircraft owned or operated by the Operator, no portion of the Premises shall be used for Scheduled Aircraft Operators of any kind or for air transportation operations for compensation or hire, provided, however, that the Operator, upon the prior written and continuing approval of the Port Authority and subject to the terms and conditions therein provided, may perform specified services in the Premises for a designated Scheduled Aircraft Operator.

Area C

(i) For the parking and storage of aircraft owned or operated by General Aviation Aircraft Operators (as defined herein);

(ii) For the fueling and servicing of aircraft owned or operated by General Aviation Aircraft Operators and ramp equipment operated by the Operator;

(iii) For the maintenance, repair, servicing and cleaning of aircraft (and component parts thereof) owned or operated by General Aviation Aircraft Operators, and of mobile equipment operated by the Operator in connection with the servicing and loading of such aircraft;

(iv) For the rental of certain ground equipment including forklifts, tugs, baggage carts and ground power units, used in the servicing of aircraft of General Aviation Aircraft Operators;

(v) For the loading and unloading of cargo from aircraft operated by General Aviation Aircraft Operators and for the temporary storage of such cargo for 24 hours;

(vi) For the providing the ground transportation service specifically described in and pursuant to subparagraph (xii), below, of this Section;

(vii) For the parking and storage of aircraft owned or operated by General Aviation Aircraft Operators and for the parking and storage of ramp equipment operated by the Operator and for non-routine maintenance of such aircraft and equipment;

(viii) (1) For the fueling, servicing, welding, repair and maintenance of automotive vehicles and ground handling equipment used by the Operator in performing the operations authorized hereunder; and for the servicing, welding, repair and maintenance of automotive vehicles and ground handling equipment used by General Aviation Aircraft Operators operating at the Airport;

(2) For the storage of such automotive fuel and lubricants as may be approved by the Port Authority; and

(3) For the storage, sale and dispensing of automotive fuel and lubricants for automotive vehicles and ground handling equipment only used by General Aviation Aircraft Operators operating at the Airport.

The purposes set forth in this clause (viii) shall be performed by the Operator solely for General Aviation Aircraft Operators; it being expressly understood and agreed that the Operator shall not perform any of said purposes for others unless the Operator has been issued a separate permit therefor by the Port Authority; provided, however, that the Operator may perform fueling of automotive vehicles of cargo aircraft operators operating at the Airport on an occasional basis but only if the General Manager gives prior authorization therefor.

(ix) For the vehicular and pedestrian ingress and egress to and from the Premises and for vehicular and pedestrian movement inside the Premises by the furnishers of services and business guests, by customers of the Operator and other authorized users of the Premises, by members of the general public, and by the Port Authority;

(x) For the taxiing of aircraft owned or operated by the Operator or customers of the Operator within the Premises;

(xi) For any other purposes or activity for which the Port Authority, expressly in writing, authorizes said portion of the Premises to be used; and

(xii) Ground Transportation Service

(a) In addition to the rights of user by the Operator as set forth in the foregoing paragraphs of this Section, the Operator may use the Premises to operate a chauffeured vehicle transportation service (sometimes hereinafter in this Section referred to as the "Service") utilizing appropriate vehicles and drivers at the request of a General Aviation Aircraft Operator for the transportation to, at and from the Airport of the General Aviation Aircraft Operator, its employees, customers and guests and their baggage arriving at or departing from the Premises by aircraft. For the purposes of this Agreement, chauffeured vehicle transportation service shall mean the service of the Operator of providing an entire vehicle and its driver to one customer, where the charge to said customer is not made on a per head basis.

(b) The Operator shall have no right hereunder to carry on or conduct any ground transportation service other than the Service as set forth in subclause (a), above. The Operator, in connection with the Service, shall not solicit business on the public areas of the Airport or on any other areas of the Airport occupied exclusively by any third party. The use, at any time, either on the Premises or elsewhere on the Airport, of any advertising or signs in connection with the chauffeured vehicle transportation service shall be subject to the continuing approval of the Port Authority.

(c) The conveyances operated by the Operator in providing the chauffeured vehicle transportation service shall all be of a type of motor vehicle

especially adapted therefor. The Operator shall maintain all such conveyances in good repair, order and appearance and shall keep them clean at all times.

(d) Without limiting the provisions of the Section of this Agreement entitled "*Compliance with Governmental Requirements*", the Operator shall procure all license, certificates, permits, franchises or other authorization from all governmental authorities, if any, having jurisdiction over the operation by the Operator of the chauffeured vehicle transportation service which may be necessary for the conduct of the Service. Neither this Agreement nor anything contained herein shall be or be construed to be a grant of any franchise, consent, license, permit, right or privilege of any nature or kind whatsoever to operate omnibuses, taxicabs or any other vehicles or conveyances carrying passengers or property whether for hire or otherwise outside the Airport or over the public streets or roads of, or located in, any municipality or county in the States of New York or New Jersey.

(e) The routes, roads and ways within the Airport over which the Operator may operate its vehicles in providing the Service shall be those from time to time designated by the Port Authority. The Port Authority makes no representations as to the condition of any route road or way and does not agree to keep the same unobstructed or fit for use. No closing by the Port Authority of any route, road or way whether temporary or permanent, whether or not such closing involves a route, road or way previously used by the Operator hereunder, and no such closing by any governmental authority, and whether or not at the request or with the consent of the Port Authority, shall constitute or be deemed a diminution of the right of user granted under this subparagraph (xii) or shall relieve the Operator of any of its obligations hereunder. The Operator shall pick up and discharge passengers only at the point or points within the Airport which may be from time to time designated by the Port Authority.

(f) Without limiting the generality of any other term or provision hereof, if the Operator elects to use the Premises to operate a chauffeured vehicle transportation service, there shall be included in the Operator's gross receipts all money received or receivable by the Operator for or in connection with said chauffeured vehicle transportation service including full charge for any trips, any part of which trip is on the Airport, and all advertising and any other revenues of any type arising out of or in connection with the Operator's operation of the chauffeured vehicle transportation service at the Airport hereunder; provided, however, that gross receipts with respect to the Operator's chauffeured vehicle transportation service shall not include the following;

(I) any taxes imposed by law and directly payable to a taxing or tax collection authority by the Operator; and

(II) any highway, bridge or tunnel tolls, advanced by the Operator on behalf of its customers, which are separately stated and paid by the Operator's customers.

(g) The Operator may engage a contractor to provide the Service paying the contractor an amount therefor but said contractor shall not contract with the Operator's customers for the said Service. The Service shall be operated by the Operator in its own name and all amounts payable therefor by the Operator's customers shall be payable to it. If the Operator engages a contractor to provide the Service, all acts and omissions of the contractor shall be deemed to be the acts and omissions of the Operator hereunder.

(h) In the event that Operator provides the limited service of coordinating ground transportation for Operator's customers at Operator's customers' request in exchange for an administrative fee only, Operator's gross receipts therefor shall be limited to said administrative fee charged to Operator's customers.

(i) In the further event that Operator's customers arrange their own ground transportation, no costs or fees associated therewith shall be included in Operator's gross receipts hereunder.

#### Area D

For the parking of automobiles owned or operated by customers, employees, patrons and invitees of the Operator, and other authorized users of the Premises (including automobiles for the purpose of discharging or picking up passengers, and only for a reasonable period of time to accomplish same). The foregoing shall include the temporary parking of unoccupied ground vehicles then being used by the Operator for courtesy ground transportation of passengers, crew and their baggage in the performance of such obligations hereunder. Except as set forth in the preceding sentence, the Operator shall prevent all persons from parking automobiles on the Premises.

For appropriate landscaping purposes.

#### (b) Non-Exclusive Area

Area B shall be used for purposes incidental to the Operator's use of Areas A, C and D and shall be used in common with other lessees and occupants of Building 145.

The Premises shall not be used for any illegal purpose.

### **Section 7. Services by the Operator**

(a) The Operator shall perform on a seven-days-a-week, 24 hours-a-day basis the work and furnish the services at the Premises (and off-Premises as permitted by paragraph (b)(4) of this Section), as required in connection with the ground handling of aircraft operated by General Aviation Aircraft Operators including, for purposes of this Section, civilian and military operators (hereinafter sometimes collectively referred to as the "Customer's Aircraft"), subject to such limitations, prohibitions and requirements from time to time established by the General Manager of the Airport.

(b) Without limiting the generality of the foregoing obligations, the Operator shall furnish, at its own expense and without additional charge to the owner/operator of any Customer's Aircraft, the following services and equipment in connection with the arrival, stay and departure of the Customer's Aircraft at and from the Airport:

(1) In connection with providing the services of aircraft ground handling, the Operator shall ensure that its employees are properly and fully trained and qualified to provide said services and, in connection with such services, shall meet the standards of the National Air Transport Association (NATA) Safety 1st Professional Line Service Training. The Operator's employees shall be trained initially, and on an ongoing basis, as required by the NATA Safety 1st program. Documentation evidencing such training shall be delivered to the Port Authority upon request. Such trained staff shall at all times during the Term be available at the Airport to perform the services of aircraft ground handling for Operator's customers in strict accordance with this paragraph and as required under 14 CFR Part 139 – Certification of Airports. Without limiting the generality of the Sections of this Agreement entitled "*Indemnity and Liability Insurance*", "*Termination by the Port Authority*", "*Compliance with Governmental Requirements*", or otherwise, the Operator shall be responsible, and shall reimburse the Port Authority on demand, for any and all fines and penalties incurred by the Port Authority based upon, relating to, or arising out of Operator's failure to strictly comply with the provisions of this paragraph.

(2) In connection with the arrival or departure of the Customer's Aircraft at or from the Airport for the purpose of providing the service described herein, the Operator shall monitor for the purpose of determining at what time or times the Customer's Aircraft may be expected to land at or take off from the Airport at the following radio frequencies: 121.9 megacycles (Ground Control), 119.1 megacycles (Tower Control) and such other appropriate radio frequencies as may be directed by the Port Authority from time to time. Further the Operator shall operate, man and monitor the Airport UNICOM radio frequency for the purpose of receiving requests and for transmitting operations advisories to aircraft requesting the same.

(3) Upon the landing of any Customer's Aircraft at the Airport, the Operator shall direct the aircraft to an assigned parking space within Area C and shall assist in the parking of the aircraft and, upon request therefor, shall assist in tying down the aircraft, in chocking its wheels and in the removal of luggage therefrom. With regard to the occupants of the Customer's Aircraft and their luggage, the Operator shall provide prompt appropriate transportation for such occupants and their luggage, to and from the parking space to which the aircraft has been assigned and, as desired by such occupants, the Operator's operations office in Areas A and/or B, and any other non-aeronautical location on the Airport.

(4) In the event the Operator can no longer assign a parking space to its Customer's Aircraft within Area C because it does not have sufficient space for same, the Operator shall contract, and coordinate with, airport operations personnel at the Airport to obtain an aircraft parking assignment for such aircraft. Fees relating to the foregoing shall be paid by the Operator to the Port Authority in accordance with the Schedule of Charges.

(5) During the period that the Customer's Aircraft is parked in the space to which it is assigned by the Operator, the Operator shall make appropriate inspections of the aircraft and of the parking area – and additional inspections on an as-needed basis - to confirm that no unauthorized person or persons are loitering in or about the parking area. If at any time, based on forecasts issued by the U.S. National Oceanic and Atmospheric Administration's National Weather Service, adverse weather conditions involving high velocity winds can be reasonably anticipated, the Operator shall inspect all such Customer's Aircraft with a view to determine if the same are adequately chocked, tied down, controls locked, doors and windows closed. If, as a result of such inspection, the aircraft should not appear to be adequately secured after the Operator has exercised every reasonable effort to protect the same, the pilot or owner shall be immediately notified and advised of the situation by the Operator.

(6) The Operator at all times shall give the pilots of Customer's Aircraft such reasonable assistance, in connection with the preparation and filing of flight plans and the fulfillment of other pre-flight requirements, as may be requested by same.

(7) In connection with the departure of Customer's Aircraft from the Airport, the Operator shall assist with the removal of wheel chocks, control locks, and tie-down ropes, and at any time that an engine or engines of such aircraft are started on the Premises, the Operator shall provide adequate fire protection measures, by including and maintaining a standard hand fire extinguisher nearby that is acceptable under the National Fire Protection Association Standards.

(c) The Operator shall provide a dispatch office in Area A in connection with the performance of its obligations hereunder. The Operator shall furnish and install in said office the radio equipment necessary to monitor the frequencies set forth in paragraph (b)(1) of this Section. The Operator shall also maintain therein a lounge and a radio room where the passengers and crews of the Customer's Aircraft may obtain shelter prior to or after flight. Such lounge shall be equipped with comfortable chairs and shall contain, without limitation, televisions, telephones and internet access and other amenities, as well as facilities for the preparation of flight plans by pilots. The Operator shall maintain in the lounge direct telephone services to the Air Traffic Control Tower, the Aircraft Traffic Control Center, and the Flight Service Station, and shall provide a bulletin board whereon all current Notice(s) to Airmen (NOTAMS) and airfield information are prominently displayed and a suitable computer terminal or other state of the art equipment over which NOTAMS and weather information may be received. The provision of the foregoing shall be at the expense of the Operator and without additional or separate charge to the owner/operator of any Customer's Aircraft.

(d) (1) The Operator, upon request, shall cause to be rendered to the owner/operator of Customer's Aircraft non-routine aircraft repair and maintenance services by properly qualified mechanics and other personnel and, if on the Airport, only at such location as is expressly authorized in such other permit or agreement with or issued by the Port Authority. The Operator shall bill such owner/operator only for administrative fees and costs with respect to the same and any gross receipts attributable to Operator for the same shall be limited to said administrative fees and costs; provided, however, that in connection with this Agreement, the Operator shall only be entitled to use the services of such third persons to provide such non-

routine services to its customers and for Customer's Aircraft (including for repair and maintenance services and chauffeured limousine services) who or which have previously entered into written agreements with the Port Authority entitling them to provide services at the Airport. The Operator shall provide all ramp handling services for Customer's Aircraft as requested and do so only on the Public Aircraft Parking and Storage Areas subject to limitations and requirements as may be imposed by the General Manager of the Airport from time to time.

(2) The Operator shall, upon the request of a customer or by the Port Authority, remove and relocate from the PAF or other area at the Airport to another location on the Airport any Customer's Aircraft which shall become disabled and shall have available at the Airport an adequate staff of qualified personnel and equipment to perform the same, including, but not limited to, tractors, dollies, and jacks.

(e) (1) The Operator shall conduct the business of selling aviation fuel and aircraft lubricants and dispensing the same into-plane for aircraft operated by General Aviation Aircraft Operators (inclusive of civilian and/or military operators, as aforesaid in subparagraph (a), above, of this Section) adequate to meet all demands therefor at the Airport upon request therefor by the operators of such aircraft (hereinafter called the "Fueling Service"). The Operator shall have no right to sell aviation fuel or to dispense the same into-plane at the Airport to any other persons other than those specifically identified in this subparagraph.

(2) The Operator shall have available and shall sell in the Fueling Service the types of aviation fuel used by the Customer's Aircraft including, but not limited to, Jet A type fuel and 100 LL octane aviation gasoline and shall conduct the Fueling Service in accordance with the highest standards for safety and security in the aircraft fueling industry and in accordance with the procedures contained in the Port Authority's Rules and Regulations, as they may be supplemented and amended from time to time.

(3) The Operator acknowledges that prior to entering into this Agreement it has reviewed both (i) the form of fuel storage permit, between the Port Authority and third persons who or which seek the right to store aviation fuel at the Airport's fuel storage facilities ("Fuel Storage Permit") and (ii) the form of agreement, between the operator of the fuel storage facilities at the Airport (currently Allied New York Services, Inc.), an independent contractor designated by the Port Authority, and fuel storage permittees ("Fuel Storage Operator Agreement") providing for the receipt, handling and distribution of aviation fuel at the Airport.

(4) It is understood that the Operator intends to be a fuel storage permittee at the Airport, but that it is likely that the Fuel Storage Permit, as modified to be applicable to the Operator, will not be finalized or executed prior to the Commencement Date. Therefore, Operator shall contract with another fuel storage permittee at the Airport until such Fuel Storage Permit and related Fuel Storage Operator Agreement are duly executed by the relevant parties. Operator agrees that in order to become a fuel storage permittee at the Airport, it shall be required to enter into both (i) a Fuel Storage Permit, between the Port Authority and the Operator; and (ii) a Fuel Storage Operator Agreement, between the above-named fuel storage operator (or its successor, if any) and the Operator. The Port Authority shall apply established standards in processing the Operator's request for a Fuel Storage Permit. In the event the

Operator does not seek to be a fuel storage permittee at the Airport, the Operator understands and agrees that it shall purchase aviation fuel only from a Person authorized by the Port Authority to sell same at the Airport. The Operator shall conduct the Fueling Service in accordance with this Agreement and, if applicable, the Fuel Storage Permit and Fuel Storage Operator Agreement. The Operator further covenants that, inasmuch as it acknowledges that the form of either or both of the aforesaid permits (or the structuring of arrangements for the storage, handling and distribution of fuel at the Airport) may change from time to time during the Term, in the event of such a change, immediately upon request the Operator shall enter into whatever substitute form of Fuel Storage Permit or Fuel Storage Operator Agreement, as applicable, may be utilized at the Airport, in lieu of the said forms that are in use as of the Effective Date.

(5) If the Operator intends to store bulk aviation fuel at the Airport, the Operator shall not be entitled to commence operations at the Airport pursuant to this Agreement unless and until it has (i) duly executed and delivered to the Port Authority the Fuel Storage Permit; and (ii) duly executed and delivered to the Port Authority's fuel storage operator, with a copy to the Port Authority, the Fuel Storage Operator Agreement; thereafter, the Operator may not perform the Fueling Service hereunder without a fully executed Fuel Storage Permit and fully executed Fuel Storage Operator Agreement in effect at all times.

(6) The Operator shall be required to obtain and operate fuel trucks in accordance with the Airport Rules and Regulations, independent of those fuel trucks existing at the Airport as of the Effective Date, in order to transport aviation fuel from the Airport storage tanks to Area C. The storage of such trucks, and the repair and maintenance thereof, shall be the sole responsibility, and at the sole cost and expense, of the Operator, as more specifically set forth in the Section of this Agreement entitled "*Maintenance of Fueling Trucks and Other Automotive Equipment*".

(f) Without additional compensation to the Operator, the Operator, at its own expense, shall provide appropriate transportation between any arrival/departure location on the Airport of any Port Authority helicopter and Building No. 145 for those persons enplaning or deplaning from such helicopter.

#### **Section 8. Ingress and Egress**

(a) The Operator, and its officers, employees, invitees, contractors, suppliers of material, and furnishers of services shall have the right of ingress and egress between the Premises and the city streets or public ways outside the Airport by means of such pedestrian or vehicular roadways as shall be existing as of the Effective Date or such other roadways as may exist in the future, to be used in common with others having rights of passage within the Airport, as may from time to time be designated by the Port Authority for the use of the public.

(b) The Operator shall have the right of ingress and egress between the Premises and the PAF at the Airport, by means of connecting service roadways, to be used in common with others having rights of passage thereon.

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

(d) The Port Authority shall have the right of ingress and egress to and from the Premises for airport purposes including, but not limited to, the performance of routine maintenance and inspection, as set forth herein, and emergency services; provided that the Port Authority, except in emergencies, gives reasonable prior notice of the exercise thereof to the Operator and takes reasonable steps to minimize or avoid interference with the Operator's operations hereunder.

#### **Section 9. Compliance with Governmental Requirements**

(a) Subject to the exceptions set forth in paragraph (b)(2) of the Section hereof entitled "*Environmental Obligations*", the Operator shall promptly comply with, observe and execute all laws and ordinances and governmental rules, regulations, orders, requirements and similar items including, without limitation, all Environmental Requirements now or at any time during the Term which as a matter of law are applicable to or which affect: (i) the Premises or the ground water thereunder; (ii) the operations of the Operator at the Premises or the Airport; and/or (iii) any Hazardous Substance which has migrated from or from under the Premises. Subject to the exceptions set forth in said paragraph (b)(2) of the Section hereof entitled "*Environmental Obligations*", the Operator shall, in accordance with and subject to the provisions of the Section hereof entitled "*Construction by the Operator*", make any and all structural and non-structural improvements, alterations or repairs of the Premises and perform all remediation, containment and clean-up of Hazardous Substance required in order to fully satisfy the compliance obligations set forth herein.

(b) The Operator shall procure from all Governmental Authorities having jurisdiction over the operations of the Operator hereunder, and shall maintain in full force and effect throughout the Term, all licenses, certificates, permits or other authorization necessary for the conduct of such operations. "Governmental Authority" shall not be construed as intending to include the Port Authority, the lessor under this Agreement.

(c) The obligation of the Operator to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property on the Premises and the Airport and proper operations by the Operator. Such provision

is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

(d) The Operator shall comply with the enactments, ordinances, resolutions and regulations of local governmental authority in regard to the construction and maintenance of buildings and structures and in regard to health and fire protection which would be applicable if the Port Authority were a private corporation to the extent that the Port Authority finds it practicable so to do, except in cases where the Port Authority either notifies the Operator that it need not comply with or directs it not to comply with any such enactments, ordinances, resolutions or regulations. The Operator shall, for the Port Authority's information, deliver to the Port Authority within three (3) days (Saturdays, Sundays and legal holidays excluded) after receipt of any notice, warning, summons, or other legal process for the enforcement of any such enactment, ordinance, resolution or regulation a true copy of the same. Any direction by the Port Authority to the Operator not to comply with any such enactment, ordinance, resolution or regulation shall be given only pursuant to a resolution duly adopted by the Board of Commissioners of the Port Authority or by an authorized Committee of its Board and if any such direction is given by the Port Authority to the Operator, the Port Authority, to the extent that it may lawfully do so, shall indemnify and hold the Operator harmless from and against all claims, actions, damages, liabilities, fines, penalties, costs and expenses suffered or incurred by the Operator as a result of non-compliance with such enactment, ordinance, resolution or regulation.

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

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

#### **Section 10. Rules and Regulations**

(a) The Operator covenants and agrees to observe and obey (and to require its officers, employees, guests, invitees, and those doing business with it to observe and obey) the existing Rules and Regulations of the Port Authority, the Airport Standards Manual of the Port Authority, and such reasonable future rules and regulations and airport standards of the Port Authority (including amendments and supplements thereto) for the government of the conduct and operations of the Operator and others on the Premises as may from time to time during the letting be promulgated by the Port Authority for reasons of safety, health, noise, sanitation, good order and the economic and efficient operation of the Airport. The obligation of the Operator to require such observance and obedience on the part of its guests, invitees, and business visitors shall obtain only while such Persons are on the Premises. The Port Authority agrees that except in cases of emergency, it will give notice to the Operator of every such future rule or regulation adopted by it at least ten (10) days before the Operator shall be required to comply therewith.

(b) The use by the Operator and its officers, employees, guests, invitees, sublessees, and those doing business with it, of any and all other portions of the Airport which it may be entitled to use under this Agreement (other than the Premises) shall be subject to the Rules and Regulations and Airport Standards Manual of the Port Authority in effect as of the Effective Date, and such reasonable future rules and regulations and airport standards (including amendments and supplements to existing Rules and Regulations and the Airport Standards Manual) as the Port Authority may from time to time promulgate in the public interest and in the interest of health, safety, noise, sanitation, good order and the economic and efficient operation of the Airport.

(c) If a copy of the Rules and Regulations or the Airport Standards Manual is not attached hereto, then the Port Authority will notify the Operator thereof either by delivery of a copy or by making a copy available at the office of the Secretary of the Port Authority.

(d) No statement or provision in the said Rules and Regulations or the Airport Standards Manual 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 11. Various Obligations of the Operator**

(a) The Operator shall conduct or cause to be conducted the operations hereunder in an orderly and proper manner, considering the nature of such operations so as not to annoy, disturb, or be offensive to others at or off the Airport. The Operator shall take or cause to be taken all reasonable measures (i) to eliminate or reduce as low as possible vibrations tending to damage any equipment, structure, building or portion of a building which is on the Premises, or is a part thereof, or is located elsewhere on or off the Airport; and (ii) to keep the sound level of its operations as low as possible.

(b) The Operator shall use its best efforts to conduct or cause to be conducted all its operations at the Premises or elsewhere on the Airport as provided for hereunder in a safe and careful manner, following in all respects the best practices of the Operator's industry in the United States.

(c) The Port Authority shall have the right to object to the Operator regarding the conduct and demeanor of the employees of the Operator whereupon the Operator will take all steps reasonably necessary to remove the cause of the objection. The Operator shall supply and shall require its employees to wear or carry badges or other suitable means of identification, which shall be subject to the prior and continuing approval of the General Manager of the Airport.

(d) The Operator shall take all precautions reasonably necessary to promote the safety of all persons and vehicles arriving at, on or leaving from the Premises.

(e) The Operator shall remove from the Airport or otherwise dispose of in a manner approved by the General Manager of the Airport all garbage, debris, and other waste materials (whether solid or liquid) arising out of its occupancy of the Premises or out of its operations elsewhere at the Airport. Any such which may be temporarily stored in the open shall be kept in suitable garbage and waste receptacles, the same to be made of metal or other suitable material, and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein. The Operator shall use extreme care when effecting removal of all such waste materials, and shall effect such removal at such times and by such means as first approved by the Port Authority. No such garbage, debris, or other waste materials shall be or be permitted to be thrown, discharged, or deposited into or upon the waters at or bounding the Airport. Without limiting the generality of the Section hereof entitled "*Compliance with Governmental Requirements*", the Operator shall comply with all federal, state, and local laws, rules, and regulations governing the storage and disposal of garbage, debris, waste materials, quarantined materials, and other substances, if any, on general aviation, itinerant, air taxi and scheduled commuter aircraft, if any, arriving at the Airport.

(f) It is the intention of the parties hereto that noise caused by aircraft engine operations shall be held to a minimum considering the nature of the Operator's operations on the Airport. To this end, the Operator will conduct its operations on the Airport in such a manner as to keep the noise produced by aircraft engines to a minimum and where appropriate shall employ noise arresting and noise reducing devices that are suitable.

(g) In its operations, the Operator shall use its best efforts to minimize jet or prop blast interference to aircraft operating on or to buildings and structures now located on or which in the future may be located on areas adjacent to the Premises or elsewhere on the Airport. In the event the Port Authority determines that at any time and from time to time that the Operator has not so minimized the jet or prop blast interference, it may serve a notice to the Operator to such effect and if the condition is not corrected to the satisfaction of the Port Authority within thirty (30) days after the service of said notice, the Operator hereby covenants and agrees to erect and maintain at its own expense such structure or structures as may be necessary to minimize the said jet or prop blast interference, subject, however, to the prior written approval of the Port Authority as to the type, manner, method, and cost of construction. The obligations assumed by the Operator under this paragraph shall not diminish, limit, modify, or affect all other obligations of the Operator with respect to interference under this Agreement.

(h) The Operator agrees that it will not erect, construct, or maintain or otherwise create or continue any obstacle or so park or store any aircraft or other object on the Premises or elsewhere on the Airport if otherwise permitted by this Agreement so as to create any obstacle that will hamper or interfere with the free, orderly, unobstructed and uninterrupted passage of vehicles, aircraft, or of the wings or other integral part of aircraft of any type, nature, or description, while such vehicle is operating or aircraft is taxiing or being transported or towed along any runways, taxiways, and roads outside of the Premises.

(i) (1) In addition to compliance by the Operator with all laws, ordinances, governmental rules, regulations, and orders now or at any time in effect during the Term, which as a matter of law are applicable to the operation, use, or maintenance by the Operator of the

Premises or the operations of the Operator under this Agreement (the foregoing not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them), the Operator agrees that it shall exercise the highest degree of safety and care and shall conduct all its operations under this Agreement and shall operate, use and maintain the Premises in accordance with the highest standards and in such manner that there will be at all times a minimum of air pollution, water pollution, or any other type of pollution and a minimum of noise emanating, arising out of, or resulting from the operation, use or maintenance of the Premises by the Operator and from the operations of the Operator under this Agreement. The Port Authority hereby reserves the right from time to time and at any time during the Term to require the Operator to construct, and the Operator agrees to design and construct at its sole cost and expense, such reasonable structures, fences, equipment, devices, and other facilities as may be necessary or appropriate to accomplish the objectives as set forth in the first sentence of this paragraph. All locations, the manner, type, and method of construction and the size of any of the foregoing shall be determined by the Port Authority in a non-arbitrary and non-capricious manner. The Operator shall submit for Port Authority approval its plans and specifications covering the required work and upon receiving such approval, shall proceed diligently to construct the same.

(2) The obligations assumed by the Operator under this paragraph (i) shall continue throughout the Term and shall not be limited, affected, impaired, or in any manner modified by the fact that the Port Authority shall have approved any construction application and supporting plans, specifications and contracts covering construction work and notwithstanding the incorporation therein of the Port Authority's recommendations or requirements and notwithstanding that the Port Authority may have at any time consented to or approved any particular procedure or method of operation which the Operator may have proposed or the Port Authority may have itself prescribed the use of any procedure or method. The agreement of the Operator to assume the obligations under this paragraph (i) is a special inducement and consideration to the Port Authority in entering into this Agreement with the Operator.

## **Section 12. Federal Airport Aid**

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

**Section 13. Sales and Services**

(a) A principal purpose of the Port Authority in the making of this Agreement is to make available at the Airport the items and services which the Operator is permitted to sell and render hereunder, and the Operator hereby warrants and agrees that it will conduct a first class operation and will furnish all necessary or proper fixtures, equipment, personnel (including licensed personnel as necessary), supplies, materials and facilities, that it will furnish such services promptly, efficiently and adequately to meet all demands therefor, on a fair, equal, and non-discriminatory basis to all users thereof, and at charges which are fair, reasonable, and non-discriminatory, provided that reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions may be made to volume purchasers.

(b) The Operator, prior to furnishing any services hereunder, shall prepare a schedule of rates and charges for the services it will perform. Such schedule shall be furnished to the Port Authority. All subsequent changes therein shall be submitted to the Port Authority prior to the effective date or dates thereof. The entire schedule, including all changes, amendments, and supplements, shall be made available to the public by the Operator at its office on the Premises and at the office of the General Manager of the Airport. That part of the schedule covering rates, charges and services ordinarily made to customers of the Operator not having continuing contracts with the Operator shall be posted prominently at the office of the Operator on the Premises. The Operator covenants and agrees to adhere to the charges shown on the schedule, and to refund promptly to the customer, upon demand of the Port Authority, any charge or charges made in excess of those shown on the schedule.

(c) The Operator covenants and agrees that it will not enter into continuing contracts or arrangements with third parties for the furnishing of services by the Operator if any such contract or arrangement will have the effect of utilizing to an unreasonable extent the capacity of the Operator for furnishing such services generally. At all times the Operator will reserve a reasonable capacity to furnish services hereunder to customers not parties to continuing contracts with the Operator.

(d) The Operator shall be open for and shall conduct business and furnish services hereunder 24 hours a day, seven days a week.

(e) The Operator covenants and agrees that it will not enter into any agreement or understanding, whether or not binding, with any person, firm, association, corporation, or other entity, which will have the effect of fixing rates, of lessening or preventing competition, or of creating or tending to create a monopoly at the Airport relating to the service, products, or articles furnished or sold by the Operator.

**Section 14. Prohibited Acts**

(a) Unless otherwise expressly permitted so to do, the Operator 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. Without limiting the generality of the foregoing provisions of this paragraph (a), the Port Authority acknowledges that the Operator intends, and shall be permitted, to provide, in an area inside the Premises and solely for consumption by its own employees, complementary non-alcoholic beverages and snacks, including for example a coffee machine, which shall not involve the services of a third party vendor.

(b) The Port Authority, by itself or by contractors, Operators, or permittees, shall have the exclusive right to install, maintain, 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 Operator. This provision shall not be construed to confer upon the Operator any right to have such machines installed, except at the sole discretion of the Port Authority.

(c) The Operator shall commit no nuisance, waste, or injury on the Premises or at the Airport and shall not do or permit to be done anything that may result in the creation or commission or maintenance of such nuisance, waste, or injury on the Premises or at the Airport.

(d) The Operator shall not create nor permit to be caused or created upon the Premises or elsewhere on the Airport any obnoxious odors or smokes, or noxious gases or vapors. The creation of exhaust fumes by the operation of the Operator's internal combustion engines or by the operation of aircraft engines, so long as such engines are maintained and are being operated in a proper manner, shall not be a violation of this paragraph (d).

(e) The Operator 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, underground fuel system, electrical system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, and other systems, if any, installed or located or to be installed or located on, under, or in the Premises or elsewhere on the Airport.

(f) The Operator shall not overload nor permit the overloading of any floor on the Premises and shall repair, replace, or rebuild any floor, including supporting members, and any paved area, damaged by overloading. Nothing in this paragraph or elsewhere in this Agreement shall be or be construed to be a representation by the Port Authority of the weight any floor will bear.

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

(h) The Operator shall not dispose of nor permit any one to dispose of any waste material taken from aircraft (whether liquids or solids) by means of the toilets, manholes, sanitary sewers, or storm sewers in the Premises or elsewhere on the Airport except after treatment in installations or equipment included in plans and specifications submitted to and approved by the Port Authority.

(i) The Operator shall not do or permit to be done any act or thing upon the Premises or elsewhere on the Airport that (1) will invalidate or conflict with any fire insurance, extended coverage, or rental insurance policies covering the Premises or any part thereof, or the Airport, or any part thereof; or (2) in the opinion of the Port Authority, may constitute an extra hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by the Section hereof entitled "*Rights of User*" or otherwise hereunder. The Operator 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 Board of Fire Underwriters and 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 Operator on the Premises or elsewhere on the Airport hereunder, and the Operator shall, subject to and in accordance with all of the provisions of this Agreement (including the Section hereof entitled "*Construction by the Operator*"), make any and all non-structural improvements, alterations, or repairs of the Premises that may be required at any time hereafter by any such present or future rule, regulation, requirement, order or direction. If by any reason of any failure on the part of the Operator to comply with the provisions of this paragraph any fire insurance, extended coverage or rental insurance rate on the Premises or any part thereof, or on the Airport or any part thereof, shall at any time be higher than not would be if the Premises or any other part of the Airport were properly used for the purpose permitted by the Section hereof entitled "*Rights of User*" or as otherwise permitted hereunder, then the Operator shall pay to the Port Authority, as an item of additional rental, that part of all insurance premiums paid by the Port Authority which shall have been charged because of such violation or failure by the Operator.

(j) The Operator shall not keep or store, nor permit anyone to keep or store, during any 24-hour period flammable liquids within the enclosed portion of the Premises (other than in rooms or areas expressly constructed for the storage of such liquids) in excess of the Operator's working requirements during the said 24-hour period. Any such liquids having a flash point of less than 110 degrees Fahrenheit shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories or the Factory Mutual Insurance Association.

(k) The Operator shall not fuel or defuel automotive or other equipment in the enclosed portion of the Premises without prior approval of the General Manager of the Airport. The Operator shall not start or operate any engine of any item of automotive equipment in the enclosed portion of the Premises unless such space is adequately ventilated and unless such engine is equipped with a proper spark-arresting device which has been approved by the General Manager of the Airport.

(l) The Operator hereby assumes full responsibility for and control over persons disembarking from or bound for Customer's Aircraft while on the aeronautical areas of the Airport and shall take all proper measures to insure that the highest standards of safety are

maintained. The Operator shall prevent access by persons or vehicles (unless duly authorized by the Port Authority) to the PAF from the Premises, except for aircraft, which aircraft shall be equipped with radio receivers tuned to control tower frequencies and adequately manned. Such aircraft may be towed to a motor vehicle also so equipped and manned or equipped with such other means as may be approved by the Port Authority. The Operator shall prevent such access by such means as the Port Authority shall approve. Such prevention shall be accomplished on a 24-hour, seven day-a-week basis. The Operator shall indemnify and save the Port Authority harmless from all damages, liability and penalties that may arise out of any breach of its obligations under this paragraph (1) or which may result from unauthorized entry or activity upon the aeronautical areas of the Airport attributable in whole or in part to the acts or other compromise or aeronautical area security by the Operator, its employees, guests, or invitees.

(m) The Operator shall not operate or cause to be operated aircraft engines in any portions of the Premises other than for the purpose of taxiing aircraft to and from the Premises or in connection with authorized aircraft maintenance on the Premises.

(n) The Operator shall not keep or store aviation fuel on the Premises, except that aviation fueling equipment may be operated on the Premises where permitted hereunder and in accordance with all of the terms and provisions hereof (including, without limitation, the Port Authority Rules and Regulations pertaining thereto).

(o) Except as expressly authorized in clauses (vi) and (xii) under the heading "Area C" of paragraph (a) of the Section hereof entitled "*Rights of User*", the Operator shall not engage in the business of furnishing transportation for hire for persons or property, whether by aircraft or otherwise, to, from or on the Airport.

(p) Except for repairs and maintenance to itinerant Customer's Aircraft necessary to allow such aircraft to fly out of the airport in an airworthy condition, no aircraft maintenance or repairs may be performed on the Airport by the Operator or by or for the benefit of the Operator's customers (the enforcement of which shall be the Operator's responsibility), except if and as expressly authorized hereunder or by the General Manager of the Airport from time to time. Nothing in this Agreement, however, shall require express authorization by the General Manager of the Airport for, nor preclude the Operator's customers from performing, preventative maintenance as defined in 14 CFR Section 1.1 and Part 43, Appendix A, subpart (c).

(q) The Operator shall not use nor permit the use of any cleaning materials having a harmful or corrosive effect on any part of the Premises or the Airport except as permitted by and in accordance with the Sections of this Agreement entitled "*Compliance with Governmental Requirements*" and "*Rules and Regulations*".

(r) The Operator shall not do or permit anything to be done that will interfere with the free access and passage of others to space adjacent to the Premises or in any street, ways and walks adjacent or near the Premises.

(s) The Operator shall not dispose of, release or discharge, or consent to anyone disposing, releasing or discharging, any Hazardous Substance on the Premises or at the Airport.

**Section 15. Maintenance, Repair, and Property Insurance**

(a) The Operator shall at all times keep in clean and orderly condition and appearance the Premises and all of the Operator's fixtures, equipment, and personal property which are located in any parts of the Premises which are open to or visible by the general public.

(b) The Operator shall repair, replace, rebuild or paint all or any part of the Premises which may be damaged or destroyed by the acts or omissions of the Operator or by those of its officers, employees, members (if it is a limited liability entity), managers (if it is a limited liability entity) or agents or of other persons on or at the Premises with the Operator's consent and shall pay to the Port Authority the costs and expenses of the Port Authority to repair, replace, rebuild and paint all or any part of the Premises which may be damaged or destroyed by the acts or omissions of the Operator or by those of its officers, employees or agents or of other persons on or at the Premises with the Operator's consent but as to areas outside of the Premises only by the acts or omissions of the Operator and its officers, employees, members (if it is a limited liability entity), managers (if it is a limited liability entity) or agents.

(c) With respect to the Premises within Building No. 145, except for damage or destruction occurring under circumstances set forth in paragraphs (b) and (i) of this Section and except for reasonable wear and tear, the Port Authority shall, as necessary for the preservation of the building, maintain and make all repairs and replacements to the structural supporting frame and roof of the building, the exterior of the exterior walls (excluding doors, screens, and glass), and damage to the building caused by the sinking or settling of the ground (not including minor damage to other than the structural supporting frame and roof of the building). With respect to all parts of Areas A, B, and C, other than as provided in the preceding sentence, including, without limitation thereto as to such areas, fences, the building walls, partitions, floors, ceilings, doors, tail gates, screens, interior of sash, glass, and other transparencies and surfaces of every kind, incinerators, the mechanical, electrical, plumbing, heating, steam, sewerage, drainage, communications, fire protection, gas, and other systems and their pipes, wires, mains, lines, tubes, conduits, equipment, motors, cables, and fixtures, the Operator shall take the same good care of the Premises that would be taken by a reasonably prudent owner who desired to keep and maintain the same so that at the expiration or termination of the terms hereof and at all times during the term hereof, the same will be in as good condition as at the commencement thereof or in the event the Port Authority shall perform repairs and replacements on the Premises after the Effective Date, then, as to such repairs and replacements, in as good condition as on the completion thereof, except under circumstances as set forth in paragraph (i) of this Section and except for reasonable wear which does not adversely affect the efficient or proper utilization thereof. To that end and regardless of the cause of the condition requiring the same, the Operator shall carry on periodic inspections, perform all necessary preventive maintenance, including, but not limited to, painting, make all necessary repairs and replacements, and do all necessary rebuilding with respect to the same, all of which shall be in quality equal to the original in material and workmanship.

(d) In the event the Operator fails to commence so to maintain, clean, repair, replace, rebuild, or paint within a period of twenty (20) days after notice from the Port Authority so to do, or fails diligently to continue to completion the repair, replacement, rebuilding or painting of all

of the Premises or portions of the Airport required to be repaired, replaced, rebuilt, or painted by the Operator under the terms of this Agreement, the Port Authority may, at its option, and in addition to any other remedies which may be available to it, repair, replace, rebuild, or paint all or any part of the Premises or the Airport included in the said notice, and the cost thereof shall be payable by the Operator upon demand.

(e) The Operator shall promptly wipe up all oil, gasoline, grease, lubricants, and other flammable liquids and substances and all liquids or substances having a corrosive or detrimental effect on the paving or other surfaces of the Premises which may leak or be spilled thereon by the Operator or its customers. The Operator shall repair any damage to the pavement caused by such oil, gasoline, grease, lubricants, or other liquids or substances arising from the operations of the Operator or its customers on the Airport.

(f) The obligation of the Operator as set forth in paragraph (b) of this Section (in the event that damage or destruction caused by the acts or omissions of the Operator or by those of its employees, customers, guests, or invitees, or of other persons doing business with the Operator, is covered by any contract of insurance under which the Port Authority is the insured) is hereby released to the extent that the loss and all costs and expenses of the Port Authority, including legal fees in recovering insurance proceeds, are recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that if this release shall invalidate any such policy of insurance or limit or void the Port Authority's rights thereunder, then this release shall be void and of no effect and provided, further, that this waiver shall be void and of no effect if and to the extent that such damages or loss are covered under the Port Authority's self-insurance plan as hereinafter provided.

(g) (1) In the event that, as a result of the sinking or settling of the ground, or as the result of casualty, the Premises are damaged (without fault of the Operator, its employees, customers, guests, invitees, or persons doing business with it) so as to render it untenable in whole or a substantial part, then

(i) 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 the damaged Area of the Premises, and the basic rental hereunder shall be abated separately as to each of said affected Areas as provided in this Agreement for the period from the occurrence of the damage to the completion of the repairs or rebuilding as to said Area, whether or not the work of repair or rebuilding is actually completed within the said ninety (90) days; or

(ii) if, in the opinion of the Port Authority, such repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, or if the building where the damage has occurred requires rebuilding, then the Port Authority shall have the option: (1) to proceed with due diligence to repair or to rebuild the damaged Area(s) as necessary; or (2) to terminate the letting as to the damaged portion of the Premises, allowing an abatement of basic rental therefor and if such option is exercised by the Port Authority and the same affects a substantial part of the Premises, the Operator shall have the right within thirty (30) days thereafter, on sixty (60) days' written notice, to terminate this Agreement as to the balance

of the Premises; or (3) to cancel this Agreement and terminate the letting as to the entire Premises; and the basic rentals payable under this Agreement shall be abated as hereinafter provided, 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 by the Port Authority for the portion of the Premises involved.

(2) "Substantial part" shall mean, for the purpose of this paragraph (g), at least twenty-five percent (25%) of the total usable interior floor space of either Areas A and B in the aggregate or Area C.

(h) The Operator shall be the insurer of the Port Authority against the risk of loss or theft of or damage to any of the Port Authority's fixtures, equipment and personal property which are a part of or are located in or on the Premises and shall promptly replace or repair the same within five (5) days of such loss, theft or damage.

(i) Nothing herein contained shall relieve the Operator of its obligations under the Section of this Agreement entitled "*Construction by the Operator*" to secure the Port Authority's written approval before installing any fixtures in or upon or making any alterations, decoration, additions or improvements in the Premises.

(j) (1) The Operator shall provide and maintain all obstruction lights and similar devices on the Premises and provide and maintain all fire protection and safety equipment and all other equipment of every kind and nature required by any law, rule, ordinance, resolution or regulation of the type and nature described in the Sections of this Agreement entitled "*Compliance with Governmental Requirements*" and "*Rules and Regulations*".

(2) With respect to obstruction lights, the Operator shall install, maintain and operate at its own expense such obstruction lights on the Premises as the FAA may direct or as the General Manager of the Airport may reasonably direct, and shall energize such 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 period as may be directed or requested by the Control Tower of the Airport.

(k) The Operator shall be responsible for appropriate lighting of all ramp and apron areas and for the maintenance and repair of all access roadways, taxilanes and ramp and apron areas located upon the Premises.

(l) The Operator shall remove all snow and ice and perform all other activities and functions necessary or property to make the Premises available for use by the Operator.

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

**Section 16. Indemnity and Liability Insurance**

(a) The Operator shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses, including reasonable legal expenses incurred in connection with the defense of) all claims and demands of third Persons, including, but not limited to, claims and demands for death or personal injuries, or for property damages arising out of a breach or default of any term or provision of this Agreement by the Operator or out of the use or occupancy of the Premises by the Operator, or by others with its consent, or out of any other acts or omissions of the Operator, its officers and employees, guests, invitees, and business visitors on the Premises or arising out of the acts or omissions of the Operator, its officers, and employees elsewhere at or off the Airport, including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or through agreement of the Port Authority with the said City; provided, however, that the Operator's indemnification obligations in this paragraph (a) shall except only claims and demands arising from the sole negligence or willful misconduct of the Port Authority.

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

(c) In addition to the obligations set forth in paragraph (a) of this Section, the Operator throughout the period of the letting under this Agreement, in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums on a policy or policies of Commercial Automobile Liability Insurance covering owned, non-owned, and hired vehicles, including automatic coverage for newly acquired vehicles, and Comprehensive Airport Liability, including premises and operation, broad form contractual, products and completed operations, hanger keepers, and independent contractor's liability, covering bodily injury, including death and property damage liability, the policies to be broadened to include or equivalent separate policies to be obtained covering airport operator's liability under an airport liability policy with all policies under this Section providing for coverage in the limits set forth below at a minimum. The said policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Operator thereunder with respect to any claim or action against the Operator by a third Person shall pertain and apply with like effect with respect to any claim or action against the Operator by the Port Authority and any claim or action against the Port Authority by the Operator as though the Port Authority were a named insured, but such provision or endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority thereunder as an additional insured. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Operator under paragraph (a) of this Section.

<u>Type of Coverage</u>	<u>Minimum Limits</u>
Comprehensive Airport Liability	
Single blanket limit per occurrence for Bodily Injury, Personal Injury and Property Damage including, but not limited to coverages in the following areas:  Premises and Operation Broad Form Contractual Products and Completed Operations Hanger Keepers Independent Contractor's Liability	\$100,000,000
Automobile Liability Insurance Combined single limit per accident for bodily injury and property damage liability	\$ 25,000,000
Pollution Liability Insurance Annual combined single for bodily injury, property damage, and environmental damage resulting from sudden and accidental releases of pollution, and covering related or resultant clean-up and/or remediation costs arising out of the occupancy and use of the Premises.	\$ 2,000,000
Worker's Compensation In accordance with the requirements of law in the state(s) where work will take place, and Employer's Liability Insurance with limits of not less than \$1,000,000 each accident.	

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

(e) Notwithstanding the foregoing, it is specifically understood and agreed that the Port Authority shall have the right upon notice to the Operator given from time to time and at any time to require the Operator to increase any or all of the foregoing limits to reasonable commercial amounts and the Operator shall promptly comply therewith and shall promptly submit to the Port Authority a certificate or certificates evidencing the same.

(f) As to the insurance required by the provisions of this Section, the policies or a certificate or certificates evidencing the existence thereof, shall be delivered by the Operator to the Port Authority prior to the Effective Date. Each policy or certificate delivered as aforesaid

shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. Each such policy or certificate shall contain a valid, unqualified 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. Each such policy or certificate shall contain an additional endorsement providing that the insurance carrier shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents, or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority. Any renewal policy shall be delivered to the Port Authority at least thirty (30) days prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the letting hereunder. The aforesaid insurance shall be written by a company or companies approved by the Port Authority, the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance, including the minimum limits thereof, or if any of the carriers issuing such policies shall be or become unsatisfactory to the Port Authority, the Operator shall promptly obtain and deliver to the Port Authority a new and satisfactory policy in replacement or a certificate from the issuing company evidencing the same to the satisfaction of the Port Authority, the Port Authority agreeing not to act unreasonably hereunder. If the Port Authority at any time so requests or approves, the Operator shall deliver to the Port Authority a certified copy of each of the said policies and shall, upon request, deliver to the Port Authority a certified copy of such portions of said policies pertaining to the coverage hereunder as the Port Authority shall request. The person making any certification hereunder to the Port Authority shall be one acceptable thereto.

**Section 17. Environmental Obligations**

(a) Definitions. The following terms shall have the respective meanings provided below:

“Analyzed Items” shall mean, with respect to the ground water and soil, respectively, the constituents for which the ground water samples and the soil samples described in the Environmental Report were tested.

“Disposal” shall have the meaning set forth in subparagraph (k)(1) of this Section.

“Environmental Report” shall mean the Initial Environmental Report and all Remediation Completion Reports, if any.

“Existing Condition” shall mean the levels of Analyzed Items in the soil and ground water for all portions of the Premises as derived by applying the methodology set forth in paragraph (j), below, to the test results in the Initial Environmental Survey, as such test results may be superseded and supplemented by the test results in each Remediation Completion Report in accordance with the provisions of subparagraph (m) of this Section.

“Exit Baseline” shall have the meaning set forth in subparagraph (u) of this Section.

“Initial Environmental Report” shall mean the report, dated April 2011, entitled “John F. Kennedy International Airport Building 145 – Environmental Subsurface Baseline Investigation-Final Report”, attached hereto as “Exhibit E” and made a part hereof.

“Matter” shall have the meaning set forth in subparagraph (k)(1) of this Section.

“Operator’s Act” shall mean any act or omission of the Operator or of any Affiliate of the Operator or of any of their employees, agents, contractors, sublessees, representatives, or others on the Premises or the Airport with the consent of the Operator or any Affiliate of the Operator.

“Remediate” or “Remediation” shall mean the investigation (including any feasibility studies or reports), cleanup, removal, abatement, transportation, disposal, treatment (including in-situ treatment), management, stabilization, neutralization, collection, or containment of a Hazardous Substance or contamination, that may be required to satisfy Environmental Laws, in each case including, without limitation, any closure, restoration or monitoring, operations and maintenance activities that may be required by any Government Agency after the completion of such investigation, cleanup, removal, transportation, disposal, treatment, neutralization, collection, or containment activities as well as the performance of any and all obligations imposed by any Governmental Agency in connection with such investigation, cleanup, removal, transportation, disposal, treatment (including in situ treatment), management, stabilization, neutralization, collection, or containment (including any such obligation that may be imposed pursuant to a environmental permit or a consent order).

“Remediation Completion Report” shall have the meaning set forth in paragraph (m) of this Section.

The terms Environmental Damage and Environmental Damages, Hazardous Substance and Hazardous Substances, and Governmental Authority and Governmental Authorities shall have the same meanings given to each of them in the Section of this Agreement entitled “Definitions”.

(b) Operator’s Assumption of Environmental Liability.

(1) Without limiting the generality of any of the other terms and provisions of this Agreement, but subject to the provisions of paragraph (b)(2), below, the Operator hereby expressly agrees to assume all responsibility for, relieve the Port Authority from, and reimburse the Port Authority for, any and all risks, claims, penalties, costs and expenses of any kind whatsoever caused by, arising out of or in connection with, the condition of the Premises including, without limitation, all Environmental Requirements and all Environmental Damages, and to indemnify and hold harmless 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 and such other indemnified persons in connection therewith).

(2) Notwithstanding subparagraph (b)(1), above, it is hereby agreed and understood that except as set forth in paragraphs (k), (q) and (r) of this Section, the Operator shall not be responsible for the following:

(i) Environmental Damages resulting from or the Remediation of the Existing Condition;

(ii) Environmental Damages resulting from or the Remediation of Hazardous Substances in the soil or ground water in, on or under the Premises caused by the sole negligence of the Port Authority on or after the Commencement Date;

(iii) fines and penalties arising out of the Existing Condition if the fines and penalties are imposed due to the failure to have the Existing Condition Remediated, but only so long as the Operator shall not in any manner have obstructed or interfered with the performance of the Remediation or removal of the Existing Condition; and

(iv) any Hazardous Substance that has migrated onto the Premises from outside the Premises; provided, however, Operator shall be responsible for any Hazardous Substance that has migrated onto the Premises from any area off-Premises at which Operator is conducting operations at the Airport either (x) pursuant to another written agreement between the Operator and the Port Authority, if any, and (1) Operator has exclusive use or occupancy of such off-Premises area under such other written agreement or (2) the migration is based on, arises out of or relates to an act or omission of Operator (including an act or omission of any of its officers, members, managers, employees, agents, designees, contractors, invitees, or guests), or (y) pursuant to this Agreement and arising out of an act or omission of the Operator, its employees, agents, contractors or representatives, or an act or omission of persons other than the Operator which use or occupy such off-Premises area with the consent of the Operator.

(3) The Operator agrees that in any legal action or proceeding in which the Port Authority and the Operator are opposing parties, the Operator 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 Effective Date and whether the same is the result of any Operator's Act; (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 Effective Date and whether the same is the result of any Operator's Act; and (3) whether the Operator exacerbated any pre-existing environmental condition so as to cause a Hazardous Substance to first become regulated during the Term. If the Operator prevails in such legal action or proceeding to meet the above-described burden of proof then the reasonable direct costs actually incurred by the Operator to delineate the disputed source of the increase in the relevant Analyzed Item in order to meet such burden of proof shall be reimbursed to the Operator by the Port Authority to the extent that the Operator has delivered to the Port Authority true and accurate copies of documentation that substantiate such costs actually incurred by the Operator. The direct costs contemplated by the parties in the preceding sentence shall be those charged to Operator by the laboratory or entity performing any testing on the Premises and surrounding premises (if any), directed to the above issues, including costs and fees for drilling, lab analysis,

personnel, lab reports, and the like, and shall not include legal fees, expert witness fees, and other costs and expenses associated with the legal action or proceeding. "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.

(c) Compliance with Environmental Requirements. Without limiting the Operator's obligations elsewhere under this Agreement to comply with all laws, ordinances, governmental rules, regulations and orders which at any time are in effect during the Term, Operator understands and agrees that, except as provided in paragraph (b)(2) of this Section, it shall be obligated, at its cost and expense, to comply with, and relieve the Port Authority from compliance with, all Environmental Requirements which are applicable to or which affect (w) the Premises, (x) the operations of, or work performed by, Operator or others with the consent of Operator at the Premises or Operator's operations at the Airport, (y) the occupancy and use of the Premises by Operator or by others with its consent or (z) any Hazardous Substance which has migrated from the Premises. Nothing in the foregoing shall be construed as a submission by the Port Authority to the application to itself of any Environmental Requirements; provided, however, that no immunity or exemption of the Port Authority from any Environmental Requirements shall excuse compliance or be grounds for noncompliance on the part of Operator. Without limiting the generality of the foregoing and as part of Operator's fulfillment of the foregoing obligations, Operator shall be responsible, at its sole cost and expense and subject to the direction of the Port Authority, for:

- (1) the preparation of and submission to all applicable Governmental Authorities of any notice, negative declaration, remedial action workplan, no further action letter, remediation agreement, response action outcomes, or any other documentation or information;
- (2) the obtaining of any surety bond or the giving of any other financial assurances;
- (3) the obtaining from any Governmental Authority, if applicable, of any approval of a negative declaration or no further action letter, response action outcome or other form of release or mitigation; and
- (4) complying with the provisions of all Environmental Requirements becoming effective on or relating to the termination, expiration or surrender of the letting of the Premises or of any portion thereof under this Agreement, or on the closure or transfer of Operator's operations at the Premises.

(d) Obligation to Remediate. In addition to and without limiting the generality of the obligations of Operator set forth above and elsewhere in this Agreement, Operator shall, at its sole cost and expense and in accordance with and subject to the provisions of the Section of this Agreement entitled "Construction by the Operator", upon notice from the Port Authority, promptly take all actions to:

- (1) completely Remediate all Hazardous Substances in, on and under the Premises and at the Airport (i) resulting from or in connection with the use and occupancy of the

Premises by Operator or any affiliated company of Operator during the term hereof, (ii) resulting from or in connection with any Operator's Act during the term hereof, or (iii) which have been or are permitted to be disposed of, released, discharged or otherwise placed in, on or under the Airport by the Operator or any affiliated company of the Operator or which have been disposed of, released, discharged or otherwise placed in, on or under the Premises during the term of the letting hereunder;

(2) except as provided in paragraph (b)(2) of this Section, Remediate all Hazardous Substances in, on or under the Premises or which have migrated from the Premises to any other property which any Governmental Authority or any Environmental Requirement or any violation thereof require to be Remediated; and

(3) except as provided in paragraph (b)(2) of this Section, Remediate all Hazardous Substances in, on or under the Premises or which have migrated from or from under the Premises necessary to mitigate any Environmental Damages.

(e) Particular Obligations Included. The obligations set forth in paragraphs (c) and (d) of this Section shall include, but not be 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 removal, remediation, containment, operation, maintenance, monitoring or restoration work and shall be performed in a good, safe and workmanlike manner and shall minimize any impact on activities off the Premises. Operator shall promptly provide the Port Authority with copies of all test results and reports generated in connection with such obligations. Promptly upon completion of such investigation and Remediation, Operator shall seal or cap all monitoring wells and test holes, remove all associated equipment and restore the Remediated property.

(f) Port Authority Remedies. Without limiting the Port Authority's other remedies under this Agreement or, generally, at law or equity, the Port Authority shall have the right, during and after the Agreement term, to such equitable relief, including restraining injunctions and declaratory judgments, to enforce compliance by the Operator of its environmental obligations under this Agreement. In the event that Operator fails to comply with or perform any of such obligations, the Port Authority at any time during, and/or subsequent to, the termination, expiration or surrender of the letting of the Premises or any portion thereof may elect (but shall not be required) to perform such obligations, and upon demand the Operator shall pay to the Port Authority as additional rent its reasonable costs thereof, including all overhead costs as determined by the Port Authority. For the purposes of this paragraph, the term "cost" shall be as defined in the Section of this Agreement entitled "Additional Rent and Charges; Late Charges".

(g) Information and Reports. Without limiting any other of Operator's obligations under this Agreement and except as provided in paragraph (b)(2) of this Section, Operator, at its sole cost and expense, shall provide the General Manager of the Airport with such information, documentation, records, correspondence, notices, reports, tests, results, and certifications and any other information as the Port Authority shall request in connection with any Environmental Requirements or Environmental Damages, and Operator shall promptly acknowledge, swear to, sign or otherwise fully execute the same. Operator agrees that any of the foregoing may be filed

by the Port Authority with the appropriate Governmental Authority on behalf of the Operator at the Operator's cost and expense. Further, Operator agrees, unless directed otherwise by the Port Authority, to provide the General Manager of the Airport with copies of all information, documentation, records, correspondence, notices, certifications, reports, test results and all other submissions with respect to any Environmental Requirements or Environmental Damages that are (i) provided by Operator to a Governmental Authority, at the same time such are so provided and (ii) provided to Operator from a Governmental Authority, upon receipt by Operator from a Governmental Authority.

(h) Indemnification. Without limiting the generality of any other provision of this Agreement, and except as provided in paragraph (b)(2) of this Section, Operator shall indemnify, hold harmless and reimburse the Port Authority, its Commissioners, officers, agents, employees and representatives from all claims, demands, penalties, fines, liabilities (including strict liability), settlements, reasonable attorney and consultant fees, investigation and laboratory fees, removal and remediation costs, court costs and litigation expenses, damages, judgments, losses, costs and expenses of whatsoever kind or nature and whether known or unknown, contingent or otherwise, just or unjust, groundless, unforeseeable or otherwise, arising or alleged to arise out of or in any way related to any Environmental Damages resulting from or in connection with the use or occupancy of the Premises by Operator of any Affiliate thereof, or any Environmental Requirement which Operator is obligated to comply with pursuant to this Agreement, or the risks and responsibilities assumed hereunder by Operator for the condition of the Premises, or a breach or default of the Operator's obligations hereunder. If so directed, Operator 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.

(i) Compliance Standard.

(1) Without limiting the generality of any provision of this Agreement, in the event that any Environmental Requirement sets forth more than one compliance standard, the Operator agrees that the standard or standards to be applied in connection with any obligation it may have under this Agreement with respect to said Environmental Requirement shall be that which requires or permits the lowest level of a Hazardous Substance; provided, however, that in the event such lowest level of a Hazardous Substance requires or allows the imposition of any restriction of any nature whatsoever upon the use or occupancy of the Premises or any other portion of the Airport or upon any operations or activities conducted or to be conducted on the Premises or the Airport or upon the transfer of the Premises or the Airport, then Operator shall Remediate to such a level so that there is no such restriction placed upon the use and occupancy of the Premises or the Airport or upon any operations or activities conducted or to be conducted on the Premises or the Airport. Nothing in this subparagraph shall modify the exclusion from Operator's responsibility for the Remediation of the Existing Condition as set forth in subparagraph (b)(2), above of this Section which are nevertheless subject to subparagraph (q) of this Section.

(2) Operator further agrees that, notwithstanding the terms and conditions of subparagraph (i)(1), above, the Port Authority shall have the right at any time and from time to time, acting in its sole discretion and without any obligation whatsoever to Operator or otherwise to do so, to designate any level or levels or standard or standards of Remediation permitted or required under any Environmental Requirement, and such designation shall be binding upon Operator with respect to its obligations under this Agreement with respect to Environmental Requirements. Nothing in the foregoing sentence is intended to modify the exceptions from responsibility to which the Operator is entitled pursuant to subparagraph (b)(2), above, of this Section.

(3) Nothing in this paragraph (i) shall be construed to require Operator to Remediate any Analyzed Item below the Existing Condition except as otherwise required by or as set forth in this Agreement including, without limitation, as required by or as set forth in paragraphs (k), (q) and (r) of this Section

(j) Methodology. The methodology to be used for the purpose of this Section to determine for any Existing Condition the level of an Analyzed Item at any location in, on or under the Premises shall be, for ground water, straight line interpolation methodology utilizing principles of hydrogeologic interpretation, and for soil, the EPA geostatistical software system applicable at any particular time and, notwithstanding any other evidence to the contrary including, without limitation, anything contained in the reports constituting a part of the Environmental Report, the Existing Condition as so determined shall constitute, for all purposes as between Operator and the Port Authority, the levels of the Analyzed Items in the soil and ground water in, on and under the Premises; provided, however, that with respect to each location from which soil and/or water samples have been taken and the tests results thereof form a part of the Existing Condition, the level of each Analyzed Item that was found at such location shall constitute the test result of such Analyzed Item at such location.

(k) Disposal of Matter.

(1) It is expressly understood and agreed that the proper handling, delivery, treatment, storage, transportation, disposal and depositing (collectively, "Disposal"), whether on or off the Airport, of any soil, dirt, sand, silt, water, asbestos, lead, PCB's, demolition or construction debris or other matter excavated, disturbed or removed by Operator or its contractors at, from or under the Premises or any other area of the Airport (all such soil, etc. or other matter, collectively, the "Matter") at any time or times, and regardless of the nature or composition of such Matter including, without limitation, any and all Disposal of any Matter in connection with the performance of the repair, replacement, rebuilding of the Premises, or any other construction work performed by or on behalf of the Lessee. Any and all Remediation and Disposal of any Matter and any and all other Remediation and Disposal (whether soil, upper aquifer or otherwise) necessary, required or appropriate as a result of, caused by, incidental to or triggered by such excavation, disturbance or removal of the Matter or arising therefrom, and the taking or doing of any and all other action or actions necessary, required or appropriate in connection therewith, shall be the sole and complete responsibility of Operator including, without limitation, all costs and expenses thereof and any and all Environmental Damages,

Environmental Requirements, claims, penalties and other expenses relating thereto. The foregoing obligations of Operator shall obtain and apply with full force and effect irrespective of the nature or source of any contaminant, pollutant, chemical, waste or other substance or whether any of the same is a Hazardous Substance or whether any of the same is at a level or levels above or below the level or levels of any of the Analyzed Items constituting the Existing Condition or whether there has or has not been any decrease or increase in such level or levels. Operator shall perform all of the foregoing in accordance with and subject to all the terms, provisions, covenants and conditions of this Agreement.

(2) Without limiting the generality of any other term or condition of this Agreement, title to any Matter excavated or removed by Operator and not used at the Premises shall vest in Operator upon the excavation or removal thereof and all such Matter shall be delivered and deposited by Operator at the Operator's sole cost and expense to a location off the Airport in accordance with the terms and conditions of this Agreement and all Environmental Requirements. The entire proceeds, if any, of the sale or other disposition of the Matter shall belong to Operator.

(3) In the event Operator discovers any Hazardous Substance in, on or under the Premises, Operator in reporting such Hazardous Substance shall direct such report to the attention of such individual at the subject Governmental Authority as the General Manager of the Airport shall require in order to assure consistency in the environmental management of the Airport; provided, however, that notwithstanding the foregoing, in no event shall Operator be required by this subparagraph (k)(3) to violate any Environmental Requirement.

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

(l) Port Authority Right to Enter for Investigations. Without limiting the foregoing and without limiting the generality of the provisions of the Section of the Agreement entitled "Rights of Entry Reserved", and subject to and in accordance with the provisions of such Section, the Port Authority and its designees shall have the right but not the obligation to enter upon the Premises upon forty-eight (48) hours' notice to Operator to conduct testing and related activities from existing wells, if any, to make additional wells and borings and to conduct testing and related activities therefrom and to perform such activities as shall be necessary to Remediate the Existing Condition including, but not limited to, conducting pumping operations from any such wells. In the exercise of the foregoing rights, the Port Authority and its designees shall not interfere in any material respect with Operator's use and occupancy of the Premises.

(m) Remediation Completion Reports. After any person performs any Remediation on the Premises, such person may, but shall not be obligated to, sample and test the soil and/or aquifer of the Premises or portions thereof and set forth the results of such samplings and tests in

a report (any such report and test results, a "Remediation Completion Report"). Upon delivery of a Remediation Completion Report to the Operator and the Port Authority, such Remediation Completion Report shall (x) supersede and replace the existing Environmental Report or the applicable portions thereof, to the extent such test results and report are of samples of Analyzed Items taken from the same well or boring or a new well or boring immediately adjacent to such well or boring; and (y) supplement the existing Environmental Report or the applicable portions thereof to the extent the test results and report would not supersede (pursuant to the foregoing clause (x)) any test results and reports in the existing Environmental Report; provided, however, that said sampling and testing shall produce a fair and representative sampling of the Premises, shall be analyzed by a New York approved independent laboratory, and shall have been performed in accordance with a methodology approved by the Port Authority.

(n) Protection and Maintenance of Wells. Without limiting the generality of the provisions of the Section of this Agreement entitled "Maintenance, Repair and Property Insurance", the Operator agrees to protect and maintain the wells referred to the Environmental Report and paragraph (m) of this Section and shall repair any damage thereto not caused by the activities of the Port Authority, its employees, agents or designee(s), or any occupant of the Premises prior to the Effective Date.

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

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

(q) Operator Responsibility for Existing Condition.

(1) Notwithstanding any other term or provision of this Agreement, the Existing Condition shall in no event include any Hazardous Substance whose presence in, on or under the Premises was caused by or resulted from the use and occupancy of the Premises by the Operator or by any Affiliate of Operator, or the performance of any work by any of them, or the acts or omissions of the Operator, its officers, agents or employees, or the acts or omissions of any Affiliate of Operator or of any sublessees or others who occupied the Premises with the permission of Operator or an Affiliate of Operator or their officers, agents or employees.

(2) Notwithstanding any other term or provision of this Agreement, and for the avoidance of doubt, the Existing Condition shall in no event include the exacerbation or increase of any Hazardous Substance pre-existing in, on or under the Premises if such exacerbation or increase results in the need for Remediation and is caused by or resulting from (i) the use and occupancy of the Premises by the Operator or by any Affiliate of the Operator or the performance of any work by any of them, or (ii) any Operator's Act.

(3) Operator shall be responsible for the Remediation of the Existing Condition and for fines and penalties arising, in whole or in part, out of the inaccessibility at any time of the Premises for Remediation by any prior occupant of the Premises or by the Port Authority or its designees or others due to any act or omission, interruption, obstruction or hindrance by Operator or any of its agents, contractors or representatives, sublessees or subusers, including but not limited to, any refusal or failure by the Operator or any of its agents, contractors or representatives, sublessees or subusers to grant or allow full and complete access to the Premises, or any portion thereof to any prior occupant of the Premises, the Port Authority or its designees. Neither said access nor any such work by any prior occupant of the Premises, the Port Authority or its designees, nor any approval or consent granted to any prior occupant of the Premises or any designee of the Port Authority to perform such work, shall result in or entitle Operator to any abatement, reduction, diminution or suspension of any of the rentals or charges under this Agreement except if abatement is provided for pursuant to Section 4(g) hereof entitled "Abatement".

(r) Incidental Remediation of Existing Condition. Notwithstanding any other term or condition of this Agreement, it is hereby understood and agreed that the Operator's obligations under this Agreement shall not be diminished or relieved in any way in the event that the Existing Condition, or any portion thereof, is or will be wholly or partially Remediated in consequence of or incidental to the Operator's performance of any of its obligations under this Agreement, whether due to the fact that the Operator cannot Remediate one or more Hazardous Substances for which it is responsible to Remediate without also Remediating one or more Analyzed Items for which it is not responsible, or due to cost or expedience or for any other reason; and in no event shall the Port Authority have any responsibility to participate in, or share in the cost of, any such Remediation.

(s) Similarly Situated Persons. The Port Authority has advised Operator that it is the intention of the Port Authority with respect to the application of pollution prevention programs, "best management practices plans" and other voluntary programs adopted and agreements made by the Port Authority with any governmental agencies, departments, commissions, boards, bureaus or instrumentalities of the United States, states and political subdivisions thereof constituting Environmental Requirements that the Port Authority will treat Operator in a similar manner as similarly situated persons at the Airport.

(t) Remediation to Existing Condition at End of Term. Operator hereby covenants and agrees that it shall, on or before the cessation of the letting hereunder or any portion thereof (whether such cessation be by termination, expiration or otherwise), Remediate each Analyzed Item, as necessary, to a level not exceeding the level of such Analyzed Item constituting a part of the Existing Condition (subject in all events, however, to the exceptions set forth in paragraph (b)(2) of this Section and the provisions of paragraph (q) of this Section).

(u) Exit Baseline.

(I) Without limiting any other term or provision hereof, all the obligations of Operator under this Section shall survive the expiration or termination of the letting of the Premises or any portion thereof, provided, however, the Operator shall not be responsible for any

Hazardous Substances in, on, under or about the Premises which occurred after the date that Operator shall have surrendered the Premises to the Port Authority and were not due to the acts or omissions of Operator, or others acting by, through or under Operator, or others on the Premises with Operator's consent.

(2) Between the fifteenth (15<sup>th</sup>) and twelfth (12<sup>th</sup>) months immediately preceding the Expiration Date or within three months after the effective date of the termination the letting hereunder, as the case may be, Operator shall at its sole cost and expense and subject to the terms and provisions of the Section of the Agreement entitled "Construction by Operator", sample and test the soil and ground water in, on and under the Premises in accordance with such standards, methods, protocol and procedures employed by the Port Authority to prepare the Initial Environmental Report, and as shall be further required by the Port Authority in its sole discretion (with the Port Authority not acting in an arbitrary or capricious manner in the exercise of its discretion), and after consultation with the Operator, in such locations specified by the Port Authority and as based upon: (i) joint inspection of the Premises by the Port Authority and Operator; (ii) spill history with respect to the Premises during Operator's tenancy; and (iii) the use and occupancy of the Premises by the Operator, by any Affiliate of Operator, and/or by any of their respective officers, agents, employees, members, managers, or by any sublessees or others on the Premises with the permission of the Operator (such sampling and testing of the soil and groundwater, the "Exit Baseline"). All such sampling, testing and the preparation of any associated report shall be performed by a New York approved independent consultant and laboratory, said sampling and testing shall produce a fair and representative sampling of the Premises and said sampling and testing shall be performed in accordance with the methodology described in paragraph (j) of this Section.

(3) The Exit Baseline and the test results therefrom may be used by the Operator to evidence that a Hazardous Substance in, on or under the Premises occurred after the date that the Operator shall have surrendered the Premises to the Port Authority.

#### **Section 18. Construction by the Operator**

(a) Except as otherwise expressly provided in the Agreement, the Operator shall not erect any structures, make any improvements or do any construction on the Premises or alter, modify, or make additions, improvements, repairs to or replacements of any structure now existing or built at any time during the letting, or install any fixture (other than trade fixtures, removable without material damage to the freehold, any such damage to be immediately repaired by the Operator) without the prior written approval of the Port Authority and in the event any construction, improvement, alteration, modification, repair or replacement or addition is made without such approval, then upon reasonable written notice so to do, the Operator will remove the same, or at the option of the Port Authority cause the same to be changed to the satisfaction of the Port Authority. In case of any failure on the part of the Operator to comply with such notice, the Port Authority may effect the removal or change and the Operator shall pay the cost thereof to the Port Authority. No provision hereof or elsewhere in this Agreement shall be deemed to grant any right whatsoever to any party other than the Operator to erect any structures, make any improvements or do any construction on the Premises or alter, modify, or make

additions, improvements, repairs to or replacements of any structure now existing or built at any time during the letting, or install any fixture (other than trade fixtures removable without material damage to the Premises, any damage to the Premises caused by such removal to be immediately repaired by the Operator) without the prior written approval by the Port Authority of a tenant alteration application to be submitted by the Operator to the Port Authority:

(b) Without limiting the generality of the foregoing paragraph, the Operator acknowledges and agrees that any Notes and associated reference lines set forth on the Exhibits identifying the Premises shall not constitute or be deemed to constitute or imply that approval of the Port Authority will be granted to any proposed construction by the Operator nor shall the same grant or be deemed to grant any right or permission to the Operator now or in the future to erect any structures, make any improvements or do any other construction work in the Premises, including, but not limited to, repairs to or replacements of any structure now existing or built at any time during the letting or install any fixtures on the Premises, including, but not limited to, paving, and that the provisions of the foregoing paragraph of this Section shall be read and construed as if there were no Notes and associated reference lines on the aforesaid Exhibits and that any which were placed on such Exhibits are solely and exclusively for the benefit of the Port Authority.

(c) Subject to the provisions of this Section, the Operator has advised that, in connection with initial occupancy of the Premises, it intends to undertake construction at the Premises to renovate Building 145 and install signage outside Building 145 in the amount of approximately Two Hundred Thousand Dollars (\$200,000) and to purchase ground service equipment with an approximate value of Seven Hundred Thousand Dollars (\$700,000).

#### **Section 19. Signs**

(a) Except with the prior written approval of the Port Authority, the Operator shall not erect, maintain, or display any signs or any advertising at or on the exterior parts of the Premises or in the Premises so as to be visible from outside the Premises or at any other place on the Airport outside the Premises. Interior signs affecting public safety and security shall be in accordance with established Port Authority standards.

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

#### **Section 20. Additional Rent and Charges; Late Charges**

(a) Additional Rent and Charges.

(1) If the Port Authority is required or elects to pay any sum or sums or incurs any obligation or expense by reason of the failure, neglect, or refusal of the Operator to perform or fulfill any one or more of the conditions, covenants, or agreements contained in this Agreement or as a result of any act or omission of the Operator contrary to the said conditions, covenants, and agreements, the Operator agrees to pay the sum or sums so paid or the expense so incurred, including all interest, costs, damages, and penalties, and the same may be added to any installment of rent thereafter due hereunder, and each and every part of the same shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rental as set forth in Section 3 hereof.

(2) For all purposes under this Section and in any suit, action or proceeding of any kind between the parties hereto, any receipt showing any payment of a sum or sums by the Port Authority for any work done or material furnished shall be prima facie evidence against the Operator 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 Operator with the cost of same, any time report of any employee of the Port Authority showing hours of labor or work allocated to such work, or any stock requisition of the Port Authority showing the issuance of materials actually used in the performance thereof, shall likewise be prima facie evidence against the Operator that the amount of such charge was necessary and reasonable.

(b) Late Charges.

If the Operator should fail to pay, after all applicable notice and grace periods, any amount required under this Agreement when due to the Port Authority, including but not limited to, any payment of basic, percentage or other rental or any payment of utility or other charges, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this 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 rental as set forth in the Section of this Agreement entitled "Rentals and Abatement." 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 but not limited to, the Port Authority's rights set forth in Section 23 of this Agreement; or (ii) any obligations of the Operator under this Agreement. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charges then., in such event, each such late charge payable under this Agreement shall be payable instead at such legal maximum.

(c) **Service Charge.** In the event that upon conducting an examination and audit the Port Authority determines that unpaid amounts are due to the Port Authority by the Operator, the Operator shall be obligated, and hereby agrees to pay to the Port Authority a service charge in the amount of five percent (5%) of each amount determined by the Port Authority audit findings to be unpaid. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Operator 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 or late charges or other service charges payable under the provisions of this Section with respect to such unpaid amount. Each such service charge shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rental. Nothing in this subparagraph 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 set forth in the Section hereof entitled "*Termination by the Port Authority*"; or (ii) any obligations of the Operator under this Agreement.

#### **Section 21. 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 Operator 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, contractors, and furnishers of utilities and other services shall have the right, for its own benefit, for the benefit of the Operator, or for the benefit of those at the Airport other than the Operator, to enter the Premises to maintain existing and future utility, mechanical, electrical, and other systems, to make such repairs, replacements, or alterations as, in the opinion of the Port Authority, may be deemed necessary or advisable, to construct or install over, in, or under the Premises new systems or parts thereof, and to use the Premises for access to other parts of the Airport otherwise not conveniently accessible; provided, however, that in the exercise of such rights of access, repair, alteration, or new construction the Port Authority shall not unreasonably interfere with the use and occupancy of the Premises by the Operator.

(c) In the event that any property of the Operator 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 or to the area of any proposed alteration or new construction and thus shall interfere with or impede the inspection, maintenance, repair, or replacement of any such system or interfere with or impede any alteration or new construction, the Operator shall move such property, as directed by the Port Authority, in order that access may be had to the system or part thereof or such area of any alteration or new construction for its inspection, maintenance, repair, replacement, alteration, or new construction, and if the Operator shall fail to so remove such property after direction from the Port Authority to do so, the Port Authority may move it and the Operator hereby agrees to pay the cost of such moving upon demand.

(d) Nothing in this Section shall or shall be construed to impose upon the Port Authority any obligation so to construct or inspect or maintain or to make repairs, replacements, alterations, or additions, or shall create any liability for any failure so to do. The Operator is and shall be in exclusive control and possession of the Premises during the letting, and the Port Authority shall in no event be liable for any injury or damage to any property or to any person happening on or about the Premises nor for any injury or damage to the Premises nor to any property of the Operator or of any other person located in or thereon (other than those occasioned by the affirmative acts of the Port Authority, its employees, agents, and representatives).

(e) At any time and from time to time during ordinary business hours within the six (6) months next preceding the expiration of the letting, the Port Authority, by its agents and employees, whether or not accompanied by prospective operators, occupiers, or users of the Premises, shall have the right to enter thereon for the purpose of exhibiting and viewing all parts of the same and during such six-month period the Port Authority may place and maintain on the Premises the usual "To Let" signs, which signs the Operator shall permit to remain without molestation.

(f) If, during the last month of the letting, the Operator shall have removed all or substantially all of its property from the Premises or a part thereof, the Port Authority may immediately enter and alter, renovate, and redecorate the Premises or the part thereof from which the same shall have been removed, whichever is the case.

(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 Operator nor be made the grounds for any abatement of rental nor any claim or demand for damages, consequential or otherwise.

## **Section 22. Condemnation**

### **(a) Definitions.**

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

“Date of Taking” shall mean the date on which title to all or any portion of the Premises, as the case may be, has vested in any lawful power or authority pursuant to a Taking.

“Material Part” with reference to the Premises shall mean such portion of the Premises as when so taken would leave remaining a balance of the Premises, due either to the area so taken or the location of the part so taken in relation to the part not so taken, that would not under economic conditions and after performance by the Operator of all covenants, agreements, terms and provisions contained herein or required by law to be observed or performed by the Operator, permit the restoration of the Premises so as to enable the Operator to operate, maintain and develop the Premises in accordance with the requirements of this Agreement, including without limitation the Section hereof entitled “*Rights of User*”, and to continue to carry on its normal operations at the Airport without using such part taken.

“Taking” shall mean the acquisition of a real property interest, through condemnation or the exercise of the power of eminent domain, by any body having a superior power of eminent domain.

(b) Permanent Taking of All or a Portion of the Premises.

(1) If a Taking is permanent and covers the entire Premises, then this Agreement shall, as of the Date of Taking, cease and determine in the same manner and with the same effect as if such date were the original date of expiration hereof.

(2) If a Taking is permanent but covers less than all of the Premises, this Agreement and the term hereof shall continue as to the portion of the Premises not so taken, and the letting as to the part of the Premises so taken shall, as of the Date of Taking, 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 rentals shall be abated as provided in the Section hereof entitled “*Rental*”.

(3) If a Taking is permanent and covers a Material Part of the Premises, then the Operator and the Port Authority shall each have an option exercisable by notice given within ten (10) days after the Date of Taking to terminate the letting hereunder with respect to the Premises not taken, as of the Date of Taking, and such termination shall be effective as if the Date of Taking were the original date of expiration hereof. If the letting of the entire Premises is not terminated, the rentals shall be abated in accordance with the Section hereof entitled “*Rentals and Payments*” after the date of surrender of possession of the portion of the Premises taken.

(4) If a Taking is permanent but covers less than the entire Premises and the letting of the portion of the Premises not taken is not terminated pursuant to paragraph (b)(3) of this Section, the Operator shall proceed diligently to restore the remaining part of the Premises not so taken so that the Premises shall be a complete, operable, self-contained architectural unit in good condition and repair and the proceeds of that portion of any award paid in trust to the Port Authority pursuant to Section 23.3 of the Basic Lease attributable to the improvements on the Premises not so taken shall be made available by the Port Authority to be

used by the Operator for that purpose. The Port Authority shall retain any excess of such award over the costs of the restoration.

(c) Temporary Taking of All or Any Part of the Premises.

(1) If the temporary use of the whole or any part of the Premises shall be taken for any public or quasi-public purpose by any lawful power or authority pursuant to a Taking or by agreement between the Port Authority and such lawful power or authority, (w) the Operator shall give prompt notice thereof to the Port Authority, (x) the Term shall not be reduced or affected in any way and (y) the Operator shall continue to pay in full all rentals payable by the Operator hereunder without reduction or abatement except as set forth in paragraph (c)(2) below.

(2) If a temporary Taking covers all or a Material Part of the Premises, then the Operator and the Port Authority shall each have an option, exercisable by notice given within ten (10) days after the Date of Taking, to suspend the term of the letting of such of the Premises as are not so taken during the period of the Taking, and, in that event, the rentals for such portion of the Premises not so taken shall abate for the period of the suspension in accordance with the paragraph (c) of the Section hereof entitled "*Rentals and Payments*".

(d) Operator's Cooperation.

The Operator shall execute any and all documents that may be reasonably required in order to facilitate collection by the appropriate party of awards or payments covered by this Section.

(e) Condemnation Claims by the Operator.

To the extent a condemnation claim by the Operator shall not diminish any claim, award, compensation or damages of or to the City or of or to the Port Authority on account of any condemnation and such condemnation claim is permitted by Section 23 of the Basic Lease, the Operator may file a claim in a condemnation proceeding.

**Section 23. Assignment and Sublease**

(a) Definitions.

The following terms shall have the respective meanings set forth below.

"Assignment" shall mean any sale, conveyance, transfer, exchange, mortgage, assignment or other disposition of all or any portion of the Operator's interest in this Agreement or the leasehold estate created hereby, directly or indirectly, whether by operation of law or otherwise.

“Sublease” shall mean any sublease (including a sub-sublease or any further level of subletting) and any occupancy, license, franchise or concession agreement applicable to the Premises or any portion thereof.

“Transfer” shall mean the transfer, sale, assignment, pledge, hypothecation or other disposition of any interest in the Operator or in any direct or indirect constituent entity of the Operator, where such disposition (whether by itself or cumulatively with other transactions) directly or indirectly produces any change in the direct or indirect Control (as defined in the definition of Affiliate) of the Operator, and shall include but not be limited to (1) the sale, assignment, redemption or transfer of outstanding stock of or membership interest in, respectively, any corporation or any limited liability company that is the Operator or that is the general partner of any partnership that is the Operator, (2) the issuance of additional stock or membership interest in, respectively, any corporation or limited liability company that is the Operator or that is the general partner of any partnership that is the Operator, and (3) the sale, assignment, redemption or transfer of any general or limited partner’s interest in, or the admission of a new partner to, a partnership that is the Operator or that is a general or limited partner of any partnership that is the Operator.

(b) No Assignment, Transfer or Sublease without Consent.

The Operator shall not effect or permit any Assignment, Transfer or Sublease without the prior written consent of the Port Authority.

(c) Unauthorized Transactions Null and Void.

Any Sublease, Assignment or Transfer including, without limitation, any sale, assignment, transfer, mortgage, pledge, hypothecation, encumbrance or disposition of the Premises or of the rents, revenues or any other income from the Premises, or this Agreement or any part hereof, or any license or other interest of the Operator herein not made in accordance with the provisions of this Agreement shall be null and void *ab initio* and of no force or effect.

(d) Port Authority’s Right to Collect Rent.

If without the prior written consent of the Port Authority, the Operator effects any Assignment, Transfer or Sublease, or if the Premises are occupied by anybody other than the Operator, the Port Authority may collect rent from any assignee, sublessee or anyone who claims a right under this Agreement or letting or who occupies the Premises, and the Port Authority shall apply the net amount collected to the rental herein reserved; but no such collection shall be deemed a waiver by the Port Authority of the covenants contained in paragraphs (a) and (b) of this Section or an acceptance by the Port Authority of any such assignee, sublessee, claimant or occupant as Operator, nor a release of the Operator by the Port Authority from the further performance by the Operator of the covenants contained herein.

(e) Continuing Application of Consent Requirement.

Any consent granted by the Port Authority to any Assignment, Transfer or Sublease pursuant to the provisions hereof shall not be construed or deemed to release, relieve or discharge the Operator or any other Person claiming any right, title or interest in this Agreement from the requirement of obtaining the prior written consent of the Port Authority with respect to any other Assignment, Transfer or Sublease.

(f) Use of Premises.

The Operator shall not use or permit any Person to use the Premises or any portion thereof for any purpose other than the purposes stated in the Section hereof entitled "*Rights of User*". Except as provided in this Agreement or otherwise permitted in writing by the Port Authority, the Operator shall not permit the Premises to be used or occupied by any Person other than its own officers, employees, passengers, contractors and representatives.

**Section 24. Termination by the Port Authority**

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

(1) The Operator 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 Operator shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of its creditors or by any of the stockholders of the Operator, seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) days after the entry thereof, any notice of termination shall be and become null, void and of no effect; 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 Operator and shall not be dismissed within thirty (30) days after the filing thereof; or

(4) The letting hereunder or the interest or estate of the Operator 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 Operator, if a corporation, shall without the prior written approval of the Port Authority (which approval shall not be arbitrarily or capriciously withheld) become a successor or merged corporation in a merger, a constituent corporation in a consolidation, or a corporation in dissolution; or

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

(7) The Operator shall voluntarily abandon, desert or vacate the Premises or discontinue its operations hereunder at the Airport, or, after exhausting or abandoning any right of further appeal, the Operator because of an act or omission of the Operator shall be prevented for a period of thirty (30) days by action of any governmental agency other than the Port Authority having jurisdiction thereof, from conducting its operations hereunder at the Airport, regardless of the fault of the Operator; or

(8) Any lien is filed against the Premises because of any act or omission of the Operator and is not removed within ten (10) days after the Operator has received notice thereof; or

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

(10) The Operator 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 twenty (20) days after receipt of notice of default thereunder from the Port Authority (except where fulfillment of its obligation requires activity over a period of time, and the Operator shall have commenced to perform whatever may be required for fulfillment within twenty (20) 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 fifteen (15) days' notice terminate the rights of the Operator hereunder and the letting, such termination to be effective upon the date specified in such notice. Such right of termination and the exercise thereof shall be and operate as a conditional limitation.

(b) If any of the events enumerated in paragraph (a) of this Section shall occur prior to the Effective Date, the Operator shall not be entitled to enter into possession of the Premises and the Port Authority, upon the occurrence of any such event or at any time thereafter during the continuance thereof, by twenty-four (24) hours' notice may terminate the interest of the Operator under this Agreement, such termination 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 of any period or periods after a default in any of the terms, covenants and conditions hereof to be performed, kept or observed by the Operator shall be deemed a waiver of any right on the part of the Port Authority to terminate the letting.

(d) No waiver by the Port Authority of any default on the part of the Operator in performance of any of the terms, covenants or conditions hereof to be performed, kept or observed by the Operator shall be or be construed to be a waiver by the Port Authority of any other or subsequent default in performance of any of the said terms, covenants and conditions.

(e) The rights of termination described above shall be in addition to any other rights of termination provided in this 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 Operator, and the exercise by the Port Authority of any right of termination shall be without prejudice to any other such rights and remedies.

**Section 25. Right of Re-entry**

The Port Authority, as an additional remedy upon the giving of a notice of termination as provided in Section hereof entitled "*Termination by the Port Authority*", shall have the right to reenter 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 Operator under this Agreement, and shall in no event constitute an acceptance of surrender.

**Section 26. Waiver of Redemption**

The Operator 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 obtained possession of the Premises in any lawful manner.

**Section 27. Survival of the Obligations of the Operator**

(a) In the event that this Agreement shall have been terminated in accordance with a notice of termination as provided in Section hereof entitled "*Termination by the Port Authority*", or the interest of the Operator terminated 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 hereof entitled "*Right of Re-entry*", all obligations of the Operator under this Agreement shall survive such termination, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full Term, 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, 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 subsequent to termination (or re-entry, regaining or resumption of possession) on account of the Operator's rental and fee obligations, shall be the sum of the following:

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

(2) An amount equal to the sum of the percentage stated in paragraph (b) of the Section hereof entitled "*Rentals and Payments*" applied to the gross receipts of the Operator during the balance of the term if there had been no termination (or re-entry, regaining, or resumption or possession); and for the purpose of calculation hereunder (i) the said amount of gross receipts shall be derived by multiplying the number of days in the balance of the term originally fixed by the daily average of the Operator's gross receipts; and (ii) the daily average of the Operator's gross receipts shall be the Operator's total actual gross receipts during which the Premises were open and in operation and in which no abatement was in effect divided by the number of days included in such part of the effective period.

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

(4) It is understood and agreed that the statement of damages under the preceding sub-paragraph (2) shall not affect or be construed to affect the Port Authority's right to damages in the event of termination (or re-entry, regaining or resumption of possession) where the Operator has not received any actual gross receipts or fees under this Agreement.

**Section 28. Reletting by the Port Authority**

The Port Authority, upon termination or cancellation pursuant to the Section hereof entitled "*Termination by the Port Authority*", or upon any re-entry, regaining or resumption of possession pursuant to the Section hereof entitled "*Right of Re-entry*", may occupy the Premises or may relet the Premises, and shall have the right to permit any Person, firm or corporation to enter upon the Premises and use the same. Such reletting may be of part only of the Premises or a part thereof together with other space, and for a period of time the same as or different from the balance of the term hereunder remaining, and on the terms and conditions the same as or different from those set forth in this Agreement. The Port Authority shall also, upon termination or cancellation, or upon its re-entry, regaining or resumption of possession pursuant to the said Sections, have the right to repair or to make structural or other changes in the Premises, including changes which alter the character of the Premises and the suitability thereof for the purpose of the Operator under this Agreement, without affecting, altering or diminishing the obligations of the Operator hereunder. In the event either of any reletting or of any actual use and

occupancy by the Port Authority (the mere right of the Port Authority to use and occupy not being sufficient however) there shall be credited to the account of the Operator against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any Operator, licensee, permittee or other occupier in connection with the use of the Premises or portion thereof during the balance of the letting as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the Premises as the Port Authority may during such period actually use and occupy, all expenses, costs and disbursements incurred or paid by the Port Authority in connection therewith. No such reletting shall be or be construed to be an acceptance of a surrender.

**Section 29. Remedies to be Non-exclusive**

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

**Section 30. Surrender**

The Operator covenants and agrees to yield and deliver peaceably to the Port Authority possession of the Premises on the date of cessation of the letting, whether such cessation be by termination, expiration or otherwise, promptly and in the same condition as on the Effective Date, reasonable wear arising from use of the Premises to the extent permitted elsewhere in this Agreement excepted, and excepting for matters which are the obligation of the Port Authority under this Agreement.

**Section 31. Acceptance of Surrender of Agreement**

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 Operator. Except as expressly provided in this Section, neither the doing of, nor any omission to do, any act or thing, by any of the officers, agents or employees of the Port Authority, shall be deemed an acceptance of a surrender of the letting or of this Agreement.

**Section 32. Effect of Basic Lease**

(a) **No Greater Rights.** The letting shall, in any event, terminate with the termination or expiration of the Basic Lease, such termination to be effective on such date and to have the same effect as if the Term had expired on that date. The rights of the Port Authority in the Premises are those granted to it by the Basic Lease, and no greater rights are granted to the Operator than the Port Authority has power thereunder to grant.

(b) **Specific Basic Lease Requirements.** In accordance with the provisions of the Basic Lease, the Port Authority and the Operator hereby agree as follows:

(1) This Agreement is subject and subordinate to the Basic Lease and to any interest superior to that of the Port Authority;

(2) The Operator shall not pay rent or other sums under this Agreement for more than one (1) month in advance (excluding security and other deposits required under this Agreement);

(3) With respect to this Agreement, the Operator on the termination of the Basic Lease will, at the City's option, attorn to, or enter into a direct lease on identical terms with, the City;

(4) The Operator shall indemnify the City, as a third party beneficiary, with respect to all matters described in Section 31 of the Basic Lease;

(5) The Operator shall not use the Premises or any other portion of the Airport for any use other than as permitted under the Basic Lease;

(6) The Operator shall use, operate and maintain the Premises in a manner consistent with the Port Authority's obligations under Section 28 of the Basic Lease;

(7) The failure of the Operator to comply with the foregoing provisions shall be an event of default under this Agreement, which, after the giving of reasonable notice, shall provide the Port Authority with the right to terminate this Agreement and exercise any other rights that the Port Authority may have as the landlord hereunder; and

(8) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Operator pursuant to this Agreement.

**Section 33. Removal of Property**

The Operator, subject to the obligation set forth in this Agreement to supply all equipment and material necessary to the Fixed Base Operation, shall have the right at any time during the Term to remove its equipment, inventories, removable fixtures and other personal property from the Premises. If the Operator shall fail to remove its property on or before the termination or expiration of this Agreement, the Port Authority may remove such property to a public warehouse for deposit or retain the same in its own possession, and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, second to any sums owed by the Operator to the Port Authority, with any balance remaining to be paid to the Operator; if the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Operator shall pay such excess to the Port Authority upon demand.

**Section 34. Brokerage**

The Operator represents and warrants that no broker has been concerned on its behalf in connection with this Agreement and that there is no broker who is or may be entitled to be paid a

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

**Section 35. Limitation of Rights and Privileges Granted**

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

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

**Section 36. Notices**

Except where expressly required or permitted herein to be oral, all notices, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the offices of such officer or representative during regular business hours, or forwarded to such person or to the party at such address by certified or registered mail. The Operator shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Port Authority hereby designates its Executive Director, and the Operator designates its President as their respective officers 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 Operator designates its office at Building 145, John F. Kennedy International Airport, Jamaica, NY 11430, as their respective offices where notices and requests may be served. Each notice shall be deemed given and effective upon receipt, or, in the event of a refusal by the addressee, on the first tender of such notice to the addressee at the designated address.

**Section 37. Security Deposit**

(a) Letter of Credit Required. Upon the Operator's execution and delivery of this Agreement to the Port Authority, the Operator shall deliver to the Port Authority, and shall maintain throughout the Term as security for the Operator's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement and as security

for the payment of all rentals, fees, charges and obligations of the Operator owed or which may become due and owing to the Port Authority, a clean irrevocable letter of credit in favor of the Port Authority in the amount of Four Hundred Fifty Thousand Dollars and No Cents (\$450,000.00), issued by a banking institution acceptable to the Port Authority and having its main office within the Port of New York District.

(b) Form Subject to Prior Approval. The form and terms of each letter of credit delivered under this Section, as well as the institution issuing it (which shall be an investment-grade rated bank), shall be subject to the prior and continuing approval of the Port Authority; the form of any proposed letter of credit shall be submitted to the Port Authority in advance for review and approval by its Credit, Collection and Accounts Receivable unit. Such letter of credit shall provide that it shall continue throughout the Term 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.

(c) Replacements. Upon notice of cancellation of a letter of credit, the Operator 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 cash security as set forth in paragraph (g) of this Section. If at any time any bank shall fail to make any payment to the Port Authority in accordance with a letter of credit issued by such bank, the Operator shall cause to be delivered to the Port Authority on demand a replacement letter of credit issued by a different bank satisfactory to the Port Authority, so that at all times the Port Authority shall have one or more letters of credit in the amount set forth in paragraph (a) of this Section.

(d) Right to Draw Down. 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 each letter of credit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Operator. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of a letter of credit or any cash security shall cure any default or breach of this Agreement on the part of the Operator. No action by the Port Authority pursuant to the terms of any letter of credit, or receipt by the Port Authority of funds from any bank issuing any letter of credit, shall constitute a waiver of any breach or default by the Operator of its obligations under this Agreement; and the existence of or recourse to any such letter of credit shall not limit the Port Authority's rights and remedies otherwise available under this Agreement upon any such breach or default.

(e) Material Breach. Any failure of the Operator at any time during the Term to provide such letter of credit valid and available to the Port Authority, and any failure of any banking institution issuing any such letter of credit to make one or more payments as provided in such letter of credit, shall constitute a material breach on the part of the Operator of this Agreement.

(f) Replenishment. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Operator, within two (2) days after demand of the Port Authority therefor, shall bring the letter of credit back up to its full amount.

(g) Use of Proceeds. In the event that the Port Authority shall have drawn down the letter of credit referred to in paragraph (a) of this Section, 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 amount held, or any part thereof, as cash security in whole or partial satisfaction of any of its claims or demands against the Operator. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of such cash security itself shall cure any default or breach, on the part of the Operator, of this Agreement. The Operator agrees that it will not assign, mortgage or encumber such cash security. The Port Authority shall not pay or allow interest thereon; but the Operator may collect or receive annually any 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 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. Upon the Port Authority's acceptance of a substitute letter of credit, and upon request by the Operator made thereafter, the Port Authority will return any cash security deposit resulting from the drawing down of the original letter of credit. The Operator shall have the same rights to receive any 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 Operator under this Agreement.

(g) After Expiration or Termination. After the expiration of the letting and upon written request therefor by the Operator, the Port Authority will return to the Operator any valid letters of credit and any cash security delivered to the Port Authority by the Operator hereunder, less the amount of any and all unpaid claims and damages of the Port Authority under this Agreement. Upon a termination of the letting, the Port Authority may, at its option, retain the letter of credit and any cash security until the date set forth in paragraph (b) of this Section (as such date may be extended in connection with any extended term of the letting hereunder) and shall thereafter upon demand of the Operator return the same to the Operator less the amount of any and all unpaid claims and damages, including but not limited to estimated damages of the Port Authority under this Agreement.

(h) Employer Identification Number. For purposes of the foregoing, the Operator hereby certifies that its I.R.S. Employer Identification Number is EX . 1

(i) Adjustment of Security Amount. At any time and from time to time hereafter, should the Port Authority feel insecure with respect to the amount of the security required under paragraph (a), above, or pursuant to this paragraph (i), the Port Authority shall have the right, in its sole and absolute discretion, to increase such amount upon notice by the Port Authority to the Operator to such effect and within two days thereafter the Operator shall deposit with the Port Authority such additional cash or bonds or such letter of credit to bring the security under this Section up to the full amount stated by the Port Authority in said notice.

(j) Other Agreements with the Port Authority. If the Operator is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Operator of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Operator's operations at the Airport pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any deposit pursuant thereto also shall be deemed obligations of the Operator under this Agreement and as security hereunder as well as under any such other agreement and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby incorporated herein by this reference as though fully set forth herein and hereby made a part hereof. The termination, revocation, cancellation or expiration of any other agreement to which such security shall apply or any permitted assignment of such other agreement shall not affect such obligations as to such security which shall continue in full force and effect hereunder.

**Section 38. Place of Payments**

All payments required of the Operator by this Agreement shall be sent to the following address:

The Port Authority of New York and New Jersey  
P.O. Box 95000-1517  
Philadelphia, PA 19195-0001

or made via the following wire transfer instructions:

CREDIT BANK NAME: TD BANK  
CREDIT BANK ADDRESS: 6000 Atrium Way, Mount Laurel, NJ 08054  
CREDIT BANK ABA #: EX. 1  
BENEFICIARY ACCOUNT/ID #: EX. 1  
BENEFICIARY NAME: THE PORT AUTHORITY OF NY & NJ

or sent to such other address, or pursuant to such other wire transfer instructions, as may be substituted therefor by the Port Authority from time to time. All payments should reference this Agreement number, AYD-083.

**Section 39. Construction and Application of Terms**

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

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

(c) The parties have participated jointly in the negotiation and drafting of this Agreement. Consequently, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement. The deletion of language from this Agreement prior to its mutual execution shall not be construed to have any particular meaning or to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse or opposite of the deleted language.

(d) Notwithstanding the fact that certain references elsewhere in this Agreement to acts required to be performed by the Operator hereunder, or to breaches or defaults of this Agreement by the Operator, omit to state that such acts shall be performed at the Operator's sole cost and expense, or omit to state that such breaches or defaults by the Operator are material, unless the context clearly implies to the contrary, each and every act to be performed or obligation to be fulfilled by the Operator pursuant hereto shall be performed or fulfilled at the Operator's sole cost and expense, and all breaches or defaults by the Operator shall be deemed material.

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

(f) This Agreement and any claim, dispute or controversy arising out of, under or related to this Agreement shall be governed by, interpreted and construed in accordance with the laws of the State of New York, without regard to choice of law principles.

**Section 40. Non-liability of Individuals**

No Commissioner, director, officer, agent or employee of the Port Authority shall be charged personally or held contractually liable by or to the Operator under any term or provision of this Agreement or of any supplement, or amendment to this Agreement or because of any breach or alleged breach thereof, or because of its or their execution or attempted execution or otherwise.

**Section 41. Condition of Premises**

(a) The Operator 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. Without limiting any obligation of the Operator to commence operations hereunder at the time and in the manner stated elsewhere in this Agreement, the Operator 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 Operator's operations hereunder so that there is material risk of injury or damage to life or property. The Operator shall take possession of the Premises in the condition they are in as of the commencement of the Term. It is hereby

understood and agreed that whenever reference is made in this Agreement to the condition of the Premises as of the commencement of the Term thereof, the same shall be deemed to mean the condition of the Premises as of the Effective Date, and as to the improvements made and the Construction Work and any alteration work performed during the Term, in the condition existing after completion of the same.

(b) The Operator, prior to the execution of this Agreement, has thoroughly examined the Premises and determined them to be suitable for the Operator's operations hereunder. Except as otherwise provided herein, and specifically subject to the Section of this Agreement entitled "*Environmental Obligations*" (including, without limitation, the exceptions set forth in paragraph (b)(2) therein), the Operator hereby agrees to assume all responsibility for any and all risks, costs and expenses of any kind whatsoever caused by, arising out of or in connection with the condition of the Premises including, without limitation, all Environmental Requirements, Environmental Damages and Remediation.

**Section 42. Storage Tanks**

(a) All aboveground storage tanks and underground storage tanks installed in the Premises during the term of the letting subsequent to the Effective Date and its or their appurtenances, pipes, lines, fixtures and other related equipment are hereinafter collectively called the "Tanks" and singularly called a "Tank". The Operator hereby agrees that title and ownership of the Tanks shall be and remain in the Operator and that all registrations shall be in the name of the Operator as both owner and operator, notwithstanding anything to the contrary in any construction or alteration application. The Port Authority has made no representations or warranties with respect to the Tanks or their location and shall assume no responsibility for the Tanks. All Tanks installed subsequent to the Effective Date shall be installed pursuant to the terms and conditions of this Agreement including, without limitation, the Section hereof entitled "Other Construction by the Operator" and nothing in this Section shall or shall be deemed to be permission or authorization to install any Tanks.

(b) Without limiting the generality of any of the provisions of this Agreement, the Operator agrees that it shall be solely responsible for maintaining, testing and repairing the Tanks. The Operator shall not perform any servicing, repairs or non-routine maintenance to the Tanks without the prior written approval of the Port Authority.

(c) It is hereby agreed that title to and ownership of the Tanks shall remain in the Operator until the earlier to occur of (1) receipt by the Operator of notice from the Port Authority that title to the Tanks shall vest in the Port Authority or in the City of New York; or (2) receipt by the Operator of notice from the Port Authority that the Port Authority waives its right to require the Operator to remove the Tanks from the Premises as set forth in paragraph (i) below. The vesting of title to the Tanks in the Port Authority or in the City of New York, if at all, in accordance with the foregoing item (1) shall in no event relieve the Operator from the obligation to remove the Tanks from and restore the Premises in accordance with paragraph (i) below.

(d) Without limiting the generality of any other term or provision of this Agreement, the Operator shall at its cost and expense comply with all Environmental Requirements

pertaining to the Tanks and any presence, pumping, pouring, venting, emitting, emptying, leakage, deposit, spill, discharge or other release of Hazardous Substances from the Tanks or in connection with their use, operation, maintenance, testing or repair (any such presence, pumping, pouring, venting, emitting, emptying, leakage, deposit, spill, discharge or other release during the period the Operator shall use or occupy the Premises or use the Tanks being hereinafter called a "Discharge") including, without limitation, registering and testing the Tanks, submitting all required clean-up plans, bonds and other financial assurances, performing all required clean-up and remediation of a Discharge and filing all reports, making all submissions to, providing all information required by, and complying with all requirements of, all governmental authorities pursuant to the Environmental Requirements and delivering to the Port Authority a copy of such documentation within seven (7) days of submittal or receipt of such documentation by Operator, including copies of current Tank registrations.

Nothing in the foregoing shall be construed as a submission by the Port Authority to the application to itself of the Environmental Requirements; provided, however, no immunity or exemption of the Port Authority from the Environmental Requirements shall excuse the compliance therewith by the Operator or shall be grounds for non-compliance therewith by the Operator.

(e) Without limiting the terms and provisions of the Section hereof entitled "*Indemnity and Liability Insurance*", the Operator hereby assumes all risks arising out of or in connection with the Tanks and all Discharges whether or not foreseen or unforeseen and shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from and against (and shall reimburse the Port Authority for their costs and expenses including, without limitation, penalties, fines, liabilities, settlements, damages, attorney and consultant fees, investigation and laboratory fees, clean-up and remediation costs, court costs and litigation expenses), all claims and demands, just or unjust, of third persons (such claims and demands being hereinafter in this Section referred to as "Claims" and singularly referred to as a "Claim") including but not limited to those for personal injuries (including death), property damages, or environmental impairment, arising or alleged to arise out of or in any way related to, the failure of the Operator to comply with each and every term and provision of this Agreement, or the Tanks, or any Discharge, or any lawsuit brought or threatened, settlement reached or any governmental order relating to the Tanks or a Discharge, or any violation of any Environmental Requirements or demands of any governmental authority based upon or in any way related to the Tanks or a Discharge, and whether such arise out of the acts or omissions of the Operator or of customers or contractors of the Operator or of third persons or out of the acts of God or the public enemy or otherwise including claims by the City of New York against the Port Authority pursuant to the provisions of the Basic Lease whereby the Port Authority has agreed to indemnify the City against claims, excepting only claims and demands arising from the sole negligence or willful misconduct of the Port Authority. It is understood the foregoing indemnity shall cover all claims, demands, assessments, penalties, settlements, damages, fines, costs and expenses of or imposed by any governmental authority under the Environmental Requirements.

If so directed the Operator shall at its expense defend any suit based upon any such Claim (even if such Claim is groundless, false or fraudulent) and in handling such it shall not without first having 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.

(f) The Operator's obligations under this Section shall survive the expiration or earlier termination of this Agreement.

(g) In addition to the requirements of the Section hereof entitled "*Compliance with Governmental Requirements*" and paragraph (d) hereof, the Port Authority shall have the right upon notice to the Operator to direct the Operator, at the Operator's sole cost and expense: (i) to perform such reasonable testing of the Tanks as the Port Authority shall direct and to perform such testing of the soil, subsoil and ground water of the Premises and of such surrounding area as the Port Authority shall direct; and (ii) to clean-up and remediate any Discharge, regardless of whether any Environmental Requirement or governmental authority shall require such testing, clean-up or remediation, which testing, clean-up and remediation shall be performed pursuant to an alteration application prepared by the Operator and submitted to the Port Authority for the Port Authority's approval.

(h) In the Operator's use and operation of the Tanks, the Operator shall not permit any Hazardous Substance from entering the ground including, without limitation, subject to the Section hereof entitled "*Construction by the Operator*", installing appropriate spill and overfill devices and placing an impervious material, such as asphalt or concrete, over the ground area above and in the vicinity of the Tanks.

(i) (1) The Operator shall remove the Tanks from the Premises on or before the expiration of this Agreement and dispose of the Tanks off the Airport in accordance with all Environmental Requirements and shall within seven (7) days of such disposal deliver a copy of all closure documentation to the Port Authority.

(2) Without limiting the foregoing or any other term or provision of this Agreement, any removal of the Tanks shall be performed pursuant to an alteration application prepared by the Operator and submitted to the Port Authority for the Port Authority's approval and, in connection with such removal, the Operator shall restore the Premises to the same condition existing prior to the installation of the Tanks, shall perform such testing of the Tanks and of the soil, sub-soil and ground water in the vicinity of the Tanks as shall be required by the Port Authority and shall clean-up and remediate contamination disclosed by said testing. In the event the Operator does not remove the Tanks as required by subparagraph (1) above, the Port Authority may enter upon the Premises and effect the removal and disposal of the Tanks, restoration of the Premises and such remediation and the Operator hereby agrees to pay all costs and expenses of the Port Authority arising out of such removal, disposal, restoration and remediation.

**Section 43. Services to the Operator**

(a) Other than utilities referenced below in this Section, the Port Authority shall not be obligated to provide any services to the Operator or Premises whatsoever, including ground transportation services, with respect to the Premises nor to police the same or keep the same free from snow, ice or otherwise unobstructed and available for use by the Operator.

(b) (1) The Port Authority shall furnish and supply, without additional charge, to the Operator in reasonable quantities for use on the Premises and the Operator agrees to take from the Port Authority electricity of the same voltage, phase and cycle as supplied to the Premises by the public utility company in the vicinity.

(2) With respect to Areas A and B specifically, the electricity to be furnished to the Operator shall be in reasonable quantities of the same voltage, phase and cycle as supplied to the Premises by the public utility company in the vicinity, through existing wires, conduits and outlets, if any, for illumination by which is meant the energizing of incandescent and fluorescent bulbs (to be supplied by the Operator) and for the operation of the following items only: office fans, clocks, time stamps, calculators, computers and facsimile in a number and of a type for ordinary office use, one television and water coolers.

(c) The Port Authority shall, without additional charge, furnish and supply to the Operator for use on the Premises cold water (of the character furnished by the City of New York) in reasonable quantities through existing pipes, mains and fittings and the Operator agrees to take such water from the Port Authority

(d) The Port Authority shall, without additional charge, furnish to the Operator for heating purposes in the enclosed portions of Areas A and B hot water, in such quantities as are required to maintain a reasonably even and comfortable working temperature therein during the months of November, December, January, February, March and April with the present heating equipment installed on the Premises in good repair and working condition and limited to the safe and efficient operating capacity of the present heating equipment. The hot water shall be delivered to the Operator through existing pipes, mains and conduits connecting the boiler room with heaters and radiators (if any) located in said Areas. The Port Authority shall have the right to discontinue operation of the boiler room and the heating equipment therein for such periods as are reasonably necessary for maintenance, repairs, and replacements.

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

(f) In the event the Port Authority shall provide extermination service for the enclosed portions of the Premises, the Operator agrees to utilize the same and to pay its pro rata

share of the reasonable cost thereof, upon demand. This paragraph does not impose any obligation on the Port Authority to furnish such service.

(g) The Port Authority shall not be obligated to perform or furnish any other services whatsoever in connection with the Premises or any services at any time while the Operator shall be in default hereunder after the period, if any, herein granted to cure such default shall have expired.

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

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

#### **Section 44. Collection of Port Authority Fees and Charges**

(a) The Port Authority hereby designates the Operator as the Port Authority's special agent for the purpose of collecting the public landing area charges as set forth from time to time in the Port Authority Schedule of Charges (such charges being hereinafter called the "user's charges") from the operators of Chargeable Aircraft (as hereinafter defined) using the Airport.

(b) For the purposes hereof the term "Chargeable Aircraft" shall mean all aircraft using the PAF other than (i) aircraft of aircraft operators which are parties to, or are covered by, a separate agreement entered into with Port Authority providing for the payment of a flight fee associated with use of the PAF at the Airport; and (ii) aircraft of aircraft operators which are exempted by the Port Authority from the imposition of a flight fee associated with use of the PAF at the Airport in accordance with the Port Authority Schedule of Charges (in accordance with subparagraph(g) of this Section, or otherwise), e.g., military, governmental, humanitarian, or charitable medical flights of such aircraft. It is understood that Chargeable Aircraft shall include, among other things, aircraft of General Aviation Aircraft Operators which are not excluded under (i) and (ii), above.

(c) The Operator as special agent for the Port Authority hereby agrees to collect, from the operators of Chargeable Aircraft using the PAF at the Airport, user's charges and other fees that are in effect from time to time.

(d) The Schedule of Charges showing the current user's charges for the use of the PAF at the Airport can be accessed at the following website:  
<http://www.panynj.gov/airports/general-information.html>.

The Port Authority hereby reserves the sole and unrestricted right, from time to time and as often as it considers it necessary or advisable, to amend or rescind any item contained in such Schedule of Charges, to make increases or decreases therein, and to add additional items thereto. The said Schedule of Charges and changes therein or amendments thereof shall be binding upon the Operator and shall be and become the charges hereunder.

(e) In rendering bills or statements of charges to the operators of Chargeable Aircraft the Operator, if required by the Port Authority, shall use the form of invoice prescribed by the Port Authority from time to time which invoice, among other things, shall separately set forth under appropriate headings, the user's charges for the use of the PAF at the Airport.

(f) The user's charges to operators of Chargeable Aircraft shall be strictly in accordance with the applicable provision of the Schedule of Charges of the Port Authority in effect at the time of the use of the Airport. The Operator shall post prominently and thereafter maintain in legible condition copies of the Schedule of Charges, with any and all amendments made thereto, in or immediately outside of Area A and such other location or locations at the Airport as may be specified by the General Manager of the Airport from time to time.

(g) Notwithstanding the provisions of the Schedule of Charges and anything contained herein the Port Authority, in its sole discretion, may waive the user's charges for use of the PAF at the Airport for particular aircraft or particular aircraft operators and in any such instance upon written notice from the Port Authority to such effect the Operator shall not be responsible for and shall not enforce collection of the user's charges set forth in the Schedule of Charges which have been so waived, nor shall the Operator's compensation set forth in paragraph (j) of this Section be applicable to such waived user's charges.

(h) For and during all such time that the Operator continues as special agent of the Port Authority for the collection of the user's charges as aforesaid and for one year after the termination of such special agency and for a further period extending until the Operator shall receive written permission from the Port Authority to do otherwise, the Operator shall, in addition to the books, records and accounts which the Operator is required to keep and maintain under the Section of this Agreement entitled "*Obligations in Connection with the Conduct of the Operator's Business*", maintain books, records and accounts so as to adequately and accurately record all arrivals and departures of Chargeable Aircraft at the Airport and such other aircraft as the Port Authority may designate, and the times and dates of said arrivals and departures, type of aircraft (in sufficient detail to determine the maximum gross weight for take-off thereof including but not limited to the aircraft nomenclature as set forth in the periodical, "Aviation Week and Space Technology") and the user's charges incurred by all operators of Chargeable Aircraft during their stay at the Airport and such additional information as the Port Authority may from time to time designate. All such books, records and accounts shall be subject to examination, inspection and audit by the officers, employees and representatives of the Port Authority in such manner and at such time as provided in paragraph (d) of the Section of this Agreement entitled "*Obligations in Connection with the Conduct of the Operator's Business*".

(i) On the 20th day of the month following the month in which the Commencement Date falls and on the 20th day of each and every succeeding month thereafter during the Term

and the month following the month in which the date of expiration or termination of this Agreement falls, the Operator shall furnish to the Port Authority a statement by a responsible fiscal officer of the Operator covering its operations under this Section for the preceding calendar month, which statement shall set forth such information as the Port Authority may require with respect to the use of the PAF at the Airport. The Operator shall furnish such information as the Port Authority may request on the form or forms as may be supplied by the Port Authority from time to time. The statement required to be provided by the Operator hereunder shall be submitted by the Operator together with the report required pursuant to paragraph (f) of the Section of this Agreement entitled "*Obligations in Connection with the Conduct of the Operator's Business*".

(j) The Operator, for performing its obligations under this Section and otherwise under this Agreement, shall be entitled to the following compensation: Thirteen Dollars (\$13.00) for each charge or portion thereof the Operator actually collects hereunder for the period from the Commencement Date through the day preceding the second anniversary of the Commencement Date; and at the rate of Fourteen Dollars (\$14.00) for each charge or portion thereof the Operator actually collects hereunder for the period from the second anniversary of the Commencement Date through the balance of the Term.

(k) On or before the 20th day of each month the Operator shall pay to the Port Authority a full remittance of all user's charges for the preceding calendar month less deduction of the compensation to which the Operator is entitled pursuant to paragraph (j), above, of this Section.

(l) For the purposes hereof, all user's charges provided for in paragraph (a) of this Section shall be deemed to have been collected by the Operator when the same have been incurred by the operators of Chargeable Aircraft using the Airport whether or not the same have been collected by the Operator. Under no circumstances (except where specifically requested in writing by the Port Authority as hereinbefore set forth) shall the Operator waive any of the user's charges the collection of which are provided for in paragraph (c) hereof. The Operator shall be solely responsible for all uncollected user's charges.

(m) The Port Authority shall have the right at any time and from time to time during the Term to suspend the right of the Operator under this Section to collect user's charges and during the period of the suspension the Operator shall not perform the collection of user's charges hereunder and the Port Authority shall have the right during said period to itself, or by any third person or persons designated by it to, perform the obligation of the Operator hereunder using such equipment which is used by the Operator in its operations hereunder as the Port Authority deems necessary, and without cost to the Port Authority. The right of the Operator to receive the compensation set forth in paragraph (j) of this Section shall be abated with respect to the charges collected by the Port Authority or its designee during any aforesaid period of suspension. Prior to the exercise of such right by the Port Authority, it shall give the Operator notice thereof, which notice may be oral. No exercise by the Port Authority of the rights reserved to it by this paragraph (m) shall be or deemed to constitute a waiver of termination rights contained in this Agreement or a waiver of any other rights or remedies which may be available to the Port Authority under this Agreement or otherwise.

(n) The Operator shall use all means reasonably available to it for the determination of what Chargeable Aircraft use the PAF at the Airport. Without limiting the Operator's obligation and responsibility for the collection of the charges hereunder, the Operator shall monitor for the purpose of determining at what time or times Chargeable Aircraft use the aforesaid facilities and the duration of such use, the following radio frequencies: 121.9 megacycles (Ground Control), 119.1 megacycles (Tower Control) and such other radio frequencies as directed by the Port Authority from time to time and shall comply with the procedures as may be established from time to time by the General Manager of the Airport in connection with monitoring and determining such times. The determination of the user's charges for Chargeable Aircraft shall be based upon all available data including, but not limited to, the FAA control tower activity logs and information derived therefrom.

**Section 45. OFAC Compliance**

(a) Operator hereby represents and warrants to the Port Authority that Operator is not, and shall not become, a person or entity with whom the Port Authority is restricted from doing business under the regulations of the Office of Foreign Asset Control ("OFAC") of the United States Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001 Executive Order on Terrorist Financing Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit or Support Terrorism), or other governmental action and is not engaging, and shall not engage, in any dealings or transactions or be otherwise associated with such persons or entities. Operator acknowledges that the Port Authority is entering into this Agreement in reliance on the foregoing representations and warranties and that such representations and warranties are a material element of the consideration inducing the Port Authority to enter into and execute this Agreement. In the event of any breach of any of the foregoing representations and warranties by Operator, the Port Authority shall have the right, in addition to any and all other remedies provided under this Agreement or at law or in equity, to immediately terminate this Agreement upon written notice to Operator. Operator further acknowledges that there shall be no cure for such a breach. In the event of any such termination by the Port Authority, Operator shall, immediately on receipt of the Port Authority's termination notice, cease all use of and operations permitted under this Agreement and surrender possession of the Premises to the Port Authority without the Port Authority being required to resort to any other legal process. Termination on the afore-described basis shall be deemed a termination for cause.

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

person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provision of any statutes respecting suits against the Port Authority.

(c) The provisions of this Section shall survive the expiration or earlier termination of the Term.

**Section 46. Application of Payments; Accord and Satisfaction**

All payments received by the Port Authority shall be credited and be deemed to be on account of the rentals and other charges then first due. No statements or endorsements on any check or any letter accompanying any check or payment of rentals or other charges shall be deemed an accord and satisfaction of any debt or obligation of the Operator hereunder. The Port Authority reserves the right to accept any check or payment without prejudicing in any way the Port Authority's right to recover the balance of any and all rentals and other charges due from the Operator after receipt of any such check or payment or to pursue any other remedy provided herein or by law.

**Section 47. Personnel**

(a) The Operator shall furnish sufficient trained personnel (consistent with the requirements of the Section of this Agreement entitled "*Services by the Operator*") to perform the services required of the Operator under this Agreement. If any of such personnel do not perform the services to be furnished hereunder in a manner satisfactory to the Port Authority, the Operator shall remove any such personnel and replace them with personnel who can and shall perform satisfactorily. Nothing in the foregoing sentence shall limit the Port Authority's rights and remedies in the event of the failure of the Operator to perform its responsibilities hereunder.

(b) The Operator shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Airport which interfere or are likely to interfere with the operation of the Airport by the Port Authority or with the operations of lessees, permittees, licensees or other users of the Airport or with operations of the Operator under this Agreement.

(c) The Operator shall immediately give oral notice to the Port Authority (to be followed by written notices and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Operator shall use its best efforts to resolve any such complaint, trouble, dispute or controversy.

(d) If any type of strike, boycott, picketing, work stoppage, slowdown or other labor activity is directed against the Operator at the Airport or against any operations of the Operator under this Agreement, whether or not the same is due to the fault of the Operator and whether or not caused by the employees of the Operator, and if any of the foregoing, in the opinion of the Port Authority, results or is likely to result in any curtailment or diminution of the services to be performed hereunder or to interfere with or affect the operations of Operators, permittees,

licensees or other users of the Airport, or if as a result of any other cessation or stoppage of operations by the Operator hereunder for any reason whatsoever, the Port Authority shall have the right at any time during the continuance thereof to suspend the operations of the Operator under this Agreement, and during the period of the suspension the Operator shall not perform the Fixed Base Operation or any other operations hereunder and the Port Authority shall have the right during said period to itself or by any third person or persons selected by it to perform the Fixed Base Operation and all other operations hereunder. The period of suspension shall end not more than twenty-four (24) hours after the cause thereof has ceased or been cured. The Operator shall notify the Port Authority of such cessation or cure.

Prior to the exercise of such right by the Port Authority, it shall give the Operator notice thereof, which notice may be oral. No exercise by the Port Authority of the rights granted to it in this Section shall be or be deemed to be a waiver of any rights of termination contained in this Agreement or a waiver of any rights or remedies which may be available to the Port Authority under this Agreement or otherwise.

(e) From time to time upon request therefor the Operator shall furnish to the Port Authority information showing the number of persons employed by the Operator at the Airport, the scheduling of such employees and such other information as the Port Authority may require.

#### **Section 48. Accident Reports**

The Operator shall promptly report in writing to the General Manager of the Airport, and to the Claims Attorney of the Port Authority, and shall make all other reports as may be required by law, rule or regulation in connection with all accidents whatsoever arising out of or in connection with its operations hereunder. In addition to the foregoing, accidents which result in death, personal injury or serious damage shall be immediately reported by telephone to the aforesaid representatives of the Port Authority.

In the event any claim is made by any person against the Operator arising out of any accident on the Premises or the PAF as a result of the Operator's operations hereunder, the Operator shall promptly report such claim in writing to the aforementioned representatives of the Port Authority. In addition, the Operator shall promptly furnish to the Port Authority copies of all reports given to the Operator's insurance carrier.

#### **Section 49. Operator's Representations**

The Operator represents and warrants that: it is financially solvent and experienced in and competent to conduct the operations and perform the services required of it hereunder; the facts stated or shown in the documentation accompanying its Proposal to the Port Authority were true and accurate on the date of the Proposal submission to the Port Authority and are true and accurate as of the Effective Date, it is a limited liability company validly existing and in good standing under the laws of its state of organization with all requisite power and authority to conduct the operations and perform the services required of it hereunder; if the Operator is a non-New York corporation, it is qualified to do business in the State of New York; it is familiar with

all applicable federal, state, municipal and local laws, ordinances and regulations, if any, which may in any way affect the operations to be conducted and services to be rendered by the Operator hereunder; it has carefully examined and studied the exhibits and schedules attached hereto and all terms and provisions of this Agreement; it is familiar with the Airport and the nature of the work, the general and local conditions prevailing including, without limitation thereto, the labor conditions, and with all other pertinent matters and circumstances which may in any way affect its operations and services at the Airport and use of the Premises; no Commissioner, officer, agent or employee of the Port Authority is personally interested, directly or indirectly, in this Agreement or the compensation to be paid hereunder; and no representation, statement, or promise, oral or in writing of the Port Authority, its Commissioners, officers, agents or employees, has induced it to enter into this Agreement except only those that may be expressly contained herein.

**Section 50. Facilities Non-Discrimination**

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

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

(c) The Operator's noncompliance with the provisions of this Section shall constitute a material breach of this Agreement. In the event of the breach by the Operator of any of the above non-discrimination provisions, the Port Authority may take any appropriate action to enforce compliance or by giving twenty-four (24) hours' notice, may terminate this Agreement; or may pursue such other remedies as may be provided by law; and as to any or all of the foregoing, the Port Authority may take such action as the United States may direct.

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

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

**Section 51. Affirmative Action; DBE Requirements; Labor Force Utilization**

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

(b) Without limiting any other provision of this Agreement, the Operator shall conform to the requirements set forth in Schedule E attached hereto and hereby made a part of and make a good faith effort to meet the goal indicated therein.

(c) The Operator will be expected to make good faith efforts to achieve a supervisory and non-supervisory work force in connection with its operations at the Airport under this Agreement that is representative of the local community labor force with respect to minority and female participation and to work with the Port Authority's Office of Business and Job Opportunity and the General Manager of the Airport to identify referral sources when needed. The Operator also will be expected to fully utilize apprentices or other training positions as appropriate.

The Operator in connection with any construction work on the Premises, or any portion thereof, shall throughout the Term commit itself to and use good faith efforts to implement an extensive program to utilize Local Business Enterprises in accordance with and as set forth in Schedule F.

**Section 52. Non-Discrimination**

During the performance of this Agreement, the Operator agrees as follows:

(a) The Operator will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. The Operator will take

affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The Operator agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(b) The Operator will, in all solicitations or advertisements for employees placed by or on behalf of the Operator, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin.

(c) The Operator will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or worker's representative of the Operator's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Operator will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Operator will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor pursuant thereto, and will permit access to such official's books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(f) In the event of the Operator's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this Agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Operator will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Operator will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the Operator becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Operator may request the United States to enter into such litigation to protect the interests of the United States.

The foregoing shall not be deemed to constitute Port Authority consent to any such subcontract.

**Section 53. Maintenance of Fueling Trucks and Other Automotive Equipment**

(a) Without limiting the generality of any other term or provision hereof, the Operator understands and acknowledges that the Operator's fueling trucks and other automotive equipment used by the Operator in providing the Fixed Base Operation and each and every part thereof shall at all times be kept by the Operator in first-class condition, in accordance with the highest standard of maintenance, repair, and cleanliness and fully compliant with specifications of applicable Government Authorities.

(b) The Operator understands and agrees that notwithstanding anything to the contrary stated or implied in the Section of this Agreement entitled "*Rights of User*" or elsewhere in this Agreement, no washing, maintenance or repair of vehicles, equipment or other personal property shall take place within the Premises, except within Area C.

**Section 54. Trucks**

Without limiting the generality of any other term or provision hereof, the Operator understands and agrees that the Operator shall supply, furnish and maintain, throughout the Term, such equipment, furnishings and supplies including, but not limited to, a sufficient number of fueling trucks meeting the specifications contained in the Port Authority Air Terminal Rules and Regulations including, but not limited to, Appendix B thereof entitled "Ground Vehicle Specifications" (Introduction and Chapters I and IV), as the same may be supplemented and amended from time to time, as are necessary for the operation of the Fueling Service as set forth in paragraph (e) of the Section of this Agreement entitled "Services by the Operator". Nothing in said Appendix B shall exempt vehicles, operators, or equipment from complying with the Federal Motor Vehicle Safety Standards, the Federal Motor Carrier Safety Regulations, the Motor Vehicle Laws of the State where the vehicle is registered or licensed, or other ordinances, rules or regulations which may govern the design, maintenance, or operation of such vehicles or equipment.

**Section 55. Radio Communications – UNICOM**

(a) Without limiting the generality of any other term of provision hereof and in addition to the obligations of the Operator to monitor airport air traffic control frequencies and the provisions of the Airport Rules and Regulations concerning the operation of ground vehicles on aeronautical areas of the Airport, the Operator agrees that all the ramp service vehicles the Operator shall operate on the PAF (1) shall be equipped with a functioning two-way radio tuned to appropriate Airport ground control frequencies and (2) shall be equipped with a functioning two-way radio tuned to the Operator's Airport UNICOM radio service or Operator's discreet company radio frequency, if any, and that all such vehicles when operating in said areas shall continuously monitor such frequencies for the purpose of receiving information and responding to requests and directions.

(b) In order to receive requests from and for transmitting advisories to aircraft operators requesting the same, the Operator shall at its sole cost and expense, man, operate and provide Airport UNICOM radio services for the Airport. The Operator shall apply for and shall secure from the FAA and/or Federal Communications Commission and shall maintain throughout the Term all appropriate licenses and authority for the operation of the Airport UNICOM radio service hereunder and shall provide all radio equipment necessary or desirable in connection with the operation thereof.

(c) From time to time, and at any time, upon request therefor by the Port Authority, the Operator shall turn over operation of the Airport Unicom radio service (including the Operator's radio equipment used in providing the same if so requested) to the Port Authority and the Port Authority shall operate the Airport UNICOM radio services hereunder during such periods.

**Section 56. Ethical Standards; Operator Conduct; Automatic Termination of Agreement**

(a) Ethical Standards.

(1) The Operator for itself and on behalf of any Affiliate of the Operator and as to each member of the Board of Directors and each officer of the Operator 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 shall the Operator 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 Operator 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 (i) 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 Operator or any parent or Affiliate thereof and (ii) 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 (d) that neither the Operator 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 Operator comes into such knowledge at any time hereafter, including during the Term, 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" for purposes specifically of this Section shall have the meaning set forth in the "Definitions" Section of this Agreement but shall also include 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 Operator. Operator, and the individual signing this Agreement on behalf of Operator, each affirm under penalty of perjury that neither Operator nor any of its Affiliates (as herein defined):

(i) 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,

(ii) shall have been suspended or otherwise disqualified from entering into contracts with any governmental agency,

(iii) 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

(iv) 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 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 date stated in the Port Authority's written notice, and the parties acknowledge that such a breach or occurrence is neither curable nor shall the Operator 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 by the Port Authority*".

**Section 57. Operator Integrity Provisions**

The Operator acknowledges that this Agreement resulted from its submission of a proposal in a request-for-proposal process. At such time, the Operator agreed to certain integrity-related provisions and certified to their accuracy. Set forth below is a recitation of such integrity-related provisions. The Operator re-confirms its agreement to same and the accuracy thereof, it being understood that the term Bidder and Proposer shall mean the Operator, and that reference to the Operator's bid "on this Agreement" refers to its proposal in the request-for-proposal process relating to this Agreement.

(a) Certification of No Investigation (criminal or civil anti trust), Indictment, Conviction, Debarment, Suspension, Disqualification and Disclosure of Other Information. By bidding on this Agreement, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, that the Bidder and each parent and/or affiliate of the Bidder has not

- (1) been indicted or convicted in any jurisdiction;
- (2) been suspended, debarred, found not responsible or otherwise disqualified from entering into any contract or lease with any governmental agency or been denied a government contract or lease for failure to meet standards related to the integrity of the Bidder;
- (3) had a contract or lease terminated by any governmental agency for breach or for any cause based in whole or in part on an indictment or conviction;
- (4) ever used a name, trade name or abbreviated name, or an Employer Identification Number different from those inserted in the Bid;
- (5) had any business or professional license suspended or revoked or, within the five years prior to bid opening, had any sanction imposed in excess of Fifty Thousand Dollars (\$50,000) as a result of any judicial or administrative proceeding with respect to any license held or with respect to any violation of a federal, state or local environmental law, rule or regulation;
- (6) had any sanction imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti trust regardless of the dollar amount of the sanctions or the date of their imposition; and
- (7) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or a civil antitrust investigation by any federal, state or local prosecuting or investigative agency.

(b) Non Collusive Bidding, and Code of Ethics Certification, Certification of No Solicitation Based On Commission, Percentage, Brokerage, Contingent or Other Fees. By bidding on this Agreement, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, that

(1) the prices in its bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

(2) the prices quoted in its bid have not been and will not be knowingly disclosed directly or indirectly by the Bidder prior to the official opening of such bid to any other bidder or to any competitor;

(3) no attempt has been made and none will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition;

(4) this organization has not made any offers or agreements or taken any other action with respect to any Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics dated April 11, 1996 (a copy of which is available upon request to the individual identified in the clause hereof entitled "Communications Regarding this RFP") nor does this organization have any knowledge of any act on the part of a Port Authority employee or former Port Authority employee relating either directly or indirectly to this organization which constitutes a breach of the ethical standards set forth in said Code;

(5) no person or selling agency other than a bona fide employee or bona fide established commercial or selling agency maintained by the Bidder for the purpose of securing business, has been employed or retained by the Bidder to solicit or secure this Agreement on the understanding that a commission, percentage, brokerage, contingent, or other fee would be paid to such person or selling agency; and

(6) the bidder has not offered, promised or given, demanded or accepted, any undue advantage, directly or indirectly, to or from a public official or employee, political candidate, party or party official, or any private sector employee (including a person who directs or works for a private sector enterprise in any capacity), in order to obtain, retain, or direct business or to secure any other improper advantage in connection with this Agreement.

(7) no person or organization has been retained, employed or designated on behalf of the Bidder to impact any Port Authority determination with respect to (i) the solicitation, evaluation or award of this Agreement; or (ii) the preparation of the bid or the terms and conditions in connection with this Agreement.

The foregoing certifications shall be deemed made by the Bidder as follows:

(i) if the Bidder is a corporation, such certification shall be deemed to have been made not only with respect to the Bidder itself, but also with respect to each parent, affiliate, director, and officer of the Bidder, as well as, to the best of the certifier's knowledge and belief, each stockholder of the Bidder with an ownership interest in excess of ten percent (10%);

(ii) if the Bidder is a partnership, such certification shall be deemed to have been made not only with respect to the Bidder itself, but also with respect to each partner.

Moreover, the foregoing certifications, if made by a corporate Bidder, shall be deemed to have been authorized by the Board of Directors of the Bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of such certification as the act and deed of the corporation.

In any case where the Bidder cannot make the foregoing certifications, the Bidder shall so state and shall furnish with the signed bid a signed statement that sets forth in detail the reasons therefor. If the Bidder is uncertain as to whether it can make the foregoing certifications, it shall so indicate in a signed statement furnished with its bid, setting forth in such statement the reasons for its uncertainty. With respect to the foregoing certification in paragraph (b)(7), if the Bidder cannot make the certification, it shall provide, in writing, with the signed bid: (i) a list of the name(s), address(es), telephone number(s), and place(s) of principal employment of each such individual or organization; and (ii) a statement as to whether such individual or organization has a "financial interest" in this Agreement, as described in the Procurement Disclosure Policy of the Port Authority (a copy of which is available upon request to the Director of the Procurement Department of the Port Authority). Such disclosure is to be updated, as necessary, up to the time of award of this Agreement. As a result of such disclosure, the Port Authority will take appropriate action that could include a finding of non-responsibility.

Failure to make the required disclosures may lead to administrative action that could include a finding of non-responsibility.

Notwithstanding that the Bidder may be able to make the foregoing certifications at the time the bid is submitted, the Bidder shall immediately notify the Port Authority in writing during the period of irrevocability of bids on this Agreement of any change of circumstances which might under this clause make it unable to make the foregoing certifications or require disclosure.

The foregoing certifications or signed statement shall be deemed to have been made by the Bidder with full knowledge that they would become a part of the records of the Port Authority and that the Port Authority will rely on their truth and accuracy in awarding this Agreement. In the event that the Port Authority should determine at any time prior or subsequent to the award of this Agreement that the Bidder has falsely certified as to any material item in the foregoing certifications or has willfully or fraudulently furnished a signed statement which is false in any material respect, or has not fully and accurately represented any circumstance with respect to any item in the foregoing certifications required to be disclosed, the Port Authority may determine that the Bidder is not a responsible bidder with respect to its bid on the Agreement or with respect to future bids on Port Authority contracts or leases and may exercise such other remedies as are provided to it by the Agreement with respect to these matters. In addition, Bidders are advised that knowingly providing a false certification or statement pursuant hereto may be the basis for prosecution for offering a false instrument for filing (see e.g., New York Penal Law, Section 175.30 et seq.). Bidders are also advised that the inability to make such certification will not in and of itself disqualify a Bidder, and that in each instance the Port Authority will evaluate the reasons therefor provided by the Bidder. Under certain circumstances the Bidder may be

required as a condition of lease award to enter into a Monitoring Agreement under which it will be required to take certain specified actions, including compensating an independent monitor to be selected by the Port Authority, said monitor to be charged with, among other things, auditing the actions of the Bidder to determine whether its business practices and relationships indicate a level of integrity sufficient to permit it to continue business with the Port Authority.

(c) Bidder Eligibility for Award of Contracts Determination by an Agency of the State of New York or New Jersey Concerning Eligibility to Receive Public Contracts. Bidders are advised that the Port Authority has adopted a policy to the effect that in awarding its contracts it will honor any determination by an agency of the State of New York or New Jersey that a Bidder is not eligible to bid on or be awarded public contracts because the Bidder has been determined to have engaged in illegal or dishonest conduct or to have violated prevailing rate of wage legislation.

The policy permits a Bidder whose ineligibility has been so determined by an agency of the State of New York or New Jersey to submit a bid on a Port Authority contract and then to establish that it is eligible to be awarded a contract on which it has bid because (i) the state agency determination relied upon does not apply to the Bidder, or (ii) the state agency determination relied upon was made without affording the Bidder the notice and hearing to which the Bidder was entitled by the requirements of due process of law, or (iii) the state agency determination was clearly erroneous or (iv) the state determination relied upon was not based on a finding of conduct demonstrating a lack of integrity or violation of a prevailing rate of wage law.

The full text of the resolution adopting the policy may be found in the Minutes of the Port Authority's Board of Commissioners meeting of September 9, 1993.

(d) No Gifts, Gratuities, Offers of Employment, Etc. During the Term, the Operator shall not offer, give, or agree to give, anything of value either to a Port Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority, or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing, in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing the Port Authority of duties involving transactions with the Operator on behalf of the Port Authority, whether or not such duties are related to this Agreement or any other Port Authority contract, lease or matter. 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 (a) favors, such as meals, entertainment, transportation (other than that contemplated by the Agreement or any other Port Authority lease or contract), etc. which might tend to obligate the Port Authority employee to the Operator, and (b) 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 payments contemplated by the Agreement or payments under any other Port Authority lease or contract. Where used herein, the term "Port Authority" shall be deemed to include all subsidiaries of the Port Authority.

The Operator shall insure that no gratuities of any kind or nature whatsoever shall be solicited or accepted by it and by its personnel for any reason whatsoever from the passengers, tenants, customers or other persons using the Operator's facility and shall so instruct its personnel.

In addition, during the Term, the Operator shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated April 11, 1996 (a copy of which is available upon request to the Office of the Secretary of the Port Authority).

The Operator shall include the provisions of this clause in each contract or sublease entered into under this Agreement.

(e) Conflict of Interest. During the Term, the Operator shall not, at any time, take any action which might be viewed as or give the appearance of conflict of interest on its part. If the Operator has reason to believe that any situation exists which might be viewed as or give the appearance of a conflict of interest, the Operator shall immediately inform the Port Authority's Director of Aviation ("Director") in writing of such situation giving the full details thereof. Unless the Operator receives the specific written approval of the Director, the Operator shall not take the contemplated action which might be viewed as or give the appearance of a conflict of interest. The Contractor's execution of this document shall constitute a representation by the Operator that at the time of such execution the Operator knows of no circumstances, present or anticipated, which come within the provisions of this paragraph or which might otherwise be viewed as or give the appearance of a conflict of interest on the Operator's part.

(f) Definitions. As used in this Section, the following terms shall mean:

"Affiliate" The term "Affiliate" in this Section shall have the same meaning as set forth in the Section of this Agreement entitled "*Definitions*".

"Agency" or "Governmental Agency" Any federal, state, city or other local agency, including departments, offices, public authorities and corporations, boards of education and higher education, public development corporations, local development corporations and others.

"Bid" shall mean Proposal;

"Bidder" shall mean Proposer;

"Bidding" shall mean submitting a Proposal.

"Investigation" shall mean any inquiries made by any federal, state or local criminal prosecuting agency and any inquiries concerning civil antitrust investigations made by any federal, state or local governmental agency. Except for inquiries concerning civil antitrust investigations, the term does not include inquiries made by any civil government agency concerning compliance with any regulation, the nature of which does not carry criminal

penalties, nor does it include any background investigations for employment, or Federal, State, and local inquiries into tax returns.

“Officer” Any individual who serves as chief executive officer, chief financial officer, or chief operating officer of the Bidder by whatever titles known.

“Parent” An individual, partnership, joint venture or corporation which owns more than 50% of the voting stock of the Bidder.

**Section 58. High Security Areas and Additional Security Requirements**

(a) Should the Operator be performing services required under this Agreement in any area of the Airport that is outside the Premises that has been designated by the Port Authority as a high security area, the Port Authority may require the observance of certain security procedures with respect to those areas, such as, but not limited to, the escort of personnel employed by the Operator or its contractors to, at, and/or from said high security areas by security personnel retained by the Port Authority.

(b) Twenty four (24) hours prior to the proposed performance of any work in a high security area, the Operator shall notify the Port Authority. The Operator shall conform to such procedures as may be established by the Port Authority from time to time and at any time for access to high security areas including the escorting of personnel hereunder. Prior to the start of work, the Operator shall request a description from the Port Authority of the high security areas that will be in effect on the Effective Date. The Port Authority may modify such description of high security areas from time to time and at any time during the term of the Port Agreement.

(c) The Port Authority reserves the right to impose additional security requirements with respect to performance of the services required under the Agreement, including requirements applicable to the Operator, its contractors and the personnel of each, as determined by the Port Authority. The Operator shall cooperate with and shall instruct its personnel and contractors to cooperate with Port Authority staff in implementing such security requirements. Likewise, such contractors shall direct their personnel to so cooperate. These security requirements may include but may not be limited to the following:

(1) Identity Checks and Background Screening: Operator/contractor identity checks and background screening of employees shall include but shall not be limited to: (1) inspection of not less than two forms of valid/current government issued identification (at least one having an official photograph) to verify employee’s name and residence; (2) screening of Federal, state, and/or local criminal justice databases and files; (3) screening of terrorist identification files; (4) multi-year check of personal, employment and /or credit history; and (5) identity confirmation prior to staff access which may include, but is not necessarily limited to, biometric security methodology such as fingerprint, facial or iris scanning.

The Operator may be required to have its staff, and its contractor’s staff, authorize the Port Authority or its designee to perform background checks. Such authorization shall be in a form

acceptable to the Port Authority. If the Port Authority directs the Operator to have identity checks and background screening performed by a particular firm designated by the Port Authority, the Port Authority will compensate the Operator for the cost of such screening.

(2) Personnel Photo Identification Cards: If the Port Authority requires facility-specific identification cards for staff of the Operator and/or its contractors, the Port Authority will supply such identification cards at no cost to the Operator.

(3) Access Control, Inspection, and Monitoring by Security Guards: The Port Authority shall have the right to implement facility access control, inspection and monitoring by Port Authority retained security guards. The Port Authority may require the Operator to hire security guards for the purpose of facility access control, inspection and monitoring in lieu of or in addition to Port Authority retained security guards. In such event, the Operator will be reimbursed for the cost of such security guards. However, this provision shall not relieve the Operator of its responsibility to secure its equipment and work at the facility at its own expense.

The Port Authority may implement such other security requirements as it deems necessary or desirable or as may be required by law or regulation and the Operator shall comply and shall direct its personnel and contractors to comply with all such security requirements. Likewise, such contractors shall direct their employees to so comply.

#### **Section 59. Force Majeure**

(a) If the performance by the Port Authority or the Operator of any of its obligations hereunder is delayed or prevented in whole or in part by any law, rule, regulation, order or other action adopted or taken by any superior governmental authority or by any Acts of God, floods, storms, war, civil disorder, terrorist act, strike, labor dispute, shortages of materials, fuel, power, or by any other cause not reasonably within the control of the Port Authority or the Operator, as the case may be, to remedy, the Port Authority or the Operator, as the case may be, shall not be deemed to be in violation of this Agreement, unless the delay or prevention of performance shall result from failure on the part of the Port Authority or the Operator, as the case may be, to use reasonable care to prevent or reasonable efforts to cure such delay or prevention of performance; provided, however, that this provision shall not apply to failures by the Operator to pay the rentals specified hereunder and shall not apply to any other charges or money payments.

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

**Section 60. Quiet Enjoyment**

The Port Authority covenants and agrees that as long as it remains the Operator of the Airport, the Operator, 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 peacefully and quietly have and enjoy the Premises free of any act or acts of the Port Authority except as expressly agreed upon in this Agreement.

**Section 61. Waiver of Trial by Jury**

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

**Section 62. Effect of Use and Occupancy of Premises after Expiration or Termination.**

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

**Section 63. Entire Agreement**

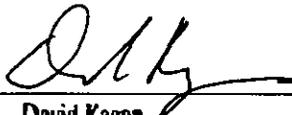
This Agreement consists of the following: Sections 1 through 63 inclusive, and Exhibits A, B, and C, and Schedules A, A-1, A-2, E and F. It constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended except by written instrument duly executed by the Port Authority and the Operator. The Operator agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed these presents as of  
the First day of July, 2011.

ATTEST:

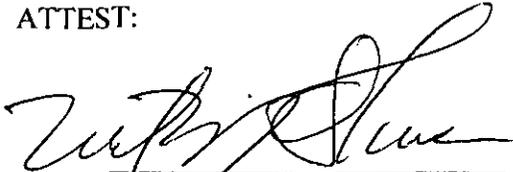
THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

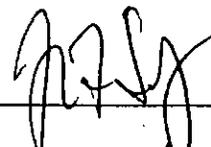
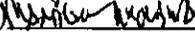
  
Secretary

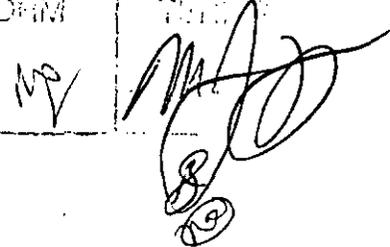
By:   
David Kagan  
(Title) Assistant Director  
Business Properties & Airport Development  
(Seal)

ATTEST:

SHELTAIR AVIATION JFK, LLC

  
Secretary

By:   
(Title)  (Member)(Manager)  
(Seal)

APPROVE  
FORM THIS  


EX. 4

EXHIBIT A & B

EX. 4

EXHIBIT "A" ( 2 of 2 )

EX. 4

EXHIBIT "C" (1 OF 2)

EX.4

EXHIBIT "C" ( 2 of 2 )

EX. 4

EXHIBIT "D" ( 1 OF 2 )

EX. 4

EXHIBIT "D" ( 2 of 2 )

## SCHEDULE E

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

#### PART I. Affirmative Action Guidelines - Equal Employment Opportunity

I. As a matter of policy the Port Authority hereby requires the Operator and the Operator shall require the Contractor, as hereinafter defined, to comply with the provisions set forth hereinafter in this Schedule E of Port Authority Agreement No. AYE-083 (herein called the "Lease") with Sheltair Aviation JFK, LLC (herein and in the Lease called the "Operator"). The provisions set forth in this Part I are similar to the conditions for bidding on federal government contract adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

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

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

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

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

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

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

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

(c) As used in these specifications:

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

(2) "Minority" includes:

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

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

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

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

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

(e) The Contractor shall implement the specific affirmative action standards provided in subparagraphs (1) through (16) of Paragraph (h) hereof. The goals set

forth above are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the Premises. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation

employment to minority and female youth both on the Premises and in areas of a Contractor's workforce.

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

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

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

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

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

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

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

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

Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific minority group of women is underutilized).

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

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

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

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

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

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

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

PART II.

MINORITY BUSINESS ENTERPRISES AND WOMEN-  
OWNED BUSINESS ENTERPRISES

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

- (a) Dividing the work to be subcontracted into smaller portions where feasible.
- (b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female contractor associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.
- (c) Making plans and specifications for prospective construction work available to MBEs and WBEs in sufficient time for review.
- (d) Utilizing the list of eligible MBEs and WBEs maintained by the Port Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors.
- (e) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that the Operator and Contractor will meet their obligations hereunder.

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

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

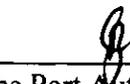
(h) Requiring each contractor to submit to the Operator with each payment request evidence that all MBE and WBE Contractors have been paid in accordance with their contract.

Certification of MBEs and WBEs hereunder shall be made by the Office of Business and Job Opportunity of the Port Authority. If the Contractor wishes to utilize a firm not already certified by the Port Authority, it shall submit to the Port Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Port Authority. All such requests shall be in writing addressed to the Office of Business and Job Opportunity, the Port Authority of New York and New Jersey, 233 Park Avenue South, 4<sup>th</sup> Floor, New York, New York 10003 or such other address as the Port Authority may specify by notice to the Operator. Certification shall be effective only if made in writing by the Director in charge of the Office of Business and Job Opportunity of the Port Authority. The determination of the Port Authority shall be final and binding.

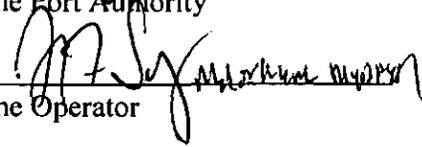
The Port Authority has compiled a list of the firms that the Port Authority has determined satisfy the criteria for MBE and WBE certification. This list may be supplemented and revised from time to time by the Port Authority. Such list shall be made available to the Contractor upon request. The Port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

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

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

  
\_\_\_\_\_  
For the Port Authority

Initialed:

  
\_\_\_\_\_  
For the Operator

## SCHEDULE F

### LOCAL BUSINESS ENTERPRISE & EMPLOYMENT OPPORTUNITY

As a matter of policy the Port Authority hereby requires the Operator and the Operator shall require any Contractor utilized by the Operator to perform work on the Premises, to comply with the provisions set forth hereinafter in this Schedule F.

#### PART I. Local Business Enterprise

The Operator and each Contractor shall use every good faith effort to maximize the participation of Local Business Enterprises (LBEs) in the Contract Work ("the work") on the premises, including without limitation the construction work. By accessing the link below you can obtain information on Air Services Development Office (ASDO) LBE Programs, LBE Vendor Profiles, access ASDO's on-line vendor retrieval system (BASIS) and information about any meetings on LBEs scheduled by the Authority. The Port Authority has not checked the references, capabilities or financial background of the firms listed in the directory, but is making such information available solely for the purpose of advising the bidders of LBEs who may be interested in providing services and/or materials to the successful bidder.

- <http://www.asdoonline.com>

Good faith efforts to include LBEs in the work shall include at least the following:

- A. Dividing the work to be subcontracted and services and materials to be procured into small portions, where feasible.
- B. Soliciting bids on portions of the work to be subcontracted and services and materials to be procured from firms listed with ASDO and such other LBEs as the Operator deems appropriate.

It is specifically understood and agreed that the requirements set forth herein for the participation of LBEs shall not alter, limit, diminish, or modify any of the obligations under this Lease including, without limitation, the obligation to comply with the Affirmative Action-Equal Opportunity and Minority and Women-owned Business Enterprises provisions set forth in Schedule E hereof.

Local Business Enterprise shall mean a business entity located within the County of Queens for LaGuardia and John F. Kennedy International Airports, Counties of Essex, Hudson and Union for Newark Liberty International Airport and for Stewart International Airport, Counties within a 25-mile radius.

#### PART II. Local Employment Opportunity

The Port Authority is committed to making employment opportunities available to local residents and expects that the Operator and its Contractors will work with the Council for Airport Opportunity (CAO) to utilize the labor talent available from local communities surrounding the

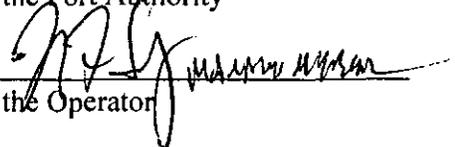
airport. Information regarding Council for Airport Opportunity programs can be accessed at the following websites:

- <http://www.caony.com>
- <http://www.caonj.com>

A local resident is defined as residing within the County of Queens for LaGuardia and John F. Kennedy International Airports and as residing within the Counties of Essex, Hudson and Union for Newark Liberty International Airport.

Initialed:

  
\_\_\_\_\_  
For the Port Authority

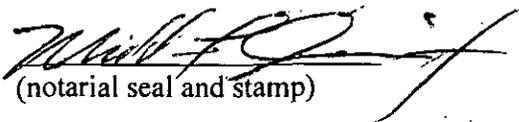
  
\_\_\_\_\_  
For the Operator

ACKNOWLEDGEMENTS

For the Port Authority

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

On the 16<sup>th</sup> day of September, 2011, before me personally came David Kagan to me known, who, being by me duly sworn, did depose and say that he resides at \_\_\_\_\_ that he is the Assistant Director Business Properties + Airport Development of the Port Authority of New York & 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.

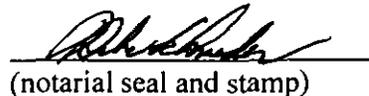
  
(notarial seal and stamp)

MICHAEL F. SCHMIDT  
Notary Public, State of New York  
No. 01SC6118149  
Qualified in New York County  
Commission Expires November 1, 2012

For the Operator

STATE OF New York )  
 )ss:  
COUNTY OF QUEENS )

On the 1<sup>st</sup> day of AUGUST, 2011, before me personally came JOHN F. SCHMIDT to me known, who, being by me duly sworn, did depose and say that he resides at \_\_\_\_\_ EX. 1 that he is the MANAGING MEMBER President of SHELTAR AVIATION JFK, LLC 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 hereto by like order.

  
(notarial seal and stamp)

HELENE SCHNEIDER  
Notary Public, State of New York  
No. 01SC4620865  
Qualified in Nassau County  
Commission Expires May 31, 2014



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**FIRST AMENDMENT**

**To**

**FACILITIES LEASE AND AGREEMENT**

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[219]

PART OF EXHIBIT Y

## FIRST AMENDMENT TO FACILITIES LEASE AND AGREEMENT

FIRST AMENDMENT, dated as of March 1, 1973, to Agreement, dated as of November 15, 1972, by and among LAGUARDIA FUEL FACILITIES CORPORATION ("Facilities Corporation"), ALLIED AVIATION SERVICE COMPANY OF NEW YORK, INC. ("Allied"), and AMERICAN AIRLINES, INC., DELTA AIR LINES, INC., EASTERN AIR LINES, INC., TRANS WORLD AIRLINES, INC., UNITED AIR LINES, INC., ALLEGHENY AIRLINES, INC., BRANIFF AIRWAYS, INCORPORATED, NATIONAL AIRLINES, INC., NORTH CENTRAL AIRLINES, INC., NORTHWEST AIRLINES, INC., OZARK AIR LINES, INC., PIEDMONT AVIATION, INC., SOUTHERN AIRWAYS, INC., and SHELL OIL COMPANY ("The Contracting Airlines"), which Agreement, dated as of November 15, 1972, is called "Facilities Agreement".

### WHEREAS:

A. The Pipeline Franchise was granted pursuant to resolution adopted by the Board of Estimate on January 26, 1973, but all the approvals required thereunder in order to proceed with the Pipeline Construction Contract have not yet been obtained.

B. Notwithstanding the foregoing, The Contracting Airlines desire that Facilities Corporation proceed as soon as practicable with the construction and installation of Phase 1 of the Fuel Storage Construction Contract, consisting of three fuel storage tanks and related facilities, including barge unloading facilities ("Phase 1").

C. The parties desire to amend the Facilities Agreement, as provided in this First Amendment.

### IT IS AGREED:

1. Facilities Corporation is authorized to enter into contracts (estimated with contingencies and engineering fees to cost \$2,763,000) and perform all work necessary for the construction and installation of Phase 1, pursuant to plans and specifications therefor, copies of which have been initialed by a representative of American. Facilities Corporation shall use its best efforts to cause the construction of Phase 1 to be completed as soon as practicable.

2. Notwithstanding paragraphs 5 and 6 of the recitals to the Facilities Agreement, Facilities Corporation shall not enter into the Pipeline Construction Contract referred to in recital paragraph 5, and

shall not lease the Pipeline to Allied, nor shall Allied enter into the Pipeline Operating Agreement referred to in recital paragraph 6, unless, prior to October 1, 1973, all the approvals required under the Pipeline Franchise in order to proceed with the Pipeline Construction Contract have been obtained.

3. If, prior to October 1, 1973, all the approvals required under the Pipeline Franchise in order to proceed with the Pipeline Construction Contract have been obtained, promptly thereafter (a) Facilities Corporation shall enter into contracts and perform all work necessary for the construction and installation of the balance of the entire Original Facilities, (b) enter into contracts (including the Pipeline Construction Contract), and perform all work necessary for the construction and installation of the Original Pipeline; and Facilities Corporation shall use its best efforts to cause the construction of the balance of the entire Original Facilities and of the Original Pipeline to be completed as soon as practicable, and (c) Facilities Corporation will lease the Pipeline to Allied as contemplated in paragraph 303 of the Facilities Agreement and Allied shall enter into the Pipeline Operating Agreement referred to in recital paragraph 6.

4. If, prior to October 1, 1973, all the approvals required under the Pipeline Franchise in order to proceed with the Pipeline Construction Contract have not been obtained, Facilities Corporation shall, in accordance with the written instructions of all The Contracting Airlines received by it prior to that date, either (a) not proceed with any further construction of the Original Facilities beyond the completion of Phase I, or (b) enter into contracts and perform all work necessary for the construction and installation of the balance of the entire Original Facilities in accordance with the Fuel Storage Construction Contract, or (c) enter into contracts and perform all work necessary for the construction of the balance of the entire Original Facilities, as modified, in such manner as shall be approved by The Contracting Airlines, provided that all The Contracting Airlines, Facilities Corporation and Allied shall have entered into a further amendment of this Facilities Agreement authorizing Facilities Corporation to enter into such contracts and perform such work. In any of the foregoing events, the term "Original Facilities", as used in the Facilities Agreement, shall mean and be deemed to mean the fuel storage tanks, pipelines and related facilities constructed and to be constructed pursuant to paragraph 1 and this paragraph 4 of this First Amendment.

5. If, prior to October 1, 1973, all the approvals required under the Pipeline Franchise in order to proceed with the Pipeline Construction Contract have not been obtained, then:

(a) Facilities Corporation shall not enter into the Pipeline Construction Contract or lease the Pipeline to Allied, and Allied shall not enter into the Pipeline Operating Agreement, and

(b) the Facilities Agreement and the Exhibits thereto shall be and be deemed amended to delete therefrom all references to the "Pipeline", "Pipeline Construction Contract", "Pipeline Operating Agreement", "Original Pipeline", "Pipeline Additions", "Pipeline Franchise", "Pipeline Operator", "Cost of the Original Pipeline", "Cost of the Pipeline Addition", "Original Pipeline and Additional Pipeline amortization balance", "Original Pipeline amortization balance", "Additional Pipeline amortization balance", "Pipeline Lease term", "Pipeline Receiving Station", "pipeline verification period", "Rights-of-Way Documents", and all references to the payments provided for in paragraph 305 of the Facilities Agreement, and

(c) the Facilities Agreement and the exhibits thereto shall be and be deemed amended in such other respects and shall be construed so as to give effect to the intent of the parties hereto that the Pipeline shall not be built and the terms of the Facilities Agreement and the exhibits thereto shall be applicable only to the construction and operation of Phase 1, the Original Facilities or the modified Original Facilities, as the case may be, and

(d) if, pursuant to paragraph 4 of this First Amendment, Facilities Corporation shall not proceed with any further construction of the Original Facilities beyond the completion of Phase 1, the amount to be paid by The Contracting Airlines to Facilities Corporation during the verification period pursuant to subparagraph (b) of paragraph 304 shall be \$29,417 per month in lieu of the amount of \$61,753 per month set forth in the Facilities Agreement, and there shall be substituted in lieu of \$7,115,908, estimated to be the amount which will be set forth in the Certificate of Established Cost of the Original Facilities stated in said subparagraph (b), the amount of \$3,389,753.

6. Clause (ii) of paragraph 113 of the Facilities Agreement is amended to read: "(ii) June 30, 1975."

7. A new paragraph, numbered paragraph 1007, shall be added to the Facilities Agreement, reading as follows:

"1007. Neither Facilities Corporation nor Allied shall be responsible for impairment or interruption of service or the performance of its obligations under this Agreement caused by or due to weather, fire, earthquake, flood, windstorm, power shortages, labor disputes, war (whether declared or undeclared), riot, rebellion, embargoes, delays, losses or damages in transportation, shortages of labor or material, court orders, regulations or rulings of any governmental agency now existing or hereafter in effect (not involving a breach of the obligation of Facilities Corporation or Allied, as the case may be, under this Facilities Agreement), acts of God, or any other cause beyond the control of Facilities Corporation or Allied, whether or not of the nature or character hereinbefore specifically enumerated, but nevertheless in the event of such impairment or interruption, Facilities Corporation or Allied, as the case may be, shall use its best efforts to eliminate the cause thereof as soon as possible and in the interim to provide such services or perform such obligations as may practicably be performed by it."

8. Except as hereby specifically amended, the Facilities Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be duly executed.

LAGUARDIA FUEL FACILITIES  
CORPORATION

By D. H. McCAMPBELL  
*President*  
(Corporate Seal)

Attest:

J. N. BUZANGA  
*Secretary*

ALLIED AVIATION SERVICE COMPANY  
OF NEW YORK, INC.

By D. H. McCAMPBELL  
*President*  
(Corporate Seal)

Attest:

J. N. BUZANGA  
*Ass't Secretary*

AMERICAN AIRLINES, INC.

By O. W. HULLET  
*Vice President*  
(Corporate Seal)

Attest:

J. T. SLAVIN  
*Ass't Secretary*

DELTA AIR LINES, INC.

By H. T. FINCHER  
*Senior Vice President*  
*Operations*  
(Corporate Seal)

Attest:

IKE LASSETER  
*Assistant Secretary*

## EASTERN AIR LINES, INC.

By G. W. McCARTER  
*Vice President  
 Properties*  
 (Corporate Seal)

Attest:

E. E. HAHN  
*Assistant Controller and  
 Assistant Secretary*

## TRANS WORLD AIRLINES, INC.

By A. E. JORDAN  
*Vice President*  
 (Corporate Seal)

Attest:

D. C. LOGAN  
*Secretary*

## UNITED AIR LINES, INC.

By REXFORD E. BRUNO  
*Senior Vice President —  
 Finance*  
 (Corporate Seal)

R. H. CARTER  
*Assistant Secretary*

## ALLEGHENY AIRLINES, INC.

By L. THOMAS FERGUSON  
*Executive Vice President*  
 (Corporate Seal)

Attest:

MARY S. MORRIS  
*Ass't Secretary*

7  
BRANIFF AIRWAYS, INCORPORATED

By HORACE BOLDING  
*Vice President*  
(Corporate Seal)

Attest:

JAY M. JACKSON  
*Secretary*

NATIONAL AIRLINES, INC.

By G. R. WOODY  
*Executive Vice-President*  
(Corporate Seal)

Attest:

J. M. LINDSEY  
*Secretary*

NORTH CENTRAL AIRLINES, INC.

By BERNARD SWEET  
*President*  
(Corporate Seal)

Attest:

JOHN P. DOW  
*Vice President &  
Secretary*

NORTHWEST AIRLINES, INC.

By R. W. CHAMBERS  
*Vice President —  
Properties*  
(Corporate Seal)

Attest:

J. A. ABBOTT  
*Vice President —  
Legal*

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OZARK AIR LINES, INC.

By A. J. ROSE  
V.P. Finance & Treas.  
(Corporate Seal)

Attest:

VYONNE OVERHOLSER  
Secretary

PIEDMONT AVIATION, INC.

By H. K. SAUNDERS  
Senior Vice President  
(Corporate Seal)

Attest:

T. W. MORTON  
Secretary

SOUTHERN AIRWAYS, INC.

By J. R. PRICE  
Ass't V.P. — Contracts &  
Properties  
(Corporate Seal)

Attest:

J. K. COURTENAY  
Secretary

SHELL OIL COMPANY

By E. F. LOVELAND  
Vice President  
(Corporate Seal)

Attest:

C. M. WRIGHT  
Assistant Secretary

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

On the 26th day of March, 1973, before me personally came DONALD H. McCAMPBELL, to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

; that he is the President of LaGuardia Fuel Facilities Corporation, 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.

ANNA F. MCKIERNAN

ANNA F. MCKIERNAN  
 Notary Public, State of New York  
 No. 03-7853465 Qual. in Bronx County  
 Certificate filed in New York County  
 Commission Expires March 30, 1974

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

On the 26th day of March, 1973, before me personally came DONALD H. McCAMPBELL, to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

that he is the President of Allied Aviation Services Company of New York, 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.

ANNA F. MCKIERNAN

ANNA F. MCKIERNAN  
 Notary Public, State of New York  
 No. 03-7853465 Qual. in Bronx County  
 Certificate filed in New York County  
 Commission Expires March 30, 1974

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

On the 12th day of March, 1973, before me personally came O. W. HULLER to me known, who, being by me duly sworn, did depose and say that he resides at <sup>EX.1</sup> that he is the Vice President of American Airlines, 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.

GALE KAY WALL

GALE KAY WALL  
 NOTARY PUBLIC, State of New York  
 No. 31-9509200  
 Qualified in New York County  
 Commission Expires March 30, 1973

STATE OF GEORGIA }  
 COUNTY OF FULTON } ss.:

On the 22nd day of March, 1973, before me personally came H. T. FINCHER to me known, who, being by me duly sworn, did depose and say that he resides at <sup>EX.1</sup>; that he is the Sr. Vice President of Delta Air Lines, 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.

JUANITA S. NISBET

Notary Public, Georgia, State at Large  
 My Commission Expires Feb. 25, 1975

STATE OF FLORIDA }  
 COUNTY OF DADE } ss.:

On the 22nd day of March, 1973, before me personally came G. W. McCARTER to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

that he is the Vice President of Eastern Airlines, 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.

ARTHUR D. MEYER

Notary Public, State of Florida at Large  
 My Commission Expires Aug. 2, 1978  
 Bonded Thru Maynard Bonding Agency

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

On the 21st day of March, 1973, before me personally came A. E. JORDAN to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

; that he is the Vice-President of Trans World Airlines, 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.

MARY SUSAN AGNEW

MARY SUSAN AGNEW  
 Notary Public, State of New York  
 No. 31-5028578  
 Qualified in New York County  
 Commission Expires March 30, 1974

STATE OF ILLINOIS }  
 COUNTY OF COOK } ss.:

On the 22nd day of March, 1973, before me personally came REXFORD E. BRUNO to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 ; that he is the Sr. Vice President of United Air Lines, 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.

CHARLES W. JOHNSON  
 My Commission Expires July 22, 1973

STATE OF VIRGINIA }  
 COUNTY OF AT LARGE } ss.:

On the 16th day of March, 1973, before me personally came L. THOMAS FERGUSON to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

that he is the Ex. Vice President of Allegheny, 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.

JERRY L. DePOY  
 (notarial seal)

STATE OF TEXAS }  
 COUNTY OF DALLAS } ss.:

On the 13th day of March, 1973, before me personally came HORACE BOLDING to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the Vice President of Braniff Airways, Incorporated, 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.

MERCEDES REUTER  
 Notary Public  
 Dallas County, Texas

STATE OF FLORIDA }  
 COUNTY OF DADE } ss.:

On the 22nd day of March, 1973, before me personally came G. R. WOODY to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 ; that he is the Exec. Vice President of National Airlines, 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.

SHIRLEY J. TIGAR  
 Notary Public State of Florida At Large  
 My Commission Expires February 5, 1977  
 Bonded Thru General Insurance  
 Underwriters

STATE OF MINNESOTA }  
 COUNTY OF HENNEPIN } ss.:

On the 16th day of March, 1973, before me personally came BERNARD SWEET to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 ; that he is the President of North Central Airlines, 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.

BARBARA WELDY

BARBARA WELDY  
 Notary Public, Hennepin County, Minn.  
 My Commission Expires April 29, 1977.

STATE OF MINN. }  
 COUNTY OF DAKOTA } ss.:

On the 14th day of March, 1973, before me personally came R. W. CHAMBERS to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 ; that he is the Vice President of Northwest Airlines, 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.

JANYCE R. STE. MARIE

JANYCE R. STE. MARIE  
 Notary Public, Dakota County, Minn.  
 My Commission Expires May 23, 1974.

STATE OF MISSOURI }  
 COUNTY OF ST. LOUIS } ss.:

On the 22nd day of March, 1973, before me personally came A. J. ROSE to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the Vice President of Ozark Air Lines, 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.

FRANCIS J. MULDOWNEY

My Commission Expires July 5, 1974

STATE OF NORTH CAROLINA }  
 COUNTY OF FORSYTH } ss.:

On the 6th day of March, 1973, before me personally came H. K. SAUNDERS to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 ; that he is the Senior Vice President of PIEDMONT AVIATION, 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.

NEDRA R. VAN ZEE,

Notary of Forsyth County  
 My Commission Expires October 14, 1978

STATE OF GEORGIA }  
COUNTY OF FULTON } ss.:

On the 21st day of March, 1973, before me personally came J. R. PRICE to me known, who, being by me duly sworn, did depose and say that he resides at EX.1 ; that he is the Assistant Vice President of Southern Airways, 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.

SUSAN P. DIAL  
(notarial seal)

STATE OF TEXAS }  
COUNTY OF HARRIS } ss.:

On the 21st day of March, 1973, before me personally came E. F. LOVELAND to me known, who, being by me duly sworn, did depose and say that he resides at EX.1 that he is the Vice President of Shell Oil Company, 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.

M. J. McPHAIL

M. J. McPHAIL  
Notary Public in and for Harris County, Texas  
My Commission Expires June 1, 1973

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**FIRST AMENDMENT**

**To**

**CONSENT TO FACILITIES AGREEMENT**

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PART OF EXHIBIT Y

**FIRST AMENDMENT TO CONSENT TO FACILITIES AGREEMENT**

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FIRST AMENDMENT, dated as of March 1, 1973, to CONSENT TO FACILITIES AGREEMENT, dated as of November 15, 1972, made by and among THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority"), LaGUARDIA FUEL FACILITIES CORPORATION (hereinafter called the "Sublessor"), ALLIED AVIATION SERVICE COMPANY OF NEW YORK, INC. (hereinafter called "Allied"), and AMERICAN AIRLINES, INC., TRANS WORLD AIRLINES, INC., EASTERN AIR LINES INC., UNITED AIR LINES, INC., DELTA AIR LINES, INC., SHELL OIL COMPANY, ALLEGHENY AIRLINES, INC., BRANIFF AIRWAYS, INCORPORATED, NATIONAL AIRLINES, INC., NORTH CENTRAL AIRLINES, INC., NORTHWEST AIRLINES, INC., OZARK AIR LINES, INC., PIEDMONT AVIATION, INC., and SOUTHERN AIRWAYS, INC., (hereinafter collectively called "the Sublessee"),

WITNESSETH, THAT:

WHEREAS, the Port Authority leased to American Airlines, Trans World Airlines, United Air Lines, Eastern Air Lines and Delta Air Lines (hereinafter jointly, severally and collectively called the "Assignor") and the Assignor hired and took from the Port Authority certain premises at LaGuardia Airport as described in a certain agreement of lease dated as of November 1, 1972 (said agreement of lease being hereinafter called the "Lease"), and

WHEREAS, the Assignor has assigned its entire interest as lessee under the Lease to the Sublessor with the consent of the Port Authority pursuant to the Assignment of Lease with Assumption and Consent dated as of November 15, 1972, among the Port Authority, the Assignor and the Sublessor (said instrument being hereinafter called the "Assignment"), and

WHEREAS, pursuant to the provisions of the Assignment and the Lease, the Sublessor and the Sublessee have entered into a Facilities Lease and Agreement dated as of November 15, 1972, a copy of which is attached hereto, made a part hereof and hereinafter called the "Facilities Agreement", and

WHEREAS, the Port Authority consented to the Facilities Agreement under a Consent to Facilities Agreement entered into among the

Port Authority, the Sublessor, Allied and the Sublessee, dated as of November 15, 1972 and herein called "the Consent to Facilities Agreement"; and

WHEREAS, the Sublessor, Allied and the Sublessee have entered into or are about to enter into a First Amendment to the Facilities Agreement dated as of March 1, 1973, a copy of which is attached hereto, made a part hereof and hereinafter called the First Amendment to Facilities Agreement; and

WHEREAS, the prior written consent of the Port Authority to the First Amendment to the Facilities Agreement is required;

NOW, THEREFORE, in consideration of the covenants and mutual agreements of all the parties hereto, it is hereby agreed as follows:

1. On all the terms and conditions of the Consent to Facilities Agreement, the Port Authority hereby consents to the First Amendment to the Facilities Agreement. Whenever reference is made in the Facilities Agreement, it shall be deemed to mean the Facilities Agreement as amended by the First Amendment to the Facilities Agreement.

2. Except as expressly modified by this First Amendment, the Consent to Facilities Agreement is hereby ratified and confirmed in all respects as a binding agreement among the Sublessor, Allied, the Sublessee and the Port Authority and all the terms, provisions, covenants and conditions of the Consent to Facilities Agreement shall continue in full force and effect.

3. This First Amendment to the Consent to Facilities Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

4. No Commissioner, director, officer, stockholder, agent or employee of any party to this First Amendment to Consent to Facilities Agreement shall be charged personally or held contractually liable by or to any other party under any term or provision of this First Amendment to Consent to Facilities Agreement or of any supplement, modifi-

cation or amendment to this First Amendment to Consent to Facilities Agreement, or because of any breach thereof, or because of its or their execution or attempted execution.

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

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

Attest:

DORIS E. LANDRE  
*Secretary*

By C. B. PATTARINI  
*Deputy Director  
of Aviation*  
(Seal)

Sublessor:

LAGUARDIA FUEL FACILITIES  
CORPORATION

Attest:

J. N. BUZANGA  
*Secretary*

By D. H. McCAMPBELL  
*President*  
(Corporate Seal)

ALLIED AVIATION SERVICE COMPANY  
OF NEW YORK, INC.

Attest:

J. N. BUZANGA  
*Ass't Secretary*

By D. H. McCAMPBELL  
*President*  
(Corporate Seal)

Sublessee:

AMERICAN AIRLINES, INC.

Attest:

J. T. SLAVIN  
Ass't Secretary

By O. W. HULLET  
Vice President  
(Corporate Seal)

TRANS WORLD AIRLINES, INC.

Attest:

D. C. LOGAN  
Secretary

By A. E. JORDAN  
Vice President  
(Corporate Seal)

EASTERN AIR LINES, INC.

Attest:

E. E. HAHN  
Assistant Controller and  
Assistant Secretary

By G. W. McCARTER  
Vice President  
Properties  
(Corporate Seal)

UNITED AIR LINES, INC.

Attest:

R. H. CARTER  
Assistant Secretary

By REIFORD E. BRUNO  
Senior Vice President —  
Finance  
(Corporate Seal)

DELTA AIR LINES, INC.

Attest:

IKE LASSETER  
*Assistant Secretary*

By H. T. FINCHER  
*Senior Vice President —  
Operations  
(Corporate Seal)*

ALLEGHENY AIRLINES, INC.

Attest:

MARY S. MORRIS  
*Ass't. Secretary*

By L. THOMAS FERGUSON  
*Executive Vice President  
(Corporate Seal)*

BRANIFF AIRWAYS, INCORPORATED

Attest:

JAY M. JACKSON  
*Secretary*

By HORACE BOLDING  
*Vice President  
(Corporate Seal)*

NATIONAL AIRLINES, INC.

Attest:

J. M. LINDSEY  
*Secretary*

By G. R. WOODY  
*Executive Vice-President  
(Corporate Seal)*

## NORTH CENTRAL AIRLINES, INC.

Attest:

JOHN P. DOW  
*Vice President &  
 Secretary*

By BERNARD SWEET  
*President*

(Corporate Seal)

## NORTHWEST AIRLINES, INC.

Attest:

J. A. ABBOTT  
*Vice President — Legal*

By R. W. CHAMBERS  
*Vice President —  
 Properties*

(Corporate Seal)

## OZARK AIR LINES, INC.

Attest:

VYONNE OVERHOLSER  
*Ass't Secretary*

By A. J. ROSE  
*V. P. Finance &  
 Treas.*

(Corporate Seal)

## PIEDMONT AVIATION, INC.

Attest:

T. W. MORTON  
*Secretary*

By H. K. SAUNDERS  
*Senior Vice President*

(Corporate Seal)

SOUTHERN AIRWAYS, INC.

Attest:

J. K. COURTENAY  
*Secretary*

By J. R. PRICE  
*Ass't V. P.*  
*Contracts & Properties*  
(Corporate Seal)

SHELL OIL COMPANY

Attest:

C. M. WRIGHT  
*Assistant Secretary*

By E. F. LOVELAND  
*Vice President*  
(Corporate Seal)

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

On the 27th day of March, 1973, before me personally came CAESAR B. PATTARINI to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the Deputy Director of Aviation of The Port Authority of New York and New Jersey, one of the corporations described in and which executed the foregoing instrument; that he knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Commissioners of the said corporation; and that he signed his name thereto by like order.

ANNA F. McKIERNAN

ANNA F. McKIERNAN  
Notary Public, State of New York  
No. 03-7853465 Qual. in Bronx County  
Certificate filed in New York County  
Commission Expires March 30, 1974

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

On the 26th day of March, 1973, before me personally came DONALD H. McCAMPBELL, to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the President of LaGuardia Fuel Facilities Corporation, 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.

ANNA F. McKIERNAN

ANNA F. McKIERNAN  
Notary Public, State of New York  
No. 03-7853465 Qual. in Bronx County  
Certificate filed in New York County  
Commission Expires March 30, 1974

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

On the 26th day of March, 1973, before me personally came DONALD H. McCAMPBELL, to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

; that he is the President of Allied Aviation Service Company of New York, 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.

ANNA F. MCKIERNAN

ANNA F. MCKIERNAN  
 Notary Public, State of New York  
 No. 03-7853465 Qual. in Bronx County  
 Certificate filed in New York County  
 Commission Expires March 30, 1974

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

On the 12th day of March, 1973, before me personally came O. W. HULLET to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

that he is the Vice President of American Airlines 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.

GALE KAY WALL

GALE KAY WALL  
 NOTARY PUBLIC, State of New York  
 No. 31-9509200  
 Qualified in New York County  
 Commission Expires March 30, 1973

[247]

STATE OF GEORGIA }  
 COUNTY OF FULTON } ss.

On the 22nd day of March, 1973, before me personally came H. T. FINCHER to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 ; that he is the Sr. Vice President of Delta Air Lines, 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.

JUANITA S. NISBET

Notary Public Georgia State at Large  
 My Commission Expires Feb. 25, 1975

STATE OF FLORIDA }  
 COUNTY OF DADE } ss.

On the 22nd day of March, 1973, before me personally came G. W. McCARTER to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1  
 that he is the Vice President of Eastern Air Lines, 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.

ARTHUR D. MEYER

Notary Public, State of Florida at Large  
 My Commission Expires Aug. 2, 1976  
 Bonded Thru Maynard Bonding Agency

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

On the 21st day of March, 1973, before me personally came A. E. JORDAN to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

; that he is the Vice-President of Trans World Airlines, 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.

MARY SUSAN AGNEW

MARY SUSAN AGNEW  
 Notary Public, State of New York  
 No. 31-5028578  
 Qualified in New York County  
 Commission Expires March 30, 1974

STATE OF ILLINOIS }  
 COUNTY OF COOK } ss.

On the 22nd day of March, 1973, before me personally came REXFORD E. BRUNO to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 ; that he

is the Sr. Vice President of United Air Lines, 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.

CHARLES W. JOHNSON

My Commission Expires July 22, 1973

[249]

STATE OF VIRGINIA }  
COUNTY OF AT LARGE } ss.

On the 16th day of March, 1973, before me personally came L. THOMAS FERGUSON to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

; that he is the Ex. Vice President of Allegheny, 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.

JERRY L. DePOY

(notarial seal)

STATE OF TEXAS }  
COUNTY OF DALLAS } ss.

On the 15th day of March, 1973, before me personally came HORACE BOLDING to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

that he is the Vice President of Braniff Airways, Incorporated, 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.

MERCEDES REUTER

Notary Public  
Dallas County, Texas

STATE OF FLORIDA }  
COUNTY OF DADE } ss.

On the 22nd day of March, 1973, before me personally came G. R. Woody to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 ; that he is the Exec. Vice President of National Airlines, 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.

SHIRLEY J. TIGAR

Notary Public State of Florida At Large  
My Commission Expires February 5, 1977  
Bonded Thru General Insurance  
Underwriters

STATE OF MINNESOTA }  
COUNTY OF HENNEPIN } ss.

On the 16th day of March, 1973, before me personally came BERNARD SWEET to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 ; that he is the President of North Central Airlines, 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.

BARBARA WELDY

BARBARA WELDY  
Notary Public, Hennepin County, Minn.  
My Commission Expires April 29, 1977.

STATE OF MINNESOTA }  
 COUNTY OF DAKOTA } ss.

On the 14th day of March, 1973, before me personally came R. W. CHAMBERS to me known, who, being by me duly sworn, did depose and say that he resides at EX.1 ; that he is the Vice President of Northwest Airlines, 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.

JANYCE R. STE. MARIE

JANYCE R. STE. MARIE  
 Notary Public, Dakota County, Minn.  
 My Commission Expires May 23, 1974.

STATE OF MISSOURI }  
 COUNTY OF St. LOUIS } ss.

On the 22nd day of March, 1973, before me personally came A. J. ROSE to me known, who, being by me duly sworn, did depose and say that he resides at EX.1 , that he is the Vice President of Ozark Airlines, Inc., one of the corporation 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.

FRANCIS J. MULDOWNEY

My Commission Expires July 5, 1974

STATE OF NORTH CAROLINA }  
 COUNTY OF FORSYTH } ss.

On the 6th day of March, 1973, before me personally came H. K. SAUNDERS to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 ; that he is the Sr. Vice President of Piedmont Aviation, 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.

NEDRA R. VAN ZEE  
 Notary of Forsyth County

My Commission Expires October 14, 1976

STATE OF GEORGIA }  
 COUNTY OF FULTON } ss.

On the 21st day of March, 1973, before me personally came J. R. PRICE to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the Asst. Vice President of Southern Airways, 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.

SUSAN P. DIAB  
 (notarial seal)

STATE OF TEXAS }  
 COUNTY OF HARRIS } ss.

On the 21st day of March, 1973, before me personally came E. F. LOVELAND to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the Vice President of Shell Oil Company, 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.

M. J. MCPHAIL

M. J. MCPHAIL  
 Notary Public in and for Harris County, Texas  
 My Commission Expires June 1, 1973

SECOND AMENDMENT TO FACILITIES  
LEASE AND AGREEMENT

---

AGREEMENT dated as of October 1, 1986, by and among LA GUARDIA FUEL FACILITIES CORPORATION ("Facilities Corporation"), ALLIED AVIATION SERVICE COMPANY OF NEW YORK, INC. ("Allied"), and AMERICAN AIRLINES, INC., DELTA AIR LINES, INC., EASTERN AIR LINES, INC., TRANS WORLD AIRLINES, INC., UNITED AIR LINES, INC. (all of which Airlines are herein collectively called "Original Contracting Airlines") and USAir, INC. (as successor to Allegheny Airlines, Inc.), PAN AMERICAN WORLD AIRWAYS, INC. (as successor to National Airlines, Inc.), NORTHWEST AIRLINES, INC., OZARK AIR LINES, INC., PIEDMONT AVIATION, INC., REPUBLIC AIRLINES, INC. (as successor to North Central Airlines, Inc. and Southern Airways, Inc.) (all of which Airlines are herein called the "Additional Contracting Airlines") (the Original Contracting Airlines and the Additional Contracting Airlines are herein collectively called "The Contracting Airlines") and the Fixed Base Operator, the New Contracting Airlines and the Suppliers which are signatory hereto.

WHEREAS:

A. The parties, other than the Fixed Base Operator, the New Contracting Airlines and the Suppliers, have entered into the Facilities Lease and Agreement dated as of November 15, 1972, as amended by agreement dated as of March 1, 1973, with respect to facilities at La Guardia Airport (which Facilities Lease and Agreement as so amended is called the "Facilities Agreement");

B. Paragraph 1101 of the Facilities Agreement provides as follows:

"1101. It is the intention of The Contracting Airlines and of Facilities Corporation that any other air carrier in addition to The Contracting Airlines signatory hereto, engaged, or which may hereafter engage, in scheduled air transportation at the Airport with the right so to do and any other Fixed Based Operator shall have the right to become a party to this Facilities Agreement upon such equitable terms and

PART OF EXHIBIT Y

conditions as may be mutually agreed upon. Any such carrier or Fixed Base Operator becoming a party to this Facilities Agreement shall thereafter be deemed to be included and referred to in the term 'The Contracting Airlines' as used herein and for all purposes hereof and such carrier or Fixed Base Operator shall be and become one of the entities constituting the Sublessee under the agreement set forth as Exhibit B2 and said entity and Facilities Corporation shall execute and deliver to the Port Authority a consent agreement in a form satisfactory to the Port Authority."

C. The Fixed Base Operator is a party to an agreement with the Port Authority authorizing it to supply aircraft fueling services and other aircraft services at the Airport;

D. Each of the New Contracting Airlines is engaged in air transportation services at the Airport with the right so to do;

E. Each Supplier has an agreement or agreements in effect for the supply of aviation fuel to an airline or airlines engaged in air transportation services at the Airport for use by it or them at the Airport;

F. The parties desire that the Fixed Base Operator and each of the New Contracting Airlines and each of the Suppliers become a party to the Facilities Agreement; and

G. The parties desire to amend the Facilities Agreement in certain respects;

IT IS AGREED:

1. Paragraph 102 of the Facilities Agreement is hereby amended to read as follows:

"102. The term 'The Contracting Airlines' shall mean all air carriers which, on the date in question, are parties to the Facilities Agreement, and the term shall also

include the Fixed Base Operator (as defined in paragraph 126), if it is a party on the date in question, and any Supplier (as defined in paragraph 109), if it is a party on the date in question, and the term 'Contracting Airline' shall mean any one of The Contracting Airlines which is a party to this Facilities Agreement on the date in question."

2. Paragraph 109 of the Facilities Agreement is hereby amended to read as follows:

"109. The term 'Supplier' shall mean any person, firm or corporation which, on the date in question, is a party to a Fuel Storage Service Agreement with Allied and which also has an agreement in effect for the supply of aviation fuel to one or more airlines engaged in air transportation services at the Airport for use by it or them at the Airport."

3. Paragraph 121 of the Facilities Agreement is hereby amended to read as follows:

"121. The term 'gallorage' shall mean the aggregate number of gallons of aviation fuel transferred from the Facilities into refueling tenders or other vehicles operated by or for any airline which is a party to a Fuel Storage Service Agreement with Allied or any Customer (as defined in paragraph 127) of any Supplier. The gallorage of a Supplier which is a Contracting Airline or of a Fixed Base Operator when it is acting as a Supplier shall mean only the aggregate number of gallons of aviation fuel transferred from the Facilities into refueling tenders or other vehicles operated by or for any Customer of the Supplier or of such Fixed Base Operator."

4. A new paragraph numbered 127 is hereby added to Article 1 of the Facilities Agreement, to read as follows:

"127. The term 'Customer' shall mean an airline engaged in air transportation services at the Airport or other user of air-

craft which is not a party to a Fuel Storage Service Agreement with Allied but which has an agreement with a Supplier or a Fixed Base Operator to supply it with aviation fuel for use by it at the Airport."

5. Subparagraph (c) of paragraph 306 of the Facilities Agreement is hereby amended to read as follows:

"(c) The rentals provided in subparagraph (b) of paragraph 304 and the payments provided in subparagraph (a) of paragraph 305 shall be payable in advance on the amortization commencement date and on the first day of each month thereafter (or, if the amortization commencement date is June 30, 1975, on August 1, 1975 and the first day of each month thereafter) so long as the respective amortization balance is more than zero, and, with respect to the last month during which the respective amortization balance is more than zero, whether or not such month is a full or only a part of a calendar month."

6. For the purpose of execution of this Agreement by the Fixed Base Operator, the New Contracting Airlines and the Suppliers, copies of the Facilities Agreement are annexed to copies of this Agreement to be signed by the Fixed Base Operator, each of the New Contracting Airlines and each of the Suppliers but are not annexed to copies of this Agreement signed by the other parties hereto.

7. The Fixed Base Operator, each New Contracting Airline and each Supplier shall be and be deemed to be a Contracting Airline, effective as of October 1, 1986, upon signature of this Agreement by it, the Original Contracting Airlines, Allied and Facilities Corporation and shall thereupon be deemed to be included and referred to in the term "The Contracting Airlines" for all purposes.

8. Effective as of October 1, 1986, paragraph 401 of the Facilities Agreement is amended to read as follows:

"401. Each of The Contracting Airlines shall pay its 'guaranteed percentage' of the rentals provided in paragraph 304 and the

payments provided in paragraph 305, which guaranteed percentage, subject to the provisions of paragraph 402, shall be the percentage determined by dividing the total gallonage of the Contracting Airline during the 36 full calendar months prior to the date in question by the total gallonage of all The Contracting Airlines during such 36-month period."

9. A new paragraph numbered 908 is hereby added to Article 9 of the Facilities Agreement, to read as follows:

"908. This Agreement may be amended only by a writing executed by all of the parties hereto to which the Port Authority shall have consented in writing, except that any amendment which only (a) admits an air carrier, a Fixed Base Operator or a Supplier as a party to this Agreement or (b) does not enlarge the obligations or reduce the rights or benefits of a party shall be effective upon execution by Facilities Corporation, Allied and a majority of The Contracting Airlines."

10. Paragraph 1101 of the Facilities Agreement is hereby amended to read as follows:

"1101. It is the intention of The Contracting Airlines and of Facilities Corporation that any other air carrier in addition to The Contracting Airlines signatory hereto, engaged, or which may hereafter engage, in air transportation services at the Airport with the right so to do and any other Fixed Base Operator and any other Supplier shall have the right to become a party to this Facilities Agreement upon such equitable terms and conditions as may be mutually agreed upon. Any such carrier, Fixed Base Operator or Supplier becoming a party to this Facilities Agreement shall thereafter be deemed to be included and referred to in the term 'The Contracting Airlines' as used herein and for all purposes hereof and such carrier, Fixed Base Operator or Supplier shall be and become one of the entities constituting the Sublessee under the agree-

ment set forth as Exhibit B2 and said entity and Facilities Corporation shall execute and deliver to the Port Authority a consent agreement in a form satisfactory to the Port Authority."

11. Except as amended by this Agreement, the Facilities Agreement shall remain in full force and effect.

12. This Agreement may be executed in any number of counterparts, all of which, taken together, shall constitute one and only one instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

[ S E A L ]

LA GUARDIA FUEL FACILITIES CORPORATION

ATTEST:

By \_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_ Title

[ S E A L ]

ALLIED AVIATION SERVICE COMPANY OF NEW YORK, INC.

ATTEST:

By \_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_ Title

ORIGINAL CONTRACTING AIRLINES

[ S E A L ]

AMERICAN AIRLINES, INC.

ATTEST:

By \_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_ Title

ORIGINAL CONTRACTING AIRLINES

[ S E A L ]

DELTA AIR LINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

EASTERN AIR LINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

TRANS WORLD AIRLINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

UNITED AIR LINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

USAir, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

PAN AMERICAN WORLD AIRWAYS,  
INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

ORIGINAL CONTRACTING AIRLINES

[ S E A L ]

NORTHWEST AIRLINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

OZARK AIR LINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

PIEDMONT AVIATION, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

REPUBLIC AIRLINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

FIXED BASE OPERATOR

[ S E A L ]

BUTLER AVIATION, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

NEW CONTRACTING AIRLINES

[ S E A L ]

AIR CANADA

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

AIR WISCONSIN, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

BAR HARBOR AIRLINES

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

BRANIFF, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

BROCKWAY AIR

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

BUSINESS EXPRESS

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

NEW CONTRACTING AIRLINES

[ S E A L ]

COMMAND AIRWAYS

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_ Title

Title \_\_\_\_\_

[ S E A L ]

CONTINENTAL AIRLINES CORP.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_ Title

Title \_\_\_\_\_

[ S E A L ]

FEDERAL EXPRESS CORP.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_ Title

Title \_\_\_\_\_

[ S E A L ]

JET EXPRESS

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_ Title

Title \_\_\_\_\_

[ S E A L ]

MIDWAY AIRLINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_ Title

Title \_\_\_\_\_

[ S E A L ]

NEW YORK AIR

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_ Title

Title \_\_\_\_\_

NEW CONTRACTING AIRLINES

[ S E A L ]

PENNSYLVANIA AIRLINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

PRECISION AIRLINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

PRESIDENTIAL AIRWAYS

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

PROVINCETOWN-BOSTON AIRLINE,  
INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

SKYBUS, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

SOUTHERN JERSEY AIRWAYS, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

NEW CONTRACTING AIRLINES

[ S E A L ]

WESTERN AIR LINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

WORLD AIRWAYS, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

PENNSYLVANIA COMMUTER AIRLINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

MIDWEST EXPRESS

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

SUPPLIERS

[ S E A L ]

ATTEST:

\_\_\_\_\_ Title

\_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_

[ S E A L ]

ATTEST:

\_\_\_\_\_ Title

\_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_

THIRD AMENDMENT TO  
FACILITIES LEASE AND AGREEMENT

AGREEMENT dated as of \_\_\_\_\_, 1989 by and among LA GUARDIA FUEL FACILITIES CORPORATION ("Facilities Corporation"), OGDEN ALLIED AVIATION SERVICE COMPANY OF NEW YORK, INC. ("Ogden Allied") and The Contracting Airlines, Trump Shuttle, Inc. (the "New Contracting Airline") and the Suppliers which are signatory hereto.

WHEREAS:

A. The parties, other than the New Contracting Airline, have entered into the Facilities Lease and Agreement dated as of November 15, 1972, as amended by agreements dated as of March 1, 1973 and October 1, 1986, with respect to facilities at La Guardia Airport (which Facilities Lease and Agreement as so amended is called the "Facilities Agreement");

B. Paragraph 1101 of the Facilities Agreement provides as follows:

"1101. It is the intention of The Contracting Airlines and of Facilities Corporation that any other air carrier in addition to The Contracting Airlines signatory hereto, engaged, or which may hereafter engage, in air transportation services at the Airport with the right so to do and any other Fixed Base Operator and any other Supplier shall have the right to become a party to this Facilities Agreement upon such equitable terms and conditions as may be mutually agreed upon. Any such carrier, Fixed Base Operator or Supplier becoming a party to this Facilities Agreement shall thereafter be deemed to be included and referred to in the term 'The Contracting Airlines' as used herein and for all purposes hereof and such carrier, Fixed Base Operator or Supplier shall be and become one of the

PART OF EXHIBIT Y

entities constituting the Sublessee under the agreement set forth as Exhibit B2 and said entity and Facilities Corporation shall execute and deliver to the Port Authority a consent agreement in a form satisfactory to the Port Authority."

C. The New Contracting Airline is engaged in air transportation services at the Airport with the right so to do;

D. The parties desire that the New Contracting Airline become a party to the Facilities Agreement; and

E. The parties desire to amend the Facilities Agreement in certain respects;

IT IS AGREED:

1. The New Contracting Airline shall be and be deemed to be a Contracting Airline, effective as of the date hereof, upon signature of this Agreement by it, a majority of The Contracting Airlines (as defined in the Facilities Agreement), Ogden Allied and Facilities Corporation and shall thereupon be deemed to be included and referred to in the term "The Contracting Airlines" for all purposes.

2. For the purposes of execution of this Agreement by the New Contracting Airline, copies of the Facilities Agreement are annexed to copies of this Agreement to be signed by the New Contracting Airline, but are not annexed to copies of this Agreement to be signed by the other parties hereto.

3. Wherever appearing in the Facilities Agreement, (a) the name "Allied Aviation Services Company of New

York, Inc." shall be changed to "Ogden Allied Aviation Services Company of New York, Inc." and (b) the name "Allied" shall be changed to "Ogden Allied."

4. Except as amended by this Agreement, the Facilities Agreement shall remain in full force and effect.

5. This Agreement may be executed in any number of counterparts, all of which, taken together, shall constitute one and only one instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

[ S E A L ]

LA GUARDIA FUEL FACILITIES CORPORATION

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

OGDEN ALLIED AVIATION SERVICE COMPANY OF NEW YORK, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

CONTRACTING AIRLINES

[ S E A L ]

AMERICAN AIRLINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

CONTRACTING AIRLINES

[ S E A L ]

DELTA AIR LINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

Title

[ S E A L ]

EASTERN AIR LINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

Title

[ S E A L ]

TRANS WORLD AIRLINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

Title

[ S E A L ]

UNITED AIR LINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

Title

[ S E A L ]

USAir, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

Title

[ S E A L ]

PAN AMERICAN WORLD AIRWAYS,  
INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

Title

CONTRACTING AIRLINES

[ S E A L ]

NORTHWEST AIRLINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

PAN AM SHUTTLE

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

PIEDMONT AVIATION, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

AIR CANADA

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

BRANIFF, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

BUSINESS EXPRESS

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

CONTRACTING AIRLINES

[ S E A L ]

CONTINENTAL AIRLINES CORP.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

Title

[ S E A L ]

FEDERAL EXPRESS CORP.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

Title

[ S E A L ]

MIDWAY AIRLINES, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

Title

[ S E A L ]

NEW YORK AIR

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

Title

[ S E A L ]

SOUTHERN JERSEY AIRWAYS, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

Title

NEW CONTRACTING AIRLINE

[ S E A L ]

TRUMP SHUTTLE, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

SUPPLIERS

[ S E A L ]

BP NORTH AMERICAN PETROLEUM,  
INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

[ S E A L ]

\_\_\_\_\_

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Title

Title \_\_\_\_\_

FOREWORD

Commensurate with the management of the airports and heliports coming under the jurisdiction of the Port Authority of New York and New Jersey, the Air Terminal Rules and Regulations as set forth herein have been adopted in the interest of safe, efficient, and environmentally sensitive operation, and apply to John F. Kennedy International, LaGuardia, Newark International and Teterboro Airports and the Downtown Manhattan Heliport.

The Managers of these airports and heliport are authorized to act for the undersigned in connection with all Port Authority rules and regulations.

William R. DeCota  
Director of Aviation

PART OF EXHIBIT  
Z-1

AIR TERMINAL RULES & REGULATIONS

## PORT AUTHORITY AIR TERMINALS

John F. Kennedy Int'l Airport  
Jamaica, New York 11430  
Telephone: (718) 244-4444

LaGuardia Airport  
Flushing, New York 11371  
Telephone: (718) 476-5000

Newark International Airport  
Newark, New Jersey 07114  
Telephone: (201) 961-2000

Downtown Manhattan Heliport  
East River and South Street  
New York, New York 10004  
Telephone: (212) 248-7240

Teterboro Airport  
Teterboro, New Jersey  
Telephone: (201) 296-4736

Copies of this booklet may be obtained at the following Port Authority locations:

John F. Kennedy International Airport

General Manager's Office  
Building 14, 2<sup>nd</sup> Floor  
or  
Operations Office, Building 145  
Jamaica, NY 11430

LaGuardia Airport

General Manager's Office  
Hangar 7C  
or  
Operations Office  
Central Terminal Bldg.  
Flushing, New York 11371

Newark International Airport

General Manager's Office  
Building No. 10, Third Floor  
or  
Operations Office  
Bldg. 10, Fourth Floor  
Newark, New Jersey 07105

Teterboro Airport

Office of the Manager  
90 Moonachie Avenue  
Teterboro, New Jersey 07608  
or  
Operations Department  
399 Industrial Avenue  
Teterboro, New Jersey 07608

Copies of maps showing the air terminal highways at LaGuardia, Kennedy International and Newark International Airports are available upon request at the above locations, and are on file with the Secretary of the Port Authority.

Airport bulletins may be issued by the Manager's as necessary to amend these Rules & Regulations.

Issued March 2002, pursuant to resolutions of the Committee on Operations reported in minutes entitled ALL AIRPORTS-AIRPORT RULES AND REGULATIONS-REVISION and TETERBORO AIRPORT-BAN OF STAGE 1 AIRCRAFT, adopted on February 28, 2002.

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## I. GENERAL CONDITIONS

This Chapter establishes certain conditions relating to the use of Port Authority Air Terminals and highways.

### A. USE OF AIR TERMINAL HIGHWAYS

Air Terminal highways may be used as a means of ingress and egress by vehicles to, from and between the streets and highways outside Air Terminals with which such highways connect and the various buildings and land area at the Air Terminal abutting upon such highways; and sidewalks along such highways (and other portions of such highways when designated for that purpose) may be used by pedestrians as a means of ingress and egress to, from and between various portions of the Air Terminal.

### B. USE OF AIR TERMINALS

1. Use of any area or portion of an Air Terminal in a manner contrary to law or a manner contrary to the Airport Rules and Regulations may result in a withdrawal of permission to enter or remain in such air terminal by the Port Authority.
2. Nothing herein contained shall be construed to limit the use of any area or portion of any air terminal by officers or employees of the Port Authority, or by Port Authority contractors, or to prevent any Police Officer, Fire Officer or other public officer or employee from entering upon any part of the air terminal when properly required so to do in the performance of his official duties.
3. The Port Authority may prohibit any conduct that violates any requirement for, or condition of, the receipt of federal grant in aid funds, the approval of the imposition of Passenger Facility Charges, or any other governmental program in which the Port Authority participates to obtain funds for use at an Airport.

## II. AIRPORT SECURITY

### A. ADHERENCE TO SECURITY REGULATIONS & PROCEDURES

All persons entering an Air Terminal shall comply with all applicable security regulations and procedures. The Port Authority complies with or requires compliance with FAR Part 107, FAR Part 108 and FAR Part 129, with the exception of Teterboro Airport and the Downtown Manhattan Heliport. Both Teterboro and the Downtown Manhattan Heliport have security measures established separately by their respective Managers. All amendments to the FAR's listed above are to be complied with as requested by the FAA.

### B. MANAGER'S RIGHT TO RESCIND ACCESS

The Manager shall have the right to rescind permission for the use of any access control device and confiscate any Airport ID previously given to any individual for any lawful reason, including but not limited to violations of airport security and violations of Airport Rules and Regulations.

### C. VALID IDENTIFICATION & ESCORT REQUIREMENTS

No person may enter or be in the Airport Operations Area (AOA) or Security Identification Display Area (SIDA) unless he or she is:

1. Displaying a valid Airport ID indicating that he or she has unescorted access privileges; or,
2. in the case of a location subject to an Exclusive Area Agreement, which allows the use of an Air Carrier ID for limited access to the AOA or SIDA, displaying a valid approved Air Carrier ID; or,
3. in the case of aircraft crewmembers, dressed in the full uniform of his/her company, displaying a photo ID issued by an authorizing airline; or,
4. in the case of an FAA Aviation Safety Inspector conducting his/her assigned duties, displaying an FAA Form 8000-39 with photograph; or,
5. under the escort of an individual not employed by the same company as the person being escorted who has a valid Airport Operator Identification Card indicating that he or she has unescorted access privileges and privileges to escort others.

### D. FLIGHT CREWS

1. Flight crew members may, when wearing a valid ID as noted herein, dressed in the full uniform of his/her company, and when performing the duties of their flight crew assignment, have unescorted access to certain areas of the AOA or SIDA only:
  - a. To travel directly from the terminal building to the aircraft to which they are assigned and/or,
  - b. to perform necessary assigned flight checks on an aircraft, but only while remaining within 25 feet of that aircraft; and,
  - c. no unnecessary diversions are made when traveling as described in a. and b. above.

2. If any flight crewmember requires access to the AOA or SIDA for reasons other than those stated herein, or if it is impossible for a flight crewmember to follow the regulations as stated herein, an escort is required.

#### E. DISPLAYING VALID IDENTIFICATION

While in the AOA or SIDA, individuals who are not under escort must display the approved ID in full view, above waist level, on their outermost garment. Such approved ID must be presented upon demand in response to a challenge made pursuant to paragraph H below.

#### F. AIRPORT IDENTIFICATION (ID) RESPONSIBILITIES

##### 1. Caring for Airport ID

It is the responsibility of the individual to whom an Airport ID is issued to secure and care for that card. An expired, mutilated, defaced, misused and invalidated identification card will be confiscated and/or suspended and/or revoked.

##### 2. Reporting the Misuse of Airport ID

It is the responsibility of every individual to whom an Airport ID has been issued to report any one displaying an expired, mutilated, defaced, or otherwise invalid Airport ID to the Port Authority Police without unreasonable delay.

#### G. ESCORT PROCEDURES

##### 1. Escorting People

The required procedure for escorting people on the AOA or SIDA is to accompany and supervise any individual who does not have unescorted access authority in a manner sufficient to take action should the individual engage in activities other than those for which the escorted access is granted. While under escort, the person being escorted must continuously be within the line of sight of the person performing the escort.

##### 2. Escorting Vehicles

Vehicles without PANYNJ plates, and drivers who do not have an Airport ID with driver privileges, must be escorted while on the AOA by an individual who:

- (i) possesses a valid Airport ID with driver and escort privileges, and
- (ii) uses a vehicle that is in full compliance with these Rules and Regulations.

- a. The operator of an escorting vehicle shall remain in close proximity to an escorted vehicle until the escorted vehicle leaves the AOA.

#### H. RESPONSIBILITY TO CHALLENGE

It is the responsibility of every individual issued an Airport ID that allows unescorted access to the AOA or SIDA:

1. To challenge the authority or purpose of a person without proper escort who attempts to enter the AOA or SIDA and who is not displaying a valid Airport ID that allows that person access to the area, and to prevent him or her from entering the AOA or SIDA if that individual does not offer valid Airport ID, or to report the incident to the Port Authority Police as soon as possible while attempting to keep the individual

within view; and,

2. To challenge the authority or purpose of a person who is in the AOA or SIDA and who is not displaying a valid Airport ID that allows access to the area, and escort him or her from the AOA or SIDA if that individual does not offer a valid Airport ID, or to immediately report the incident to the Port Authority Police as soon as possible while attempting to keep the individual within view.

#### I. FIREARMS, EXPLOSIVES, MUNITIONS & PYROTECHNICS

No person shall carry any firearms, explosives, munitions, or pyrotechnics into the SIDA or AOA except:

1. Persons authorized to do so by an Airport ID with the appropriate privileges issued by the Port Authority Security ID Office; or,
2. Persons under escort by Port Authority Police; or,
3. Persons authorized by the Manager to use firearms, explosives, munitions, and pyrotechnics for bird control activity at the Air Terminal.

#### J. EMPLOYMENT OF SECURITY SERVICES

Any one who employs any person, company or corporation for the purpose of providing security services at an air terminal shall notify the Manager of the nature of such services. Such person must also furnish the name, business address, and telephone number of such person, company or corporation to the Manager together with a copy of the license or other government authorization of such person, company, or corporation as may be required to perform such service in the city and state in which the Airport is located.

#### K. VEHICLES & DRIVERS

All vehicles operating on the AOA, except those vehicles under escort according to the procedures required by these Rules & Regulations, must display valid Port Authority issued Vehicle Identification tags (PANYNJ plates) and must be operated by an individual who is authorized to drive on the AOA. AOA driver privileges will not be granted unless the applicant possesses a valid state driver's license from their state of residence, and has successfully passed the Airfield Driver Training Course.

#### L. OTHER SECURITY PROCEDURES

Employees will adhere to all other security procedures issued by the Federal Aviation Administration, Airport Manager, and all security procedures and obligations, as applicable and outlined in the Airport Security Program, Exclusive Area Agreements, and Building Security Plans. Applicable security procedures and obligations are available on a need to know basis in the Manager's Office. The following items may not be allowed into the sterile area: Knives of any kind, including steak knives and pocketknives. Rounded blade butter knives and plastic knives are permitted for use by restaurant employees and patrons. Cutting instruments of every kind including carpet knives, box cutters and other folding or retractable blades, regardless of blade length or composition, even those less than four inches, whether metallic or non-metallic.

### III. PERSONAL CONDUCT

#### A. USE OF PREMISES MAY BE DENIED OR WITHDRAWN

Permission to use Airport land, terminals, buildings, structures, parking lots, airport buses or rail systems may be denied to or withdrawn from persons who violate Port Authority Rules and Regulations, applicable laws, ordinances or regulations of other government bodies or for such other reason as may be permitted by law.

#### B. CLOSED & RESTRICTED AREAS

1. Closed Areas - No person except a person assigned to duty therein shall enter without permission any area of the Airport posted as a closed area or otherwise identified as closed by the Airport Manager.
2. Restricted Areas - No person shall enter without authorization any area of the Airport posted as a restricted area or otherwise identified by the Airport Manager as a restricted area unless such person complies with such restriction.

#### C. ENDANGERING PERSONS OR PROPERTY

No person in or upon any Airport shall do or omit to do any act if the doing or omission thereof unreasonably endangers persons or property.

#### D. PROPER USE OF TRAFFIC AREAS

No person shall travel on any portion of an Airport except upon the roads, walks or places provided for the particular class of traffic, nor occupy the roads or walks in such manner as to prevent their proper use.

#### E. USE OF LAND, STRUCTURES, MACHINERY, EQUIPMENT & ELECTRONICS

1. Only duly authorized persons shall operate or in any way tamper with any Airport machinery, equipment, or electronics.
2. Passenger elevators and escalators may not be used to carry freight.

#### F. PORTABLE FIRE EXTINGUISHERS

Portable fire extinguisher equipment shall be inspected in conformity with the National Fire Protection Association's regulations. Tags showing the date of the last such inspection shall be left attached to each unit.

#### G. DEFACING, DAMAGING, ETC., TERMINAL OR PROPERTY

No person shall deface, mark, break, or otherwise damage any part of an Airport, or any property therein.

#### H. ABANDONMENT OF PROPERTY

No person shall intentionally abandon any property at an Airport or in any location therein.

#### I. GARBAGE DISPOSAL & REMOVAL

1. Each person is responsible for the garbage he/she generates and any other garbage in the vicinity of his/her operating area.
2. No person shall place, discharge, or deposit in any manner, offal, garbage, debris, or any refuse in or upon any Public Area, Air Operations Area, or Fuel Storage Area, except at such places as the Port Authority may from time to time prescribe, and unless all containers for such materials are kept covered, and unless such material can be prevented from leaking, dripping, or otherwise escaping, and unless such material is transported in covered vehicles.
3. Any deposit of offal, garbage, debris or refuse in unauthorized locations must be cleaned up immediately in an effective manner.

#### J. FOREIGN OBJECT DEBRIS (FOD)

1. Each airport employee shall be responsible for the proper disposal of FOD on ramps, apron areas, and the AOA. FOD shall be properly disposed of in containers that prohibit the introduction of the FOD onto ramps, apron areas, and the AOA.
2. It is the responsibility of each lessee or other occupant of ramp and apron areas to place suitable containers labeled "Foreign Object Debris" at every gate, remote aircraft parking area, cargo, and maintenance facilities.
3. Containers labeled "Foreign Object Debris" shall be used only for the disposal of FOD.

#### K. LOST ARTICLES

Any person finding lost articles at an Airport shall turn them over to a Port Authority Police Officer or to the office of the Manager without unreasonable delay. Articles unclaimed by the owner will be turned over to the finders thereof, as provided by applicable law. Articles unclaimed by the owner and found by Port Authority employees shall be disposed of pursuant to applicable law and such general Port Authority rules and operating procedures as are established for the disposition of such property.

#### L. ANIMALS

No person shall enter any public building, arcade, observation platform, Public Area of an Air Terminal, or Airport Bus or Rail System with any animal except an assistance animal, such as a "seeing-eye" dog or a "hearing aid" dog, or an animal properly confined for shipment or transport. Animals in other areas of an Air Terminal must be leashed, or confined in such manner as to be under control. This does not apply to law enforcement canines.

## M. SMOKING & OPEN FLAMES

1. No person shall smoke or carry lighted cigars, cigarettes, pipes, matches or any open flame in or upon any Fuel Storage Area, Public Landing Area, Public Ramp or Apron Area, Public Passenger Ramp and Apron Area, Public Cargo Ramp and Apron Area or Public Aircraft Parking and Storage Area, open deck, gallery or balcony contiguous to and overlooking any such area, or in any other place where smoking is specifically prohibited by signs, or in any public terminal or building area unless specifically authorized by signs.
2. Without limitation to (1.), smoking tobacco, or any other substance,
  - (a) or carrying a lighted cigar, cigarette, pipe, match or cigarette lighter is prohibited in (A) all areas open to the public including, but not limited to, areas open to the public in ticketing and boarding areas, public ground transportation systems (including, but not limited to, areas open to the public in monorail cars and stations), elevators, waiting areas, baggage claim areas, restaurants, retail stores, elevators, rest rooms, chapels and meditation rooms, and medical facilities), (B) vehicles open to the public (including, but not limited to, limousines, buses, vans, and taxis) when carrying passengers, and (C) any area which the Manager has designated in the exercise of discretion as a non-smoking area.
  - (b) Notwithstanding the provisions of paragraph 2.(a),
    - (1) smoking is permitted, subject to such terms and conditions as the operator has established governing smoking in such restaurant, in a restaurant with 35 or fewer seats, or in a separate smoking room that is not the sole waiting area of the restaurant, or in a restaurant bar that has been designated by the restaurant operator as a smoking-permitted area, when the following conditions are satisfied:
      - (a) The perimeter of such restaurant bar is located at least six feet from the perimeter of any indoor dining area of such restaurant (not including the seating area located within the restaurant bar) or such restaurant bar is separated by a solid floor-to-ceiling partition from any indoor dining area (not including the seating area located within the restaurant bar);
      - (b) The restaurant bar does not exceed 25 percent of the aggregate square footage of the areas of such restaurant offering public dining and beverage service not including areas not open to the public;
      - (c) Seating at tables in such restaurant bar at which food service is offered (excluding seating at any counter in a restaurant bar serviced by a bartender) shall be limited to:
        - (1) no more than 15 percent of up to and including 100 seats at tables in such restaurant at which food service is offered (excluding seating at any counter in a restaurant bar serviced by a bartender) and

- (2) no more than 10 percent of any seats in excess of 100 seats at tables in such restaurant at which food service is offered (excluding seating at any counter in a restaurant bar serviced by a bartender); and
  - (d) the restaurant bar is not the sole indoor waiting area of its restaurant.
  - (e) "Restaurant bar" means a contiguous area (i) in a restaurant, (ii) containing a counter and (iii) which is devoted to the selling and serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food if served at all, is only incidental to the sale or consumption of alcoholic beverages in such restaurant bar.
- (2) Nothing herein is intended to prevent any operator from declaring the entire restaurant to be a non-smoking area.
- (c) Notwithstanding the provisions of paragraphs (b) (1)-(a), smoking is permitted in a bar, or a hotel or motel room rented to one or more guests, or an enclosed area or room in a restaurant, catering hall, convention hall, hotel and motel conference room, and other such similar facility during the time such enclosed area or room is being used exclusively for a private function (such as a wedding party, or testimonial dinner) in which the seating arrangements are under the control of the sponsor or organizer of the function and not the person who owns, manages, operates or otherwise controls the use of the place in which the function is held, or a limousine under private hire by an individual or corporation, provided, and to the extent that, the owner, operator or manager thereof permits smoking. For purposes of this paragraph, "bar" shall refer to a facility, not located in a restaurant, devoted to the sale of alcoholic beverages for on-premises consumption in which the serving of food, if served at all, is only incidental to the sale or consumption of alcoholic beverages.
  - (d) Notwithstanding the provisions of paragraph (b)(1)(a), smoking is permitted in a separate smoking room in a waiting area, providing that such smoking room does not contain the sole location of vending machines, food or beverage service or place of payment in such a waiting area, and does not exceed 25 percent of the square footage of such waiting area.
  - (e) Notwithstanding the provisions of paragraph (b)(1)(a), smoking is permitted in an airline club room (a separately enclosed waiting area restricted to airline club members and/or holders of airline tickets of designated classes, their guests and invitees), but only in a separate smoking room that has been designated by the operator as a smoking-permitted area, and provided that such smoking room does not exceed more than 25 percent of the square footage of such airline club room, subject to such terms and conditions as the operator has established governing smoking in such area.
  - (f) Notwithstanding the provisions of paragraphs 2(a)-(e), smoking is permitted in an area which the Manager has designated, in the exercise of discretion, as an area in which smoking is permitted, provided that such area satisfies the

definition of a "separate smoking room" and is not the sole location of any service offered by a service provider.

- (g) A "separate smoking room" is an enclosed room in which smoking is permitted. Such room shall (i) be clearly designated, (ii) comply with all applicable fire code requirements and (iii) have a separate ventilation system whereby the air from such enclosed room is immediately exhausted to an outdoor area (exclusive of any seating area) by an exhaust fan rather than being recirculated inside, and is negatively pressurized to prevent backstreaming of second-hand smoke into smoke-free areas. Such room may contain furniture and telephone equipment. Such room shall not contain the sole means of ingress and egress to restrooms or any other smoke-free area.
- (h) The sale or consumption of food is not incidental to the sale or consumption of alcoholic beverages in a facility where both are sold or consumed unless the sale of alcoholic beverages generates 60 percent or more of the facility's gross annual revenue.
- (i) An operator of a facility subject to this section shall post conspicuous signs identifying smoking and non-smoking areas, as appropriate.

#### N. ALCOHOLIC BEVERAGES

No person shall drink, or carry an open container of, any alcoholic beverage in any public area of the Air Terminal other than an area in which alcoholic beverages are served for on-premises consumption pursuant to permission granted by the Port Authority or by a lessee or a permittee of the Port Authority.

#### O. BATHING, SHOWERING, ETC.

No person shall bathe or shower, or launder or change clothes, or remain undressed, in or at any public sink, washroom, or restroom, or in any other area of an Air Terminal, that is not designated as a bathing or showering facility.

#### P. SPITTING, ETC.

No person shall spit, urinate or defecate on any part of the Airport, Airport Bus or Airport Rail Transportation System other than in a urinal or toilet intended for that purpose.

#### IV. BAGGAGE HANDLING

##### A. BAGGAGE HANDLING SERVICES

1. All baggage dollies or baggage containers shall have operating side curtains which shall be closed or secured when the dollies contains baggage in transit or stored during inactive periods.
2. Employees engaged in handling baggage shall not place baggage in the cab of tow vehicles, or in any other vehicle, under any circumstances.
3. Employees engaged in handling baggage are prohibited from carrying personal belongings including, but not limited to, handbags, tote bags, lunch bags, radios or cameras, while in the AOA.
4. Employees engaged in handling baggage shall not leave baggage at a receiving center unless the center is open and in use, and proper arrangements have been made to receive baggage at such center.
5. Each airline must post a conspicuous sign at its interline baggage receiving center, indicating the hours during which baggage can be received.

##### B. USE OF BAGGAGE CARTS

1. Use of baggage carts is restricted to use by or for ticketed airport passengers only.
2. No person shall tamper with any baggage cart rental device.
3. Using baggage carts to assist passengers for a fee or gratuity, or to solicit a fee or gratuity, for services similar to the service provided by airport skycaps or baggage handlers, is strictly prohibited.
4. Baggage carts are not allowed on escalators.
5. Baggage carts are not allowed to be used by children under the age of 13.
6. Baggage carts are not allowed to be taken out of an Airport or Airport Rail Transportation System.
7. Airport employees and tenants are not allowed to keep baggage carts for personal use or for any use in connection with a business, such as to transport materials.
8. No person other than duly authorized baggage cart concessionaires shall dispense or rent baggage carts unused baggage carts.

## V. GROUND TRANSPORTATION

### A. TAXI DISPATCH SYSTEM

No person shall interfere with the taxi dispatching system operated by persons employed by, or employed pursuant to a contract with, the Port Authority, or the duties of personnel associated with the taxi dispatch system.

### B. SOLICITATION OF GROUND TRANSPORTATION SERVICES IS PROHIBITED

1. No person shall, within an Air Terminal, solicit another person's use of ground transportation services.
2. No person shall operate a vehicle within an Air Terminal for the purpose of soliciting another person to use ground transportation services, or to attract ground transportation passengers.

### C. LOCATIONS FOR LOADING & UNLOADING GROUND TRANSPORTATION SERVICES PASSENGERS

No vehicle providing ground transportation services shall load or unload passengers within an Air Terminal at any place other than that designated for that purpose.

### D. PRE-ARRANGEMENT REQUIRED FOR PROVIDING GROUND TRANSPORTATION SERVICES

1. Except as provided herein, ground transportation services shall be provided at an Air Terminal only pursuant to specific pre-arrangement.
2. Ground transportation services may be provided at an Air Terminal without specific pre-arrangement by the operator of a vehicle licensed to carry passengers for hire in response to hails from prospective passengers on public streets of the municipality whose boundaries include the location within an Air Terminal at which the vehicle is located. A vehicle licensed by the NYC Taxi & Limousine Commission as a "taxicab" pursuant to the rules of the Commission is a vehicle so licensed with respect to Air Terminal locations within the City of New York.
3. Ground transportation service "is provided pursuant to specific pre-arrangement" to a passenger arriving at an Air Terminal by aircraft only when the owner or operator, or the employee of the owner or operator, of a ground transportation service vehicle displays, at such location for that activity as may be designated for that ground transportation service provider, an announcement card listing:
  - a. the name of the ground transportation provider who dispatched the vehicle pursuant to pre-arrangement;
  - b. the name of the person for whom pre-arrangement for ground transportation was made; and
  - c. the name of the airline and flight number of the flight on which the passenger arrived.

However, if pre-arrangement was made through the use of counter facilities operated by a person employed by, or employed pursuant to a permit or contract with the Port Authority, then the announcement card may list items i and ii and only the name of the airline of the flight on which the passenger arrived.

#### E. AIRPORT RAIL TRANSPORTATION SYSTEM (AIRTRAIN)

1. Airport Rail Transportation System passengers must exit the system at a route terminus or upon completion of one entire route circuit, as is applicable.
2. It is prohibited for any person to interfere with the operation or schedule of Airport Rail Transportation System vehicles.

#### F. SCHEDULED SERVICE

No provision in this chapter is intended to prohibit vehicles making stops pursuant to a fixed schedule and operating pursuant to permission granted by a government regulatory agency with appropriate jurisdiction, from stopping to receive passengers at locations specifically designated for that purpose, whether or not pre-arrangement has been made to provide ground transportation services to passengers of such vehicles.

#### G. COURTESY VEHICLES

No provision in this chapter is intended to prohibit the operator of a vehicle from providing ground transportation services only to the place of business of a provider of another service, such as lodging, vehicle rental, or vehicle parking, to patrons of such other service, whether or not pre-arrangement has been made to provide ground transportation services to such place of business, subject to such conditions as the Airport Manager may impose on such operator and/or provider of such service.

#### H. AIRPORT BUS SYSTEM

1. Airport Bus System passengers must exit the system at a route terminus or upon completion of one entire route circuit, as is applicable.
2. It is prohibited for any person to interfere with the operation or schedule of Airport Bus system vehicles.

## VI. AIRPORT VEHICLE OPERATING REQUIREMENTS

### A. VEHICLE TYPES

All vehicles are classified into six general types as follows:

- Type 1: Highway vehicles used exclusively in public areas and operate with federal or state license plates. (Examples: light-, medium-, & heavy-duty trucks, buses, and trailers.)
- Type 2: Highway vehicles used within the AOA and in public areas and operate with federal or state and PANYNJ license plates. (Examples: light-, medium-, & heavy-duty trucks, buses, & trailers.)
- Type 3: Highway vehicles used exclusively within the AOA and operate with PANYNJ license plates only. (Examples include light-, medium-, & heavy-duty trucks, & trailers.)
- Type 4: Vehicles used within the AOA and in public areas and operate with a PANYNJ license plate only, as authorized by the General Manager. These vehicles are of a specialized design and perform unique operational functions at an Air Terminal. (Examples include aircraft tow vehicles, baggage cart vehicles, aircraft refuelers, aircraft cargo loading equipment, ground power units, auxiliary power units, Airport emergency response equipment, snow blowers, etc.)
- Type 5: Off-highway, construction, and materials handling vehicles used within the AOA or public areas and operate with state, PANYNJ, or no license plates. (Examples include backhoes, loaders, cranes, excavators, paving equipment, compressors, etc.)
- Type 6: Stationary equipment permanently installed within the AOA and in public areas and not required to operate with any license plates. (Examples include backup and emergency generators, fire pumps, etc.)

### B. REQUIREMENTS FOR VEHICLES OPERATING IN PUBLIC AREAS

Vehicles operating in public areas or on roads outside the AOA (including crossing any public area or road outside the AOA) within the Airport's boundaries shall be operated in accordance with the following minimum requirements:

#### 1. Driver's License

All vehicles shall be operated in accordance with the applicable laws and regulations of the jurisdiction(s) in which the Airport is located. The driver or operator shall also have such license(s), certification(s), permit(s), endorsement(s), or qualifying instruments as required by such laws and regulations.

#### 2. Vehicle Insurance

- (a) be operated in accordance with the requirements stipulated by the vehicle manufacturer, and when stricter operating requirements are required by these Rules & Regulations or specific instructions provided by the Airport Manager

for specific vehicles, the vehicle(s) shall be operated in accordance with the stricter requirements.

- (b) Drivers and operators shall only drive and operate the vehicles from the driver or operator seat and passengers shall only be transported in the vehicle passenger seat(s).

3. Vehicle Operations

- (a) Owners of Type 1 vehicles operating in public areas or on non-AOA roads shall provide the proper insurance or maintain financial security as required by the law of the state in which the vehicle is registered.
- (b) All Type 2, 3, 4 and 5 vehicles shall only be permitted to operate in a public area or on a non-AOA road if the owner is in compliance with the requirements of 3(a) and Section "C" of this Chapter.

4. Vehicle Registration & Inspection

- (a) All Type 1 Vehicles operating in public areas or on public roads outside the AOA shall be properly registered in accordance with the law of the state in which the airport is located, and shall be inspected in accordance with the provisions of the law of the state in which the vehicle is registered.
- (b) All Type 2, 3, and 4 vehicles shall only be permitted to operate in a public area or on a non-AOA road if in compliance with the vehicle registration and inspection requirements of 3(a) and Section "C" of this Chapter.

5. Following Lawful Direction

All vehicles shall at all times comply with any lawful order, signal or direction of any authorized Port Authority representative. Where vehicular traffic is controlled by traffic lights, signs, mechanical or electrical signals or pavement markings, such lights, signs, signals and markings shall be obeyed unless an authorized Port Authority representative directs otherwise.

6. Careless or Negligent Operation of Vehicles

No vehicle shall be operated in a manner which creates an unreasonable risk of harm to persons or property, or while the driver thereof is under the influence of any substance that impairs, impedes, or otherwise affects the ability of the driver to safely operate the vehicle, or if such vehicle is so constructed, equipped or loaded as to create an unreasonable risk of harm to persons or property.

7. Vehicle Modifications

Vehicle modifications that eliminate, or interfere with, compliance with federal or state safety requirements are prohibited.

8. Right to Inspect

All vehicles are subject to immediate inspection by a duly authorized Port Authority representative.

9. Violations

Violations of vehicle operating procedures as specified in these Rules & Regulations or a violation of the Ground Vehicle Specifications may result in revocation of permission for a vehicle to operate at the Airport.

10. Vehicle Condition

All vehicles shall be properly equipped and maintained in a safe operating condition,

and must meet the requirements established by the state where the Airport is located, Federal 49 CFR, and the Ground Vehicle Specifications, as is applicable.

11. Stickers

Vehicles shall not have any stickers, posters, signs, or objects on the windshield and/or rear windows of a vehicle other than those required by, or specifically authorized by, the law or regulation of a government body.

12. Seating & Seatbelts

Drivers, operators, and passengers shall use installed seatbelts or other restraint systems. Seatbelts and other restraint systems shall not be disabled or removed and shall be maintained in good working order.

13. Yield to Pedestrians

All vehicles shall yield to pedestrians in front of all buildings, in roadways, and in pedestrian crosswalks.

14. Driving Restrictions & Speed Limits

Vehicles shall not be driven or operated in excess of posted speed limits.

15. Parking, Standing or Stopping Vehicles

- (a) No person shall park a vehicle or permit a vehicle to remain stopped within the Airport except in such areas and for such periods of time as may be prescribed by the Manager.
- (b) No person shall park or permit a vehicle to remain stopped contrary to authorized signs, pavement markings or other traffic control devices.
- (c) No person shall stop or park a vehicle:
  - 1. on any shoulder if the vehicle is not disabled
  - 2. in front of a driveway
  - 3. within a bus stop safety zone or taxicab zone, unless the vehicle is authorized to use such areas
  - 4. on any roadway
  - 5. within 15 feet of fire hydrant
  - 6. within 10 feet of an AOA perimeter security fence

16. Payment of Parking Fees & Charges

No person shall park a vehicle within any public vehicular parking area except upon the payment of such parking fees and charges as are prescribed by the Port Authority.

17. Vehicles in Possession of the Port Authority

A vehicle which has been placed in the lawful possession of the Port Authority because it was illegally parked, or for non-payment of fees, or for any other reason, and in respect of which any fee or charge, including towing and storage charges, are due, may be detained by the Airport Manager until said fees or charges have been paid. Such fees may be paid under protest, and a claim may be asserted for refund pursuant to applicable law.

18. Vehicular Collisions

Any vehicular collisions that occur at the Airport shall be reported without unreasonable delay to the Port Authority Police. When any vehicle with a PANYNJ plate is involved in a collision, the vehicle may continue to operate after following the procedures listed in the section entitled "Vehicle Collisions" as stipulated in

Subpart "C". The driver of any vehicle involved in a collision with another vehicle or pedestrian on any area of the Airport which results in any injury or death to any person or damage to any property shall immediately stop the vehicle at the scene of the collision. The driver of the vehicle involved in a collision shall give his name and address, and display his/her operator's license, and the vehicle's registration and proof of insurance or financial security documents to the driver of the other vehicle, or if none, the person injured, or to the police officer at the scene of the collision. The operator of such vehicle shall make such report(s) of such accident required by the law and regulations of the state in which such collision occurred.

19. Disabled & Abandoned Vehicles

The Airport Manager has the authority to remove from any area of an Airport any vehicle that is disabled, abandoned, or parked in violation of these Rules & Regulations, or which presents an operational or security problem, to any other area of the Airport. The owner of a vehicle which has been removed because of abandonment or violations of these Rules & Regulations shall be held liable for the reasonable cost of the removal and storage of the vehicle.

20. Limitation of Trailered Vehicles

Tractor/semi-trailers may operate with double or triple trailers only when designed and equipped with the proper system(s) required to operate with multiple trailers. Baggage handling tow vehicle may tow a maximum of four (4) baggage trailers. Baggage tow vehicles may tow trailers only if the trailers are affixed in weight order with the heaviest trailer located the closest to the tow vehicle, and if no trailer exceeds a laden weight of 3,000 pounds. All other tow vehicles shall only operate with a maximum of one trailer. All full trailers shall not exceed a speed limit of 15 MPH on a straight road.

21. Omnibus-Trailer Configurations

Buses shall not have a full-trailer type design.

22. Operator's View

The front window of a vehicle shall not be blocked by an extended superstructure or payload that obstructs the operator's view in any direction. The vehicle shall also have a rear and/or side view mirrors that provide the operator with a view toward the rear/sides of the vehicle.

23. Oversize & Overweight Vehicles

- (a) No oversized or overweight vehicles (vehicles that exceed the state width, length, height, or weight limit) may enter or be operated on any area of an Airport without prior notice to the Port Authority Police setting forth specific-oversize and overweight information, and the vehicle shall proceed only pursuant to specific instructions provided by the Police. The Police may grant permission to proceed either with or without Police assistance, and issue other specific instructions. The oversized or overweight vehicle may be required to have escort vehicles as listed below, provided by the owner/operator.
- (b) Oversized and overweight vehicles required to be escorted shall be escorted by a lead vehicle and trailering vehicle. The lead vehicle shall have an operating yellow flashing light on the roof, and it shall be positioned not more

than 40 feet in front of the oversized vehicle. The lead vehicle shall guide the oversized vehicle, warn on-coming vehicles and direct other traffic around the oversized/overweight vehicle's exposed limits. The trailing vehicle shall have an operating yellow flashing light on the roof, and it shall be positioned not more than 40 feet behind the oversized vehicle and coordinate its efforts with the lead vehicle to escort the oversized vehicle.

- (c) Fire fighting, emergency response, aircraft refueling, snow removal vehicles, and other special purpose vehicles approved by the Airport Manager are exempt from the requirements of this section; however, these vehicles shall operate in accordance with the requirements and limitations prescribed by the Airport Manager. Aircraft service vehicles that are required to operate on or cross roadways outside the AOA, are exempt from the requirements of this section; however, such vehicle shall operate in accordance with the requirements and limitations prescribed by the Airport Manager.

#### 24. Vehicle Security Requirements

Refer to Chapter II entitled "Airport Security."

### C. REQUIREMENTS FOR VEHICLES OPERATING WITHIN THE AOA

Vehicles operating in the AOA shall be operated in accordance with the following minimum requirements:

#### 1. Driver's License & Training

- (a) The driver must be properly licensed and have all required endorsement(s) to operate such vehicle on a state or municipal highway of the state in which the Airport is located.
- (b) *The driver must be fully trained in the operation of the vehicle for all of its functions, types of uses, and procedures to follow in the event of emergency*
- (c) The driver must successfully complete Port Authority Airfield Driver Training and meets all requirements for Airport Security as specified under the chapter entitled "Airport Security."

#### 2. Vehicle Operation

- (a) All vehicles shall be operated in accordance with the requirements stipulated by the vehicle manufacturer, and when stricter operating requirements are required by these Rules & Regulations or specific instructions provided by the Airport Manager for specific vehicles, the vehicle(s) shall be operated in accordance with the stricter requirements.
- (b) Drivers and operators shall only drive and operate vehicles from the driver or operator seat and passengers shall only be transported in the vehicle passenger seat(s).

#### 3. Vehicle Insurance

Owners of Type 2, 3, 4 & 5 vehicles operating either in a public area or roadway or in the AOA shall provide insurance or maintain financial security as required by the Port Authority. The Port Authority shall inform applicants for operating permits of such requirements, and each applicant for an operating permit shall submit a current valid certificate of insurance or other documents required by the Port Authority as

proof of compliance, with the initial Port Authority application. The document must be found satisfactory by the Port Authority prior to the processing of the vehicle registration application and issuance of PANYNJ plates. The applicant shall at all times maintain on file with the Port Authority a currently valid and satisfactory certificate of insurance or other acceptable proof of financial security for all vehicles operating with PANYNJ plates.

4. Vehicle Registration & Inspection

Type 2, 3, & 4 vehicles operating on the non-AOA roads or in public areas or in the AOA shall be properly registered, inspected, and approved by the Port Authority, and be equipped with PANYNJ plates with a valid inspection identification sticker. Type 2, 3, and 4 vehicles may operate on non-AOA roads within the Airport boundaries to the extent specifically authorized and permitted by the Manager. The limitation may be restricted to specific roads, designated areas, or specific parking locations. All vehicles shall be approved, registered, issued PANYNJ plates and inspection identification stickers, and have periodic inspections by the Port Authority as follows:

- (a) A registration application form provided by the Port Authority shall be submitted for each vehicle.
- (b) Each registration application form shall be submitted with a current valid certificate of insurance, or other document establishing financial security, or have a current valid certificate of insurance, or other document establishing financial security on file with the Port Authority, meeting the requirements listed in the previous paragraph entitled "Vehicle Insurance.
- (c) All vehicles approved by the Port Authority for operation on the AOA shall be furnished with an initial registration certificate, a PANYNJ plate, and an inspection identification sticker.
- (d) The company operating the vehicle shall properly install the PANYNJ plates with the inspection sticker on the designated vehicle. The PANYNJ plates and inspection sticker shall be displayed on the vehicle in the manner designated by the Manager. The operating company shall also keep on file on the Airport the initial registration and insurance certificate.
- (e) All motorized vehicles, except aircraft fuel servicing vehicles and all other vehicles that handle or transport fuel products, shall be inspected every 12 months.
- (f) Each non-motorized vehicle shall be inspected once every 12 months, unless otherwise permitted.
- (g) Each aircraft fuel servicing vehicle, and each vehicle that handles or transports fuel products, shall be inspected once every 6 months.

5. Following Lawful Direction

All vehicles shall comply with any lawful order, signal or direction of any authorized Port Authority representative. Where vehicular traffic is controlled by traffic lights, signs, mechanical or electrical signals or pavement markings, such lights, signs, signals and markings shall be obeyed unless an authorized Port Authority representative directs otherwise.

6. Careless or Negligent Operation of Vehicles  
No vehicle shall be operated in a manner which creates an unreasonable risk of harm to persons or property, or while the driver thereof is under the influence of any substance that impairs, impedes, or otherwise affects the ability of the driver to safely operate the vehicle, or if such vehicle is so constructed, equipped or loaded as to create an unreasonable risk of harm to persons or property.
7. Vehicle Modifications  
Vehicle modifications that eliminate or interfere with compliance with federal or state safety requirements are prohibited.
8. Right to Inspect  
All vehicles are subject to immediate inspection by a duly authorized Port Authority representative.
9. Violations  
Violations of vehicle operating procedures as specified in these Rules & Regulations or a violation of the Ground Vehicle Specifications may result in revocation of permission for a vehicle to operate at the Airport.
10. Vehicle Condition  
All vehicles shall be properly equipped and maintained in a safe operating condition, and must meet the requirements established by the state where the Airport is located, Federal 49 CFR, and the Ground Vehicle Specifications.
11. Stickers  
Vehicles shall not have any stickers, posters, signs, or objects on the windshield and/or rear windows of a vehicle other than those required by, or specifically authorized by, the law or regulation of a government authority.
12. Seating & Seatbelts  
Drivers, operators, and passengers shall use installed seatbelts or other restraint systems. Seatbelts and other restraint systems shall not be disabled or removed and shall be maintained in good working order.
13. Yield to Aircraft  
Vehicles shall yield and give the right of way to all aircraft in motion.
14. Restricted Operation on Runways, Taxiways, & Landing Areas  
All vehicles shall obtain permission from the Control Tower before entering or operating on any runway, taxiway, or landing area. All vehicles operating in these areas shall have an operating two-way radio turned "on" and tuned to the ground control frequency, and shall have an operating rotating amber light located at the highest structure of the vehicle turned "on" between the hours of sunset and sunrise and during periods of rain, snow, fog, and other conditions resulting in low visibility. All vehicle drivers shall follow all directions provided by the FAA controller.
15. Driving Restrictions & Speed Limits  
While on the AOA, vehicles shall only be driven or operated on Restricted Vehicle Service Roads. Except for Port Authority vehicles, vehicles shall not be driven or operated in excess of 20 MPH while on the AOA.
16. Operation of Vehicles on Ramps & Apron Areas  
No vehicle shall be operated within 30 feet of any aircraft passenger entrance door or

passenger pathway when the ramp or apron areas are being used to load or discharge passengers. Speed limit in these areas is 10 MPH.

**17. Parking, Standing, or Stopping Vehicles**

No person shall park a vehicle or permit the vehicle to remain stopped on roads in the AOA, except in such areas and for such periods of time as may be prescribed or permitted by the Manager.

(a) No person shall stop or park a vehicle contrary to restrictions posted on authorized signs, or in any of the following areas:

1. in front of a driveway
2. within a bus stop safety zone or taxicab zone, except vehicles authorized to use such areas
3. no parking or stopping areas
4. on any roadway
5. on any shoulder if the vehicle is not disabled
6. within 15 feet of a fire hydrant
7. within 10 feet of an AOA perimeter security fence
8. within any restricted or marked areas

**18. Vehicles in Possession of the Port Authority**

A vehicle which has been placed in the lawful possession of the Port Authority because it was illegally parked, or for non-payment of fees, or for any other reason, and in respect of which any fee or charge, including towing and storage charges, are due, may be detained by the Airport Manager until said fees have been paid. Such payment may be made under protest and a claim for refund may be made pursuant to applicable law.

**19. Vehicle Collisions**

Any vehicle collisions that occur at the Airport shall be reported without unreasonable delay to the Port Authority Police. When any vehicle with a PANYNJ plate is involved in an accident, the vehicle must be inspected by the Port Authority Motor Vehicle Inspector before returning to service. The driver of any vehicle involved in a collision with another vehicle or a pedestrian on any area of the Airport which results in any injury or death to any person or damage to any property shall immediately stop the vehicle at the scene of the collision, and report the collision to the Port Authority Police. The driver of the vehicle involved in an accident shall give his name and address, and display his or her operator's license and the vehicle's registration and, proof of insurance or financial security documents to the driver of the other vehicle or if none, the person injured, or to a police officer at the scene of the collision. The operator of such vehicle shall make such report(s) of such collision as required by the law and regulations of the state in which such collision occurred.

**20. Disabled & Abandoned Vehicles**

The Airport Manager has the authority to remove from any area of an Airport any vehicle that is disabled, abandoned, or parked in violation of these Rules & Regulations, or which presents an operational or security problem, to any other area of the Airport. The owner of a vehicle which has been removed because of abandonment or violations of these Rules & Regulations shall be held liable for the reasonable cost of the removal and storage of the vehicle.

## 21. Limitation of Trailered Vehicles

Tractor/semi-trailers may operate with double or triple trailers only when properly designed and equipped with the proper system(s) required to operate with multiple trailers. Baggage handling tow vehicle may only have a maximum of four (4) baggage trailers, with the heaviest trailers located the closest to the tow vehicle, and no trailer shall exceed a laden weight of 3,000 pounds and an overall trailer length of sixty (60) feet. All other tow vehicles shall only operate with a maximum of one trailer. All full trailers shall not exceed a speed limit of 15 MPH on a straight road.

## 22. Omnibus-Trailer Configurations

Buses shall not have a full-trailer type design.

## 23. Operator's View

The front window of the vehicle shall not be blocked by an extended superstructure or payload that obstructs the operator's view in any direction. The vehicle shall also have a rear and/or side view mirrors that provide the operator with a view toward the rear/sides of the vehicle.

## 24. Oversize & Overweight Vehicles

(a) No oversized or overweight vehicles (vehicles that exceed the state width, length, height, or weight limit) may enter or be operated on any area of an Airport without prior notice to the Port Authority Police, setting forth specific oversize and overweight information. Such vehicles shall proceed only pursuant to instructions provided by the Police. The Police may grant permission to proceed either with or without their assistance, and issue other specific instructions. The oversized or overweight vehicle may be required to have escort vehicles as set forth below, provided by the owner/operator. The Airport Manager, when issuing PANYNJ plates to operate specialized vehicles for AOA operations, may exempt such vehicles from escort requirements. Permission to operate specialized equipment under such exemption shall be limited to operation in the AOA only, and limited by any other restrictions issued at the time the PANYNJ plates are issued.

(a) When oversized and overweight vehicles are required to be escorted, they shall be escorted by a lead vehicle and trailing vehicle. The lead vehicle shall have an operating yellow flashing light on the roof, and it shall be positioned not more than 40 feet in front of the oversized vehicle. The lead vehicle shall guide the oversized vehicle, warn on-coming vehicles and direct other traffic around the oversized/overweight vehicle's exposed limits. The trailing vehicle shall have an operating yellow flashing light on the roof, and it shall be positioned not more than 40 feet behind the oversized vehicle and coordinate its efforts with the lead vehicle to escort the oversized vehicle.

(b) Fire fighting, emergency response, aircraft refueling, snow removal vehicles, and other special purpose vehicles approved by the Airport Manager are exempt from the requirement of this section; however, these vehicles shall operate in accordance with the requirements and limitations prescribed by the Airport Manager. Aircraft service vehicles that are required to operate on or cross roadways outside the AOA, are exempt from the requirements of this section; however, such vehicle shall operate in accordance with the requirements and limitations prescribed by the Airport Manager.

## 25. Vehicle Security Requirements

Refer to Chapter II entitled "Airport Security."

### D. REQUIREMENTS FOR VEHICLES OPERATING IN PUBLIC AREAS AND WITHIN THE AOA

All such vehicles shall comply with all requirements found in both Subparts "B" and "C" of this chapter.

### E. REQUIREMENTS FOR ALTERNATIVE FUELED VEHICLES & EQUIPMENT

1. Alternative Fueled Vehicles and Equipment shall be in full compliance with the appropriate NFPA standards. All Alternative Fueled Vehicles & Equipment can only be operated with the authorization and within the guidelines, limitations, and constraints set by the Airport Manager.
2. Alternative Fueled Vehicles that travel upon or cross any non-AOA roads or areas shall comply with the regulations and laws applicable to the jurisdiction in which the Airport is located.

#### 3. LPG, LNG, & CNG Vehicles

The operating, fueling, fuel storage and handling, repairing, and other activities affecting LPG, LNG and CNG shall comply with applicable NFPA standards and the state and local laws and regulations of the jurisdiction(s) in which the Airport is located. These vehicles and equipment shall also comply with the following:

- (a) Fuel cylinders and containers, vehicle or equipment fueling and repairs, and signs and placards shall be in compliance with the requirements stipulated in the Ground Vehicle Specifications.
- (b) Garaging of vehicles and the repair facilities shall comply with NFPA and all other applicable standards. All garages used for the storage and/or servicing of vehicles shall be equipped with explosion-proof equipment.
- (c) The tenant and/or owner of the vehicle shall provide evidence that the operator is certified to drive the vehicle according to laws and regulations of the United States and the state and municipality in which the airport is located.
- (d) Signs shall be placed on each vehicle in one inch high letters indicating that it is a vehicle or equipment fueled by LPG, LNG, or CNG.
- (e) Vehicles and equipment with LPG or LNG systems used for refrigeration or for the warming of foods shall comply with the applicable NFPA standards.
- (f) Alternative fueled vehicles shall park only in areas specifically designated by the Manger for that purpose.
- (g) Vehicles fueled by LPG or LNG shall not enter buildings, structures, tunnels, ramps, and rooms adjacent to terminal buildings or enclosed or underground parking facilities.

### F. STATIONARY EQUIPMENT

Permanent and temporary stationary equipment designated as Type 6 equipment, whether located inside or outside the AOA, shall not be installed or operated without

the approval of the Manager. All stationary equipment shall be in compliance with the requirements set forth in the Ground Vehicle Specifications.

**G. SPECIAL AIRPORT OPERATING PROCEDURES**

1. Newark International Airport - Oversize & Overweight Vehicles  
Oversized and overweight vehicles, including loaders and supertugs, shall not be operated on the RVSR behind Terminals A,B,& C.
2. LaGuardia Airport - AOA Speed Limits  
The speed limit on the Inner Vehicle Service Road and ramp/apron areas is 10 MPH.

## VII. FUELING OPERATIONS

### A. DESIGN & CONSTRUCTION OF VEHICLES USED IN FUELING OPERATIONS

The design and construction of all Vehicles and equipment used for fueling operations within the AOA must comply with Port Authority requirements as contained in these Rules and Regulations and in the Port Authority Ground Vehicle Specifications, which are set forth in an appendix to these Rules & Regulations, as well as to all applicable requirements of other government bodies.

### B. OPERATION OF AIRCRAFT ENGINES DURING FUELING

1. Aircraft fueling is prohibited while the engine of the aircraft being fueled is running or being heated, with the following exceptions:
2. Rotorcraft powered by a turbine jet engine utilizing only jet fuel that is loaded into the rotorcraft via fueling ports located below the engine(s), may be fueled while the engine(s) is running provided that no passengers are on board, an appropriately licensed pilot knowledgeable with respect to fueling procedures under such conditions is at the controls of the rotorcraft, and the fueling is performed by ground personnel who are knowledgeable with respect to fueling procedures under such conditions.
3. Onboard auxiliary power units may be operated during fueling operations. In an emergency resulting from the failure of an onboard auxiliary unit on a jet aircraft and in the absence of suitable ground support equipment, a jet engine mounted at the rear of the aircraft or on the wing on the side opposite from the fueling point may be operated during fueling to provide power, provided that the operation follows procedures approved by the Airport Manager.

### C. BONDING

1. Prior to making any fueling connection to the aircraft, the fueling equipment shall be bonded to the aircraft by use of a cable, thus providing a conductive path to equalize potential between the fueling equipment and aircraft. The bond shall be maintained until fueling connections have been removed, thus permitting the reuniting of separated charges that could be generated during the fueling operation.
2. In addition to the above, when fueling overwing, the nozzle shall be bonded with a nozzle bond cable having a clip or plug to a metallic component of the aircraft that is metallically connected to the filler port. The bond connection shall be made before the filler cap is removed. If there is no plug receptacle or means for attaching a clip, the operator shall touch the filler cap with the nozzle spout before removing the cap so as to equalize the potential between the nozzle and the filler port. The spout shall be kept in contact with the filler neck until the fueling is completed.
3. When a Hydrant Servicer Vehicle or Hydrant Service Cart is used for fueling, the hydrant coupler shall be connected to the hydrant system prior to bonding the fuel equipment to the aircraft. Bonding and fueling connections shall be disconnected in the reverse order of connection.

4. When an Aircraft Refueling Tanker Vehicle is used for fueling, the vehicle will be bonded to the aircraft prior to making the connection to the aircraft fueling point. Bonding and fueling connections shall be disconnected in the reverse order of connection.

#### D. LIGHTNING PRECAUTIONS

Fuel servicing operations shall be suspended when lightning flashes are observed in the immediate vicinity of the airport.

#### E. PORTABLE FIRE EXTINGUISHERS

During fueling operations, UL listed dry chemical fire extinguishers shall be available on aircraft servicing ramps or aprons, as follows:

1. Each Aircraft Refueling Tanker Vehicle shall have two UL listed extinguishers, each having a rating of 20B, one mounted on each side of the vehicle.
2. Each Hydrant Service Vehicle shall have two UL listed extinguishers having a rating of at least 20B mounted in a position readily accessible by the attendant.
3. Where open hose discharge capacity of the aircraft fueling system or equipment is more than 200 gallons per minute, at least one UL listed wheeled extinguisher having a rating of not less than 80b and a minimum capacity of 125 lbs. of agent shall be provided.

#### F. OPERATION OF RADIO TRANSMITTERS AND GROUND SURVEILLANCE RADAR DURING FUELING

1. During fuel handling in connection with any aircraft, no person shall operate any radio transmitter or receiver in such aircraft, or switch electrical appliances on or off in such aircraft, nor shall any person do any act or use any material which is likely to cause a spark within fifty (50) feet of such aircraft. The use of non-electrically powered mechanic hand tools is permitted in the performance of routine and non-routine maintenance on the aircraft. Aircraft components may be removed or installed. If such components are powered by the aircraft electrical system, electrical power must be removed from the component circuit before removal or installation. Once component installation is completed, functional test or BITE check of system can be completed with electrical power to circuit restored. This does not include radar which can be tested but must not be placed in full operation so as to transmit or radiate.
2. Surveillance radar equipment in aircraft shall not be operated within 300 ft. of any fueling, servicing, or other operation in which flammable liquids, vapors, or mist may be present.

#### G. AIRCRAFT OCCUPANCY DURING FUELING

During fuel handling in connection with any aircraft no passenger shall be permitted to remain in such aircraft or to enter or depart from such aircraft unless a qualified attendant is at each door that is in use for this purpose, and unless means of safe emergency egress

is in position in the event that such device is required for the safe and rapid debarkation of the passengers.

#### H. PREVENTION AND CONTROL OF SPILLS

1. Fuel servicing equipment shall be maintained in safe operating condition. Leaking or malfunctioning equipment shall be removed from service.
2. Persons engaged in aircraft fuel handling shall exercise care to prevent overflow of fuel.
3. The delivery of fuel shall at all times be under the control of the vehicle attendant through the use of approved flow-controlling devices operated by the attendant, designed to shut off automatically upon release of hand or foot pressure. Latching of, or fastening devices on, the control units is prohibited.
4. In the event of fuel spillage during aircraft fueling, the aircraft's engines may not be started until the area has been cleaned in an effective manner, in conformance with all applicable environmental, health and safety laws and permission to start engines has been granted by the Airport Manager
5. If a fuel spill is over 10 ft. in any direction or over 50 sq. ft. in area, or spilled fuel continues to flow, or is otherwise a hazard to persons or property, the Port Authority Police shall be notified. In addition, the spill shall be investigated by the tenant, permittee, or lessee of the property on which the spill occurred, and the refueling operator, to determine the cause, whether emergency and notification procedures were properly carried out, and what corrective measures are required to prevent such a spill from recurring.
6. No aircraft may be fueled unless all onboard gauges and devices whose purpose is to monitor fueling to enable the detection of, or to prevent, the overfilling of tanks are in proper working order. The operation of valves that negates system overfill devices or disabling of such devices and equipment is expressly prohibited. The operator must immediately take measures to prevent fuel from entering area storm drains to prevent fuel from entering the airport storm water drainage system when fueling or conducting a maintenance activity. In the event of a fuel spill, the operator must make required spill notifications to the State Special Hotline and any other enforcement agencies required to receive such notification.
7. No more than one Aircraft Refueling Tanker Vehicle shall be permitted to be connected to the same aircraft fueling manifold unless means are provided to prevent fuel from flowing back into a tank vehicle because of differences in pumping pressure.

#### I. EMERGENCY FUEL SHUTOFF SYSTEMS

Hydrant fueling systems must be designed with a means for quickly and completely shutting off the flow of fuel in the event of an emergency.

1. The emergency fuel shutoff system shall include shutoff stations located outside of probable spill areas and near the route that would normally be used to leave the spill area or to reach fire extinguishers provided for the protection of the area.

2. At least one emergency shutoff control station shall be conveniently accessible to each fueling position.
3. The emergency fuel shutoff system shall be designed so that operation of a station will shut off fuel flow to all hydrants that have a common exposure.
4. Each emergency fuel shutoff station shall be placarded "**EMERGENCY FUEL SHUTOFF**" in letters at least 2 in. high. Method of operation shall be indicated by an arrow or by the word "**PUSH**" or "**PULL**", as appropriate. Lettering shall be of a color sharply contrasting with its background for visibility (high visibility orange letters on a white background are desirable). Placards shall be weather resistant, shall be located at least 7 ft. above grade and positioned so they can be readily seen from a distance of at least 25 ft.

#### J. AVIATION FUEL STORAGE

All operators of an aircraft at Port Authority Air Terminals who receive, and all persons who supply, aviation fuel shall use the aviation fuel storage area and delivery facilities designated by the Port Authority for such use. If and for any period during which these facilities are not available, the operators may make other arrangements with their suppliers of aviation fuel for deliveries thereof to their aircraft, provided that such other arrangement shall be subject to the approval of the Port Authority from the standpoint of safety, environmental compliance, traffic control and similar matters.

#### K. TRANSFER OF FUEL BETWEEN VEHICLES

The transfer of any fuel from one Aircraft Refueling Tanker Vehicle to another is prohibited within the boundaries of an air terminal without the permission of the Airport Manager.

#### L. REFUELING AUTOMOTIVE VEHICLES & EQUIPMENT

Automotive and ramp equipment other than Refueling Service Vehicles and Tank Vehicles shall be refueled by authorized fuel service contractors authorized by the Port Authority only at prescribed refueling stations and from dispensing systems at the air terminal, all as approved by the Airport Manager. Refueling Service Vehicles and Tank Vehicles may also be refueled from airport Mobile Refueling Stations at times and locations designated by the Airport Manager.

#### M. FUELING VEHICLE EQUIPMENT & MAINTENANCE

1. All fueling vehicles operating in the aeronautical areas at Air Terminal shall be properly equipped and maintained and must meet the requirements established by the Port Authority. All Fuel Dispensing Vehicles shall carry a copy of the approved route map showing the routing for that vehicle to and from the refueling stations, the aviation fuel storage and delivery facilities, and the vehicle storage and maintenance base.

#### N. SMOKING IN THE VICINITY OF FUELING VEHICLES

Smoking by any person on or within fifty (50) feet of a tank vehicle or refueling service vehicle is prohibited.

#### O. PARKING RESTRICTIONS

No Aircraft Refueling Tank Vehicle shall be parked within fifty feet of a building or hangar, other than a refueling service shop, or within ten feet of any other refueling tank vehicle.

#### P. ATTENDANTS

1. The driver, operator or attendant of any Tank Vehicle, during the routine fuel servicing of an aircraft at terminal gates, terminal hardstands, or at any stand or gate at a cargo facility, shall be in attendance with the vehicle at all times, and shall have, under his control, the delivery of fuel through the use of approved fueling control devices designed to shut-off automatically at the outlet. Under these controlled conditions, a single driver or operator may perform the complete servicing of any aircraft, provided the distance between the automatic shut-off device and the mechanism it controls shall not exceed 50 feet.
2. Any other fuel servicing not consistent with the above parameters, such as high overwing fueling, fueling from a remote ladder or remote stand in excess of six (6) feet in height, or in a position more than 50 feet from the tank vehicle, will require additional personnel on the ground, familiar with the operation, to provide a fire watch.

#### Q. FIRE WATCH

A fire watch shall not serve more than two (2) vehicles or two (2) aircraft under fuel servicing simultaneously and must be within 75 feet of any surveillance.

#### R. POSITIONING OF VEHICLES

Aircraft Fuel Servicing vehicles shall be positioned so that a path of egress from the aircraft for fuel servicing vehicles shall be maintained.

#### S. PARKING BRAKES

Parking brakes shall be set on fuel servicing vehicles before operators leave the vehicle cab. After leaving the cab, the first action to be taken by a fuel service vehicle operator shall be to place chocks, of appropriate size and geometry, forward and aft of the drive wheels to prevent the vehicle from moving in either direction. The last action prior to entering the cab of the vehicle for departure shall be removal of such chocks.

#### T. LIMITATIONS ON THE NUMBER OF FUELING VEHICLES PER AIRCRAFT WING

Not more than one Aircraft Refueling Tanker Vehicle shall be positioned to refuel each wing of an aircraft and not more than two refuelers shall be positioned to serve the same aircraft. When high capacity aircraft are refueled, additional refuelers shall not be parked

or positioned within 100 feet from the aircraft served and then only in areas approved by the Airport Manager.

#### U. DEFUELING

The requirements applicable to fueling of an aircraft shall apply to the transfer of fuel from an aircraft to a Tank Vehicle through a hose. In addition, each operator shall establish procedures to prevent the overfilling of the Tank Vehicle, which is a special hazard during defueling.

#### V. LOADING OF CARGO TANKS

During the filling of the fuel cargo tank, no compartment shall be completely filled or filled higher than the "FULL" marker and the driver-operator or the attendant shall be present at the vehicle at all times. The fuel Tank Vehicle, the tank truck filling rack, and the flammable liquid discharge piping shall all be grounded to a point of zero electrical potential.

1. When top loading, the attendant shall continuously monitor the cargo tank level to prevent overfilling.
2. When bottom loading, the attendant shall perform the precheck on each compartment shortly after flow has started to ensure that the automatic high-level shutoff system is functioning properly.

#### W. PARKING & POSITIONING OF FUELING VEHICLES

1. When parked, Aircraft Refueling Tank Vehicles shall be positioned for immediate drive away or towing, and a clear space of not less than ten feet shall be maintained between any parked refueling tank vehicle and any similar or other parked or moving vehicle.
2. In addition to the foregoing, where five or more vehicles are parked, there shall be chemical wheel-type fire extinguishers with a rating of 80B or greater and a minimum of 120 lbs. of agent positioned so one or more units will be located no more than 100 feet from any vehicle.
3. In areas where five or more refueling tank vehicles are parked, signs shall be posted in all directions, legible from 100 feet reading "DANGER - AIRCRAFT FUEL - NO SMOKING - NO OPEN FIRE OR LIGHTS". Tank vehicles and Refueling Service Vehicles shall not be parked in public areas, except as designated by the Airport Manager.

#### X. VEHICLE MOTORS

The motor of an Aircraft Refueling Tank Vehicle shall not be run during the filling of the cargo tank, while making or breaking fuel filling connections, or during repairs to the fuel handling system. The propulsion motor for refueling service vehicles shall not be run during the fuel transfer and while making and breaking hose connections.

## Y. AUTOMOTIVE FUEL DISPENSING VEHICLES

1. Automotive Fuel Dispensing Vehicles shall not be located within 50 feet of any structure other than tank vehicles or aircraft while refueling operations are in progress.
2. Automotive Fuel Dispensing Vehicles shall not dispense fuel except at such times and at such Automotive Refueling Stations as approved by the Manager and, in no event, shall refueling operations take place if other tank vehicles or aircraft are within 50 feet of such refueling operation.
3. Mobile Refueling Stations and Automotive Fuel Dispensing Vehicles shall not dispense fuel unless properly grounded.
4. The Manager shall have the authority to deny the use of the Air Terminal Highways and other roadways to any vehicle that is defined as being "over-width".
5. Automotive Fuel Dispensing Vehicles shall carry a sufficient quantity of absorbent material, approved by the Airport Manager, to contain accidental fuel spills.
6. The manager may permit Automotive Fuel Dispensing Vehicles to dispense fuel at locations other than Automotive Refueling Stations. Fuel may not be dispensed from an Automotive Fuel Dispensing Vehicle pursuant to such permission unless the site is equipped with a ground rod, suitable barricades, and a 150 pound wheeled fire extinguisher. Other protective requirements and restrictions may be prescribed by the Manager in granting such permission.

## VIII. AIRCRAFT OPERATIONS

### A. RESPECT FOR RIGHTS & SAFETY OF OTHERS

No Aircraft shall be operated at an Air Terminal in a manner which creates an unreasonable risk of harm to persons or property, or while the pilot, or other persons aboard controlling any part of the operation thereof, is under the influence of intoxicating liquor, or any narcotic or habit-forming drug, or any substance which impairs, impedes, or otherwise affects the ability of such person(s) to safely operate the Aircraft, or while such Aircraft is so constructed, equipped or loaded as to create an unreasonable risk of harm to persons or property.

### B. FOLLOWING DIRECTIVES, SIGNAGE, LIGHTS, ETC.

The pilot or other person aboard engaged in the operation of any Aircraft (except when subject to the direction or control, for ground movement purposes, of the Federal Aviation Administration or other Federal agency) being operated at any Air Terminal must at all times comply with any lawful order, signal or direction of an authorized representative of the Port Authority. When operation of such aircraft is controlled by lights, signs, mechanical or electrical signals or pavement markings, such lights, signs, signals and markings, shall be obeyed unless an authorized representative of the Port Authority directs otherwise.

### C. NON-PAYMENT OF CHARGES

The Airport Duty Manager shall have the authority to detain any Aircraft for non-payment of charges due to the Port Authority.

### D. RIGHT OF DENIAL

The Manager shall have authority to deny the use of an Air Terminal to any Aircraft or pilot violating Port Authority or Federal regulations, whether at such Air Terminal or elsewhere.

### E. REPORTING ACCIDENTS

The operator of any Aircraft involved in any accident causing personal injury or property damage at an Air Terminal shall report said accident promptly to the Manager.

### F. DISPOSAL OF AIRCRAFT

The pilot or operator thereof shall be responsible for the prompt disposal of Aircraft wrecked or disabled at an Air Terminal and parts of such Aircraft as directed by the Manager; in the event of his failure to comply with such directions such wrecked or disabled Aircraft and parts may be removed by the Port Authority at the operator's expense and without liability for damage which may result in the course of such removal.

#### G. EMERGENCIES

When informed of an emergency by FAA, Port Authority or other party, all Aircraft shall clear active runways and shall hold their positions unless otherwise directed by the Air Traffic Control Tower.

#### H. TAMPERING WITH AIRCRAFT

No person shall interfere or tamper with any Aircraft at an Air Terminal, or start the engine of such Aircraft without the operator's consent.

#### I. CONSENT TO ENTER AIRCRAFT

No person shall enter an Aircraft without the consent of the person in charge thereof.

#### J. ENPLANING & DEPLANING

Passengers shall not be permitted to enplane or deplane except in the presence of authorized personnel.

#### K. AIRCRAFT LOADING & UNLOADING

No Aircraft may be loaded or unloaded without permission except in designated areas and all passengers must be channeled through established routes to and from the Aircraft. When the Manager shall determine that aircraft is not compatible with boarding and de-boarding operations making use of aircraft loading bridges affixed to terminal building gates, such aircraft shall be ground boarded and de-boarded in areas designated by and pursuant to procedures established by the Manager.

#### L. AIRCRAFT MAINTENANCE

All repairs of aircraft beyond common ramp service, including cleaning of, or otherwise maintaining aircraft, shall be accomplished only in areas designated for that purpose by the Manager.

#### M. PERMISSION TO OPERATE

No aircraft may operate at any Airport without prior approval of the Airport Manager. No aircraft shall cross an air terminal highway or a non-AOA highway at an Air Terminal under its own power, or under tow, without permission.

#### N. REMOVAL OF SPILLS

Any spillage or dripping of gasoline, oil, grease, or any other material which may be unsightly or detrimental to the pavement in any area at an Air Terminal shall be removed immediately by suitable procedures in a manner satisfactory to the Manager. The responsibility for the immediate removal of such gasoline, oil, grease, or other material shall be assumed by the operator of the equipment causing the same. Spills that enter, or have the potential to enter, the environment (i.e., soil or water) must be reported to the State agency, and to all other governmental agencies, with environmental oversight, in accordance with State regulations, and all other applicable laws and regulations.

#### O. AIRCRAFT RAMP & APRON SCRUBBING

All Aircraft ramp and apron scrubbing shall be accomplished through the use of approved vacuum-type scrubbers and the wastewater picked up from the ramps shall be disposed of in a triturator or any approved designated opening to the sanitary sewer system.

Scrubbing schedules, based on Aircraft ramp and apron activity and type of operation, shall be approved by and filed with the Manager.

#### P. AIRCRAFT DEICING – GLYCOL BASED DEICERS

Best Management Practices should be used to minimize the excessive use of glycol. Proper technique should be used when de-icing aircraft to ensure that only the amount of chemical needed to complete the job is applied. To the extent possible, other de-icing and anti-icing techniques should be utilized to minimize the use of ethylene glycol. These techniques are described in detail in FAA Advisory Circular number 20-117. Efforts must be made to collect overspray from ramp areas if feasible. Collected material should be disposed of or recycled. Quantities of deicer used (inclusive of quantities disposed of or recycled) must be reported to the Port Authority on a monthly basis.

#### Q. HEATING OF ENGINES

The heating of engines at an air terminal shall be done only by the use of steam, hot water, hot air or approved electric heaters.

#### R. USE OF GATE POSITIONS

No aircraft may use a gate position without prior permission from the Manager. Air terminals shall report gate activity to the Port Authority in such manner as shall be prescribed by the Manager.

#### S. COMPLIANCE WITH AIR TERMINAL RESTRICTIONS

Before commencing operations at any Port Authority airport, the aircraft operator shall give assurances when required by the Director of Aviation that the operator will comply with applicable operational, safety, and other restrictions, including (but not limited to) maximum gross take-off weight and maximum allowable wing span. Information on these restrictions can be obtained from the Office of the Director of Aviation, The Port Authority of New York and New Jersey, Aviation Department, c/o Port Authority Technical Center, 241 Erie Street, Jersey City, NJ 07310.

#### T. LANDING & TAKING OFF

1. The Port Authority may prohibit aircraft landing and taking off at any time when, and under any circumstances under which the Manager deems such landings and takeoffs are likely to endanger persons or property, except for emergency landings.
2. No person shall navigate any aircraft, land aircraft upon, fly aircraft from, or conduct any aircraft operations on or from an Air Terminal otherwise than in conformity with then current Federal Aviation Administration and National Transportation Safety Board rules and regulations.

3. No aircraft may land or take-off at an air terminal without prior permission unless it is equipped with a functioning radio capable of direct two-way communication with the Air Traffic Control Tower on all appropriate frequencies, except in case of emergency.
4. No helicopter may land or take off at a Port Authority heliport unless it is equipped with a two-way radio capable of transmitting and receiving on a frequency of 123.05 and 123.075 megacycles, or other appropriate heliport frequency. Military helicopters that have only UHF radios should make arrangements with Heliport Manager, or his representative, prior to operations at a heliport.
5. No motorless aircraft may land or take off at a Port Authority Air Terminal without permission of the Manager.
6. No ultralight aircraft may land or take off at a Port Authority Air Terminal without permission of the Manager.
7. Jet-assisted takeoffs shall not be made at an air terminal without obtaining permission of the Manager and notifying the Air Traffic Control Tower in advance.
8. No aircraft shall land, take-off or taxi at an Air Terminal with a student pilot at the controls.
9. No person shall practice aircraft landings or takeoffs at an Air Terminal without permission of the Manager.
10. No aircraft shall use any part of the public landing areas considered temporarily unsafe for landing or taking-off, or which is not available for any cause. The boundaries of such areas will be marked with orange flags by day and red lights by night, and notice thereof will be given to the Air Traffic Control Tower by the Port Authority.
11. Aircraft landing at an Air Terminal shall make the landing runway or touchdown area available to others by leaving such location as promptly as possible.
12. No Aircraft having an actual gross weight (including passengers, cargo, fuel, equipment, etc.) in excess of maximum gross weight for such Aircraft authorized by the Director of Aviation shall land, take off, or taxi at an Air Terminal without Permission of the Manager.

#### U. STARTING, TAXIING, TOWING & PARKING

1. Aircraft shall not be positioned, started or taxied so that propeller slipstream, jet engine exhaust blast or rotor down-wash may cause injury to persons, or damage to property, or where it may generate turbulence across taxiways, runways, vehicle service roads, or heliport areas, so as to endanger the safety of operations on an Air Terminal. If it is impossible to taxi Aircraft without compliance with the above, then the engine or engines must be shut off and the Aircraft towed.
2. Except for helicopters, no person shall start an Aircraft engine at an Air Terminal unless there is a qualified attendant standing by outside the Aircraft with a twenty pound or larger dry chemical fire extinguisher, or unless the engines are equipped with their own fire control system. With regard to helicopters, the engine starting procedure shall be in a manner acceptable to the Manager.

3. No Aircraft shall be started, run or taxied at an Air Terminal unless a certificated pilot certificated to operate that particular type of Aircraft or a certificated A and P mechanic qualified to start, run or taxi that particular type of Aircraft is attending the controls.
4. No aircraft engine shall be started unless the main landing wheels are chocked and the brakes of the aircraft fixed and locked, unless alternate procedures approved by the Manager are followed.
5. No helicopters shall be started, run, or taxied at an Air Terminal unless a certificated helicopter pilot certificated to operate that particular type of helicopter is attending the controls, or, if the Manager has given his or her approval, a certificated A and P mechanic is attending the controls.
6. All aircraft which are being taxied, towed or otherwise moved at an Air Terminal shall be under full control and shall move or be moved at a reasonable speed.
7. Whenever any aircraft is being taxied, towed or otherwise moved on the public landing area, public ramp and apron area, public passenger ramp and apron area, or public cargo ramp and apron area, there shall be a person attending the controls of the aircraft who shall monitor by radio the transmitting frequency in use by the Control Tower or who, if necessary, will cause that frequency to be monitored by another person in the aircraft at the time. In the event of radio equipment failure, the Control Tower may use an Aldis Lamp for communication.
8. No person shall park an aircraft or leave the same standing on a public landing area, public ramp and apron area, public passenger ramp and apron area, public cargo ramp and apron area, public aircraft parking and storage area, or operational area at an air terminal except at such places as may be prescribed or permitted by the Manager. When in public storage areas, those aircraft for which tie-down fittings are provided shall be required to make proper use thereof.
9. When parked, helicopters shall have rotor braking devices and/or tiedowns applied to the rotor blades.
10. Upon direction from the Manager, the operator of any Aircraft parked or stored at an Air Terminal shall move said aircraft from the place where it is parked or stored to any other designated place. If the operator refuses to comply with such direction, the Port Authority may tow said Aircraft to such designated place at the operator's expense, and without liability for damage which may result in the course of such moving.
11. No Aircraft shall be taxied into or out of a hangar under its own power.
12. Every Aircraft parked on a Public Ramp or Apron Area, Public Passenger Ramp or Apron Area, or Public Cargo Ramp and Apron Area shall have its running lights turned on during the hours between sunset and sunrise, except in certain areas designated by the Manager, or in areas which are illuminated during these hours.
13. All Aircraft being taxied, towed or otherwise moved at an Air Terminal shall proceed with running lights on during the hours between sunset and sunrise.

14. No person shall maneuver an Aircraft, park, or leave the same standing on a ramp or apron area in such a way that any portion of said Aircraft will protrude beyond the ramp or apron limits, unless previously authorized.
15. It is required that one wing walker, preferably two be positioned on the ground, located at the outward tip of each wing, to monitor the clearance of each wing as the aircraft enters and exits the ramp.
16. LaGuardia Airport is to be utilized for nonstop domestic flights and international flights pre-cleared by the Federal Inspection Services only to and from points that are located within 1,500 statute miles of LaGuardia Airport, and to and from Denver, CO. The foregoing limitation does not apply to flight operations conducted on Saturdays or to general aviation operations conducted at the Marine Air Terminal.

#### V. FOREIGN MILITARY & STATE AIRCRAFT

1. Due to the high volume of traffic at Port Authority Airports, foreign military and state aircraft are required to depart within two hours of arrival.
2. Overnight parking of foreign military and state aircraft at Port Authority Airports is strictly prohibited.

#### W. RUNUPS

No jet or turboprop aircraft engine shall be run-up except in areas authorized by the Manager. Aircraft engines shall be started and warmed up on an Air Terminal only in places designated for such purposes by the Manager. Maintenance running of jet engines to check cockpit instrumentation shall not be performed at the Public Passenger Ramp and Apron Area, but in an area designated by the Manager. Details for nighttime maintenance runups can be obtained from the Manager's office.

## **IX. AIRCRAFT NOISE RESTRICTIONS**

### **A. GENERAL RESTRICTIONS**

- In accordance with the Airport Noise and Capacity Act of 1990 (ANCA), airplanes with certificated weights greater than 75,000 pounds must conform to Stage III noise limits at Port Authority Airports. Stage III noise limits are defined in Federal Aviation Regulations (FAR) Part 36 noise level classifications.

### **B. DEPARTURE NOISE LIMITS**

Noise produced by a departing aircraft shall not exceed 112 PNdB (perceived noise level in decibels) as measured by noise monitors located in the community nearest to the runway of departure under the flight path of the departing aircraft.

At John F. Kennedy International Airport, an aircraft operator is assessed a monetary charge of \$250.00 for each aircraft departure that violates this rule.

## **X. AIR CARGO OPERATING PROCEDURES**

### **A. DESIGNATION OF AIR CARGO SECURITY OFFICIAL**

Each Air Cargo Operator shall designate either a security officer or another management official to handle cargo security responsibilities, and each such operator shall notify the Port Authority Police at the Air Terminal of such designation.

### **B. EMPLOYEE IDENTIFICATION & OUTER WEAR**

1. Each Air Cargo Employee shall be issued an identification card bearing the employee's picture. The identification card must be displayed on the outermost garment while the employee is in the Air Cargo Handling Area. See Chapter II entitled "Airport Security" for additional information.
2. Each ramp Service/Cargo Operator shall issue to each of its employees a reflective vest-type garment. The garment must be color-coded as designated by the Port Authority to distinguish the individual Operator or Service Company, and must show the Operator's or Service Company's name or logo in three-inch block lettering on the front and rear of the garment. It must also provide for the secure attachment of an identification card that will be used to hold the numbered Port Authority identification card and appropriate company identification cards or documents. This garment must be worn externally by all employees engaged in cargo movement activity whether on a ramp or within the confines of a secure area of the cargo facility.

### **C. DESIGNATION OF YELLOW LINE**

The Air Cargo Handling Area is restricted to Air Cargo Employees and those who shall be escorted by an Air Cargo Operator authorized employee. The Air Cargo Operator shall establish a barrier or paint a yellow line in the Air Cargo Handling Area, (which must not appear to be a taxiway line) beyond which no one shall be permitted, unless escorted by an Air Cargo Operator's authorized employee.

### **D. EMPLOYEE & OTHER PRIVATE VEHICLES**

Vehicles of Air Cargo Employees and other private vehicles shall not be permitted in the Air Cargo Handling Area. Air Cargo Operators shall designate other areas in which such vehicles may park and shall notify the Port Authority Police at the Air Terminal of such designation. Trucks shall not be parked in parking areas designated for employee or other private vehicle parking. The designation of parking areas will not be required if the Air Cargo Operator obtains the written concurrence of the Manager.

### **E. POSTING OF AIR CARGO SAFETY & SECURITY RULES & REGULATIONS**

These Air Cargo Safety and Security Rules and Regulations must be conspicuously posted within the Air Cargo Handling Area by the Air Cargo Operator.

**F. MISSING ITEMS VALUED AT \$1000 OR MORE, SENSITIVE OR HIGH VALUE CARGO**

Any missing item of cargo valued by the Air Cargo Operator at \$1000 or more, which after the Air Cargo Operator's investigation is determined to be lost or stolen, must be reported by the Air Cargo Operator to the Port Authority Police at the Airport immediately. Any loss or theft of high-value cargo or sensitive cargo must be reported to the Port Authority Police at the Air Terminal Airport immediately. At a Heliport, missing items of cargo and losses or thefts of high-value or sensitive cargo must be reported to the Manager or his representative.

**G. POLICE ESCORT**

Air Cargo Operators by timely notice shall request an escort from the Port Authority Police at the Air Terminal for ground transportation between points on the Air Terminal for the following:

1. High-value cargo valued at \$25,000 or more
2. Sensitive cargo valued at \$25,000 or more

In addition, Air Cargo Operators are encouraged to request a Police escort for sensitive cargo valued at less than \$25,000. Air Cargo Operators need not request a Police escort for high value shipments transported via armored vehicle.

**H. HOURS OF OPERATION**

Each Air Cargo Operator shall designate the normal hours of operation of its enclosed portion of the Air Cargo Handling Area, and shall notify the Port Authority Police at the Airport of such designation. At a Heliport, the operator shall notify the Manager or his representative.

**I. HIGH VALUE CARGO STORAGE AREA**

Each Air Cargo Operator shall designate a high-value cargo storage area with limited access, and shall notify the Port Authority Police at the Airport or the Manager, or his representative, at a Heliport of such designation. Such designation will not be required if the Air Cargo Operator obtains the written concurrence of the Manager. A log shall be maintained by the Air Cargo Operator for this area, to record by date and time whenever a high-value cargo item is stored or removed from the area, and the person storing or removing the same. The log shall include airway bill numbers of the items entered into the high-value cargo area. Where an item is not identifiable by an airway bill number, a description of the item and the consignee's address must be noted. The log shall record the number of pieces, the date, time in and out, and signatures of persons entering the high-value cargo storage area.

**J. SECURING EQUIPMENT & TRUCKS CONTAINING CARGO**

Ground handling equipment and trucks containing cargo, if capable of being closed and locked, shall be closed and locked by the Air Cargo Operator when unattended. If not capable of being closed and locked, the cargo shall be covered and secured.

## **XI. WORK PROCEDURE FIRE HAZARDS**

### **A. REQUIRED PERMITS**

#### **1. Cutting & Welding Permit (PA2133)**

No person shall conduct any hot work on any part of an Air Terminal except in areas within leased premises specifically designated for such use by the Manager, without first obtaining a Cutting and Welding Permit from the Manager.

No such permit will be issued for work:

- (a) within an aircraft hangar,
- (b) within a cargo building,
- (c) within any Fuel Storage Area, fuel truck parking or service area, or
- (d) upon any components or section of the hydrant fuel distribution system.

except when such work is required for repair of the aforementioned areas, hangars, structures, or fuel systems.

#### **2. Special Hot Work Permit (PA2847)**

A special hot work permit must also be obtained from the Manager for operations required:

- (a) in tank truck parking and service areas, and
- (b) in fuel storage areas whenever work is to be performed on components of the hydrant fuel distribution system.

### **B. OPEN FIRES**

No person shall start any open fires of any type, including flare pots, torches or fires in containers formerly used for oil, paint, and similar materials on any part of an air terminal without permission of the Manager.

## XII. ENVIRONMENTAL PROTECTION

### A. COMPLIANCE WITH LAW & PORT AUTHORITY AGREEMENTS

Each person occupying or using any portion of an Air Terminal or conducting any business or trade at an Air Terminal shall implement and comply with all environmental requirements, programs and practices that any federal, state or local governmental agency, authority, department or board has required the Port Authority and its tenants or other occupants to implement at the Air Terminal or which pursuant to an agreement with any federal, state or local governmental agency, authority, department or board, the Port Authority has agreed to implement at the Air Terminal. These environmental requirements can be obtained from the Manager.

### B. UREA

Urea shall not be used at an air terminal without the permission of the manager.

### **XIII. HAZARDOUS MATERIALS**

#### **A. HAZARDOUS, POISONOUS, EXPLOSIVE, DANGEROUS & RADIOACTIVE MATERIALS**

No person shall, keep, store, handle, use, dispense, or transport at, in or upon an Air Terminal any material which is defined by Federal Regulation or the International Civil Aviation Organization as hazardous, poisonous, explosive, or radioactive at such time or place or in such manner or condition as to create an unreasonable risk of harm to persons or property. Such materials may not be kept, stored, handled, used, dispensed or transported at an Air Terminal without the prior permission of the Port Authority, and without complying with all applicable laws and regulations.

#### **B. HAZARDOUS WASTE**

Any person or entity that generates, stores, and/or transports hazardous waste (as defined by the Resource Conservation and Recovery Act, and Title 40, Code of Federal Regulations, Part 261, or any amendments thereto or successor legislation and regulations) shall do so in strict compliance with all local, State, and federal regulations, laws rules and requirements. Any waiver of such regulations or legal requirements or of any part thereof by an authorized government authority shall not constitute or be construed to constitute a waiver of these Rules or imply that the Port Authority has granted permission to keep, generate, store or transport hazardous waste in or upon an Air Terminal. The Port Authority shall be notified of, and provided copies of, pertinent local, State and federal permits required for storage and transport of hazardous waste.

#### **C. WEAPONS OF WAR**

No person shall, at any time, store, keep, handle, use or transport at, in or upon an Air Terminal any weapon of war employing atomic fission or radioactive force.

#### **D. CIGARETTE LIGHTERS & LIGHTER FLUID**

The sale and carriage of cigarette lighters with flammable liquid reservoirs (or other similar ignition devices), and containers of lighter fluid for the refilling of such lighters, is prohibited within Air Terminals.

#### XIV. CONDITIONS FOR USE OF PORT AUTHORITY OPERATED SPACES

##### A. EMERGENCIES

Unless a permit or grant of permission provides otherwise, the Manager may refuse the grant of any permission or permit, or suspend any permission or permit already granted, in the event of an emergency. An emergency is any condition which would create a dangerous condition or substantially interfere with airport operations (including pedestrian, vehicle, or rail traffic, aircraft movement, luggage or cargo movement, security procedure, government inspection, clean-up, repair, construction, or environmental clean-up or corrective actions, or government operations), such as a snowstorm, hurricane, flooding, aircraft or vehicular accident, power failure, or strike.

##### B. SLEEPING

Except with prior permission from the Manager, no person may sleep in any Air Terminal area or vehicle. In addition, no person may lie on any chair, bench, seat or sit down or lie on any floors, stairs or landings, or any place where such activity may be hazardous to such person or to others, or may interfere with the operation of the Air Terminal, pedestrian flow or comfort of Air Terminal users, tenants, or permittees.

##### C. SKATEBOARDING, ROLLER-SKATING, BICYCLE RIDING, ETC.

Skateboarding, roller-skating, or bicycle riding is prohibited. No person shall skateboard, roller-skate or ride a bicycle, scooter or any self-propelled vehicle or device on or through any part of the terminals, parking lots, Airport Buses or Rail Transportation Systems.

##### D. NOISE

No person shall make or cause to be made, any sound louder than 80 decibels, measured at a one meter distance, unless such sound is produced by an emergency or warning device used in the manner and the circumstances for which it was designed. The operation of gasoline or diesel powered construction equipment, pneumatic tools, and other devices used in the conduct of construction, repair and maintenance activities pursuant to an agreement with or permit issued by the Port Authority shall not be subject to this rule, provided that such devices are authorized for use in accordance with the applicable provisions of such permit or contract.

##### E. SOUND REPRODUCTION DEVICES

No person shall operate or use any personal radio, television, phonograph, tape recorder or other sound reproduction device in a Port Authority operated area in such manner that the sound reproduction device is audible to another person.

##### F. PROHIBITED CONDUCT

- (a) The intentional touching of any person without his or her consent.
- (b) The performance of any ceremony, speech, song, carrying of any sign or placard, or other such activity which constitutes a danger to persons or

property, or which interferes with the orderly formation and progression of waiting lines, or which interferes with any of the following: pedestrian and/or vehicular travel; the issuance of tickets or boarding passes or equivalent documents for air or ground transportation; luggage or cargo movement or handling; the entry to an exit from vehicles; security procedures; government inspection procedures; cleaning, maintenance, repair or construction operations.

- (c) The intentional leaving of any brochure, flyer, or any other item intended for distribution unattended.
- (d) The attachment of any placard, sign, circular or other written material, on any wall post, counter, billboard, or any other surface.
- (e) The erection of any table, chair, mechanical device or other structure, except as provided in the chapter describing "Commercial Activity."

## XV. COMMERCIAL AND NON-COMMERCIAL ACTIVITY

### A. COMMERCIAL ACTIVITY

Commercial activity at locations in Port Authority Air Terminals is subject to the following conditions and restrictions:

1. **Compliance with Rules & Regulations**  
Any permission granted by the Port Authority directly or indirectly, expressly or by implication, to any person or persons, to enter upon or use any air terminal or any part thereof (including aircraft operators, crew members and passengers, spectators, sightseers, pleasure and commercial vehicles, officers and employees of airlines, lessees and other persons occupying space at such air terminal, persons doing business with the Port Authority, its lessees, sub-lessees and permittees, and all other persons whatsoever whether or not of the type indicated), is conditioned upon compliance with the Port Authority Rules and Regulations.
2. **Port Authority Consent**  
No person shall carry on any commercial activity at any Air Terminal including, but not limited to, the sale of merchandise or services, without the consent of the Port Authority.
3. **Vending Machines**  
No vending machines for the sale of goods shall be permitted in the public areas of John F. Kennedy International, Newark International and LaGuardia Airports which are not occupied by a lessee, licensee or permittee. This prohibition shall not apply to vending machines in restrooms selling personal hygiene items.
4. **Sightseeing Flights**  
No person shall conduct sightseeing flights at any Air Terminal except under permit from the Port Authority. By sightseeing flights is meant flights on which passengers are carried for hire, and which originate and terminate at the same terminal with no intermediate stops other than emergency stops.
5. **Storage of Cargo & Property without Permission**  
No person shall use any area of an Air Terminal for storage of cargo or other property without permission of the Manager. If, notwithstanding the above prohibition, a person uses such areas for storage as aforesaid, without first obtaining such permission, then the Manager shall have authority to order the cargo or other property removed or to cause the same to be removed and stored at the expense of the owner or consignee thereof, without liability for damage thereto arising from or out of such removal or storage.
6. **Parking & Storage of Aircraft without Permission**  
Unless otherwise provided in a lease or other agreement, no person shall use any area of an Air Terminal (other than the public aircraft parking and storage areas), for parking and storage of aircraft without permission of the Manager. If, notwithstanding the above prohibition, a person uses such areas for parking or storage as aforesaid, without first obtaining such permission, then the Manager shall have authority to order the aircraft removed or to cause the same to be removed and stored

at the expense of the owner thereof, without liability for damage thereto arising from or out of such removal or storage.

7. **Payment of Air terminal Fees & Charges**

No aircraft operator shall land or conduct an aircraft operation or use an Air Terminal except as otherwise provided by agreement with the Port Authority and except upon the payment of such fees and charges as may from time to time be prescribed or agreed to by the Port Authority. All charges due to the Port Authority for the use of Air Terminals shall be payable in cash unless credit arrangements satisfactory to the Port Authority have been made in advance or permission has been secured for payment by check.

**B. NON-COMMERCIAL ACTIVITY**

Non-commercial activity at locations in Port Authority Air Terminals which are not occupied by a tenant, lessee, licensee or permittee is subject to the following conditions and restrictions:

1. **Conduct Prohibited Inside Buildings & Structures**

The following conduct is prohibited within the interior areas of buildings or structures at an Air Terminal if conducted by a person to or with passers-by in a continuous or repetitive manner:

- (a) The distribution of any merchandise, including but not limited to jewelry, food stuffs, candles, flowers, badges and clothing.
- (b) The solicitation and receipt of funds.
- (c) The provision of any service.
- (d) The distribution of any raffle ticket or entry in a game of chance.
- (e) The conduct of a game of chance.

2. **Conditions for Distribution of Literature**

The continuous or repetitive distribution of flyers, brochures, pamphlets, books or any other printed or written material is prohibited within the interior areas of buildings or structures at an Air Terminal which are controlled or operated by the Port Authority unless conducted pursuant to the following provisions of this rule:

- (a) No person may distribute literature on behalf of himself or herself, another individual or an organization, unless that person's name has been submitted in writing no less than 24 hours earlier to the Manager .
- (b) Each time a person enters a Port Authority controlled or operated Air Terminal to distribute literature pursuant to this rule, he or she must report his arrival to the manager, as set forth below. If a person's name has not been submitted to the manager pursuant to section 2(a), the person will not be permitted to distribute literature pursuant to this rule. Each time a person leaves a Port Authority airport terminal after distributing literature, he or she must report his departure to the Manager, as set forth below.
  - (i) Arrivals and departures must be reported in person at to the Airport Operations Duty Manager's Office, located on the first floor of the Central Terminal Building. All individuals distributing literature shall

sign in prior to beginning the distribution of literature and sign out upon completion.

- (ii) Newark International Airport: Arrivals and departures must be reported by telephone to the Duty Manager of Terminal B at (973) 961-6995 prior to distributing literature, and upon completion.
- (c) Each person distributing literature on behalf of an organization must display an identification badge that states the name of the organization represented. The badge shall be worn on the upper left breast of the outermost garment and be clearly visible.
- (d) The distribution of literature pursuant to this rule is permitted only at the locations set forth in an appendix to these Rules and Regulations. Access to these locations will be granted on a first come, first served basis each day upon request. Locations containing time limitations are available only at the times set forth. No more than three representatives of a single organization or person are permitted to distribute literature at any one location at any one time.
- (e) A table may be used in connection with the distribution of literature pursuant to this rule in the following manner only:
  - (i) Only one table may be used in each location, on a first-come, first-serve, basis.
  - (ii) At LaGuardia Airport, no table may be used that exceeds 52 inches in length or 30 inches in width.
  - (iii) At Newark International Airport, no table may be used other than a table supplied by the Port Authority. Such tables are available upon request on a first-come, first-serve, basis.
- (f) The Manager may prohibit the distribution of literature otherwise permitted by this rule in the event of a snowstorm, aircraft accident, air traffic delay, power failure, transportation strike or other event or condition under which the distribution of literature in such space creates a danger to persons or property, interferes with the orderly formation and progression of waiting lines, or interferes with any of the following: pedestrian and/or vehicular travel; the issuance of tickets or boarding passes or equivalent documents for air or ground transportation; luggage or cargo movement or handling; the entry to and exit from vehicles; security procedures; government inspection procedures; cleaning, maintenance, repair or construction operations.

# **SCHEDULE OF CHARGES FOR AIR TERMINALS**

Revised February 2004

Issued By  
Aviation Department  
**THE PORT AUTHORITY OF NY & NJ**  
225 Park Avenue South  
9<sup>th</sup> Floor  
New York, NY 10003

EXHIBIT Z-2

# SCHEDULE OF CHARGES FOR AIR TERMINALS

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## Foreword

Under the terms of agreements with the City of New York, dated April 17, 1947, and with the City of Newark, dated October 22, 1947, The Port Authority of New York and New Jersey is responsible for the improvement, development, operation and maintenance of LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport.

The Port Authority of New York and New Jersey under the terms of purchase agreements with the owners of property and buildings comprising Teterboro Airport acquired this airport on April 2, 1949. The airport has been operated and maintained by The Port Authority of New York and New Jersey and AMPORTS, Inc., since December 1, 2000. Before this, Teterboro Airport was under the operation of Johnson Controls World Service, Inc.

The Port Authority-Downtown Heliport was constructed on a site leased from the City of New York, and went into operation on December 8, 1960.

Permits for occupancy and privileges at LaGuardia, John F. Kennedy International, Newark Liberty International and Teterboro Airports may be obtained upon application to The Port Authority of New York and New Jersey, Aviation Department, Properties Division, 241 Erie Street, Jersey City, New Jersey 07310.

The managers of LaGuardia, John F. Kennedy International, Newark Liberty International and Teterboro Airports and the Heliport are authorized to act for the undersigned in connection with the enforcement of all rules and regulations applying to these airports.

William R. DeCota  
Director  
Aviation Department

# THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

## Commissioners

Anthony R. Coscia, Chairman

Charles A. Gargano, Vice Chairman

Bruce A. Blakeman

Michael J. Chasanoff

Davis S. Mack

Raymond M. Pocino

Anthony J. Sartor

David S. Steiner

Henry R. Silverman

Jack G. Sinagra

Anastasia M. Song

## Executive Director

Joseph J. Seymour

## PORT AUTHORITY AIR TERMINALS

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Flushing, New York 11371  
Telephone: 1-718-533-3457

TETERBORO AIRPORT  
399 Industrial Avenue  
Teterboro, New Jersey 07608  
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JOHN F. KENNEDY  
INTERNATIONAL AIRPORT  
Jamaica, New York 11430  
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PORT AUTHORITY DOWNTOWN  
MANHATTAN HELIPORT  
Pier 6, East River  
New York, New York 10004  
Telephone: 1-212-435-6358

NEWARK LIBERTY INTERNATIONAL  
Newark, New Jersey 07114  
Telephone: 1-973-961-6190

## PREFACE

This book is published as a guide to the Schedule of Charges for Air Terminals for the benefit of airport patrons and tenants, and of Port Authority staff. It is not a codification of the resolutions of the Port Authority Board of Commissioners and its Committees, and must not be construed as such.

### *Interpretation*

Any words or phrases used herein which are especially designed for the Schedule of Charges in the Resolution of the Committee on Operations of The Port Authority of New York and New Jersey adopted July 12, 1951, establishing rules and regulations governing the operation of Port Authority Air Terminals (which appears at page 22 et seq. of the official minutes of that date), as amended, shall be read and construed in accordance with such special definitions.

### *Credit Arrangements*

All charges under the Schedule of Charges published herein shall be payable in cash as they are incurred unless credit arrangements satisfactory to the Treasurer have been made in advance including, but not limited to, the payment of all arrears in accounts with the Port Authority. Any airport patron or tenant in arrears in its accounts with the Port Authority may be denied the use of any Port Authority Facility based thereon.

# LAGUARDIA AIRPORT - SCHEDULE OF CHARGES For The Use of The Public Ramp and Apron Area, Public Aircraft Parking and Storage Areas And Related Services

## I. Public Landing Area Charges

1. (a) Except as set forth in paragraph 1.(b) below, the charge for each aircraft takeoff shall be \$6.55 (effective 01/1/03) per thousand pounds of maximum gross weight, prorated per fraction thereof, provided that the minimum charge for each such takeoff shall be:.....\$25.00\*;

\* With the exception of scheduled commuter air carriers maintaining a schedule of one or more round trips per day, at least five days a week into a single airport, pursuant and subject to a Port Authority permit, the minimum fee for each such take-off shall be \$20, provided that the minimum fee for each such take-off by an aircraft which either takes-off or lands (or both) between the hours of 8:00 A.M. and 9:00 P.M. shall be \$50.

- (b) For each aircraft either landing or taking off or both landing and taking-off between the hours of 8:00 A.M. and 9:00 P.M. every day, there shall be an additional charge of \$100 for such landing or take-off (but not both) in addition to the charge based on maximum gross weight.
  - (c) The additional charge of \$100 set forth in paragraph 1.(b) above shall not apply to helicopters, scheduled commuters or airlines.
2. Maximum gross weight for takeoff shall mean the maximum gross weight which an aircraft may lawfully have, at the time of leaving the ground at any airport in the United States (under the most favorable conditions which may exist at such airport and without regard to special limiting factors arising out of the particular time, place or circumstances of the particular takeoff, such as runway length, air temperature, or the like.) If such maximum gross weight is not fixed by or pursuant to law then said phrase shall mean the actual gross weight at takeoff.
  3. In the event an aircraft departs from the Air Terminal for another destination, which aircraft, without making a stop to another airport, is forced to land at the Air Terminal because of meteorological conditions, operating causes, or for any similar emergency or precautionary reason, such charge shall not be payable in connection with the subsequent departure of such aircraft or a substituted aircraft; provided, however, that on such subsequent departure the aircraft or substituted aircraft is destined for the same point and transports the same or substantially the same load.

## II. Public Passenger Ramp and Apron Area Charges

1. For an aircraft using the public passenger ramp and apron area designated by the Port Authority of New York and New Jersey for loading and unloading passengers, their baggage, or mail, while such aircraft is actually loading and unloading.....No Charge.
2. For an aircraft remaining on the public passenger ramp and apron area for more than 10 minutes after the Manager of the Air Terminal has directed that such aircraft be removed because of congestion of aircraft upon the said area, the urgency for making space available for other aircraft, snow removal, or other operational requirements, which said notice shall not in any event be given to an aircraft which has been assigned a parking position until the aircraft has been on such area for 20 minutes:

For the first 15 minutes or fraction thereof	\$ 50.00
For each additional 15 minutes or fraction thereof	\$100.00

## III. Public Aircraft Parking and Storage Area Charges (effective 2/1/93)

For aircraft parked or stored in the Public Aircraft parking and storage areas:

1. Free Time  
For time not exceeding one hour No Charge
2. Additional Time For each eight hours  
Or fraction thereof
  - (a) For each aircraft not exceeding 100,000 pounds maximum gross weight for take-off... \$25.00
  - (b) For each aircraft exceeding 100,001 pounds but not exceeding 200,000 pounds of maximum gross weight for take-off... \$40.00
  - (c) For each additional 25,000 pounds or fraction thereof in excess of 200,000 pounds maximum gross weight for take-off an additional... \$12.00
3. Maximum gross weight for take-off shall have the meaning set forth in the Public Landing Area Charges of the Schedule of Charges.
4. Operators of aircraft who have entered into agreements with the Port Authority of New York and New Jersey for the exclusive use of a portion of the public aircraft parking and storage areas sufficient to accommodate their aircraft, shall not be subject to payment of the charges set forth in this section.

#### ***IV. Free Use of Air Terminal***

Notwithstanding the provisions of any Schedule of Charges heretofore adopted for the use of the public areas at LaGuardia Airport, no charge shall be made for the use of such areas at such Air Terminal by the following aircraft:

1. Aircraft owned, leased or chartered by the agencies of the following governmental entities:
  - a. The United States of America provided, however, that during any calendar month;
    - 1) The total number of movements (counting each landing as a movement and each takeoff as a movement) of such government aircraft does not exceed 300, and
    - 2) The gross accumulative weight of such government aircraft (the total movements multiplied by gross certified weights of such aircraft) does not exceed five million pounds.
  - b. The State of New York and their agencies.
  - c. The State of New Jersey and their agencies.
  - d. States other than New York and New Jersey and their agencies with whom the Port Authority may enter into reciprocal fee-waiver agreements wherever practical at the discretion of the Director of Aviation.
  - e. Local governmental agencies within the Port District.
  - f. Any local governmental agency, when there is a reciprocal agreement between that agency and The Port Authority of New York and New Jersey.
2. Aircraft owned, leased or chartered by The Port Authority of New York and New Jersey.

#### ***V. Special Terminal Charge***

For each 8 hour police tour, or at the discretion of the Airport Manager any portion thereof, for providing police security requested by an airline or required by federal regulation when the airline in question has no prior agreement with the Port Authority as to the provision of such service.....\$740.00 (effective 6/1/01).

The Executive Director may revise the rate at his discretion.

#### ***VI. Passenger Facility Charge (PFC)***

Per F.A.A. Regulation 158.43 of 14 CFR, for each eligible passenger (Domestic or International) departing from any terminal.....\$3.00 (effective 10/1/92.)

# LAGUARDIA AIRPORT - SCHEDULE OF CHARGES For The Use of Public Vehicular Parking Areas, Metered Parking Areas, and Spectator Promenades

## 1. PUBLIC VEHICULAR PARKING AREAS

1. a) The fee for parking automotive vehicles in Parking Garage and Lots 1, 4, 5, 6, and 7 shall be as follows:

Up to 1/2 hour or part	\$ 3.00
Up to 1 hour	\$ 6.00

Thereafter, \$3.00 each hour or part thereafter to a maximum of \$24.00 for each 24 hours.

- b) The fees for parking automotive vehicles in Long Term Lot 3 shall be as follows:

Each of first two 24 hour periods or part	\$ 24.00
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Thereafter \$5.00 for each 12 hour period or part.

The fee for parking vehicles of disabled persons shall be the same as the lowest rate available at the airport. Spaces for disabled persons are identified by the international symbol for the disabled. Vehicles parked in these specially designated spaces must display state or municipal identification or they will be towed away. For additional information, write The Port Authority of New York and New Jersey, Aviation Communications Division, 225 Park Avenue South, 9<sup>th</sup> Floor, New York, NY 10003.

2. The foregoing Schedule of Charges for Parking Lots #1, 2(Garage), 3, 4, 5, 6 and 7 shall not apply to the following vehicles:

- a) Vehicles owned by the Port Authority.
- b) Vehicles carrying holders of annual passes issued by the Port Authority.
- c) For the first 24 hours of parking, vehicles carrying persons who present Port Authority Official Business Passes. At the expiration of the first 24-hour parking period the vehicular parking charge shall commence.
- d) For the first 4 hours of parking, vehicles carrying Port Authority employees who present personal passes issued by the Port Authority. At the expiration of the first 4-hour period in these lots (including the Parking Garage as of 12/23/93), the vehicular parking charge shall commence as of the time the vehicle was initially parked.
- e) For the first 24 hours of parking, vehicles carrying newsmen and photographers holding press passes. (Newsmen and photographers presenting press passes may make arrangements to park for an extended period of time by obtaining prior written permission for Port Authority Press parking permit from the Office of Media Relations or the Airport Manager.) At the expiration of the first 24 hour parking period the vehicular parking charge shall commence.
- f) For the first 24 hours of parking, company identified vehicles carrying employees of public utility companies provided these employees are on official business involving the Air Terminal at which parked. If such official business requires parking for more than 24 hours, prior permission

must be obtained from the Airport Manager. At the expiration of the first 24 hour parking period the vehicular parking charge shall commence.

- g) For the first 24 hours of parking, vehicles carrying federal, state or municipal police officers and health, fire, building, labor or sanitation inspectors on official business affecting the Air Terminal at which parked. If such official business requires parking for more than 24 hours, prior permission must be obtained from the Airport Manager. At the expiration of the first 24 hour parking period the vehicular parking charge shall commence.
- h) For the first 24 hours of parking, vehicles carrying employees of the Federal Aviation Administration, the Department of Transportation, the Federal Communications Commission and the National Transportation Safety Board on official business at a Port Authority Air Terminal. If such official business requires parking for more than 24 hours, prior permission must be obtained from the Airport Manager. (Federal employees of the above-mentioned federal agencies permanently stationed at a Port Authority Air Terminal shall not park without fee at any other place at the Air Terminal except in the parking area set aside for such employees unless their official duties require their presence elsewhere at a Port Authority terminal.) At the expiration of the first 24 hour parking period the vehicular parking charge shall commence.
- i) Vehicles carrying employees of those airport lessees and permittees whose leases and permits provide for parking without additional charge.
- j) Vehicles carrying as passengers or vehicles waiting to receive as passengers any one of the following persons and their official parties:
  - 1. The President of the United States, the Vice President of the United States, the Governors of the States of New York and New Jersey, the United States Senators for the States of New York and New Jersey, and United States Congressmen from the Port District;
  - 2. The Mayor of any municipality in which any Airport is totally or partially located;
  - 3. Chiefs of Staff of any branch of the military service and Chiefs of military missions;
  - 4. Foreign dignitaries of the rank of ambassador or consul-general or a rank equivalent to any of the above.
- k) Vehicles parked pursuant to the terms of a permit, lease or other agreement with the Port Authority.

## ***II. Metered Parking - Marine Air Terminal Lot 6***

- 1. The metered parking rate is \$.50 for each 15-minutes of parking to a maximum of 2 hours.

## ***III. Limousine Staging Parking - Lot 1***

- 1. The limousine staging rate for Lot 1 only is \$1.00 for up to 3 hours for authorized users only.

# JOHN F. KENNEDY INTERNATIONAL AIRPORT - SCHEDULE OF CHARGES For The Use Of The Public Landing Area, Public Passenger Ramp and Apron Area, Public Cargo Ramp and Apron Area and Public Aircraft Parking and Storage Area

## *I. Public Landing Area Charges*

1. (a) Except as set forth in paragraph 1.(b) below, the charge for each aircraft takeoff shall be \$5.25 (effective 01/01/03) per thousand pounds of maximum gross weight, provided that the minimum charge for each such takeoff shall be:.....\$25.00\*;  

\* With the exception of scheduled commuter air carriers maintaining a schedule of one or more round trips per day, at least five days a week into a single airport, pursuant and subject to a Port Authority permit, the minimum fee for each such take-off shall be \$20, provided that the minimum fee for each such take-off by an aircraft which either takes-off or lands (or both) between the hours of 3:00 P.M. and 10 P.M. shall be \$50.
- (b) For each aircraft either landing or taking off or both landing and taking-off between the hours of 3:00 P.M. and 10:00 P.M. every day there shall be an additional charge of \$100 in addition to the charge based on maximum gross weight.
- (c) The additional charge of \$100 set forth in paragraph 1.(b) above shall not apply to helicopters, scheduled commuters or airlines.
2. Maximum gross weight for takeoff shall mean the maximum gross weight which an aircraft may lawfully have, at the time of leaving the ground at any airport in the United States (under the most favorable conditions which may exist at such airport and without regard to special limiting factors arising out of the particular time, place or circumstances of the particular takeoff, such as runway length, air temperature, or the like.) If such maximum gross weight is not fixed by or pursuant to law, then said phrase shall mean the actual gross weight at takeoff.
3. In the event an aircraft departs from the Air Terminal for another destination, which aircraft, without making a stop at another airport, is forced to return to and land at the Air Terminal because of meteorological conditions, mechanical or operating causes, or for any similar emergency or precautionary reason, such charge shall not be payable in connection with the subsequent departure of such aircraft or a substituted aircraft; provided, however, that on such subsequent departure the aircraft or substituted aircraft is destined for the same point and transports the same or substantially the same load.

## II. Public Passenger Ramp and Apron Area Charges

1. For an aircraft remaining on the public passenger ramp and apron area adjacent to the International Arrivals Building for more than 10 minutes after the Manager of the Air Terminal has directed that such aircraft be removed because of congestion of aircraft on the said area, the urgency for making space available for other aircraft, snow removal, or other operational requirements, which said notice shall not in any event be given to an aircraft which has been assigned a parking position until the aircraft has been on such area for 20 minutes:

For the first 15 minutes or fraction thereof	\$ 50.00
For each additional 15 minutes or fraction thereof...	\$100.00

## III. Public Aircraft Parking and Storage Area Charges (effective 2/1/93)

For aircraft parked or stored in the public aircraft parking and storage areas:

1. Free Time  
Time not exceeding one hour... No Charge
2. Additional Time  
or fraction thereof For each eight hours
  - (a) For each aircraft not exceeding  
100,000 pounds maximum gross  
weight for take-off... \$25.00
  - (b) For each aircraft exceeding  
100,001 pounds but not  
exceeding 200,000 pounds of  
maximum gross weight for take-off... \$40.00
  - (c) For each additional 25,000  
pounds or fraction thereof  
in excess of 200,000  
pounds maximum gross weight  
for take-off an additional... \$12.00
3. Maximum gross weight for take-off shall have the meaning set forth in the Public Landing Area Charges of the Schedule of Charges.
4. Operators of aircraft who have entered into with The Port Authority of New York and New Jersey for the exclusive use of a portion of the public aircraft parking and storage areas sufficient to accommodate their aircraft, shall not be subject to payment of the charges set forth in this section.

#### ***IV. Free Use of Air Terminal***

Notwithstanding the provisions of any Schedule of Charges heretofore adopted for the use of the public areas at John F. Kennedy International Airport, no charge shall be made for the use of such areas at such Air Terminal by the following aircraft:

1. Aircraft owned, leased or chartered by the agencies of the following governmental entities:
  - a. The United States of America, provided, however that during any calendar month;
    - 1) The total number of movements (counting each landing as a movement and each takeoff as a movement) of such government aircraft does not exceed 300, and
    - 2) The gross accumulative weight of such government aircraft (the total movements multiplied by gross certified weights of such aircraft) does not exceed five million pounds.
  - b. The State of New York and their agencies.
  - c. The State of New Jersey and their agencies.
  - d. States other than New York and New Jersey and their agencies with whom the Port Authority may enter into reciprocal fee-waiver agreements wherever practical at the discretion of the Director of Aviation.
  - e. Local governmental agencies within the Port District.
  - f. Any local governmental agency, when there is a reciprocal agreement between that agency and The Port Authority of New York and New Jersey.
2. Aircraft owned, leased or chartered by The Port Authority of New York and New Jersey.

#### ***V. Special Terminal Charge***

For each 8 hour police tour, or at the discretion of the Airport Manager any portion thereof, for providing police security requested by an airline or required by federal regulation when the airline in question has no prior agreement with the Port Authority as to the provision of such service.....\$760.00 (effective 6/1/01)

The Executive Director may revise the rate at his discretion.

#### ***VI. Passenger Facility Charge (PFC)***

Per F.A.A. Regulation 158.43 of 14 CFR, for each eligible enplaned passenger (Domestic or International) departing from any terminal.....\$3.00 (effective 10/1/92)

# JOHN F. KENNEDY INTERNATIONAL AIRPORT - SCHEDULE OF CHARGES For The Use Of Public Vehicular Parking Areas, Employee Parking And Observation Deck

## I. Public Vehicular Parking Areas

1. (a) The fee for parking automotive vehicles in daily lots in the Central Terminal Area Green, Blue, Yellow, Orange, and Red Lots shall be as follows:

Up to 1/2 hour or part.....	\$ 3.00
Up to 1 hour.....	\$ 6.00

- (b) Thereafter, \$3.00 each hour or part thereafter to a maximum of \$24.00 for each 24 hours.

The fee for parking vehicles of disabled persons shall be the same as the lowest rate available at the airport. Spaces for disabled persons are identified by the international symbol for the disabled. Vehicles parked in these specially designated spaces must display state or municipal identification or they will be towed away. For additional information, write to The Port Authority of New York and New Jersey, Aviation Communications Division, 225 Park Avenue South, 9<sup>th</sup> Floor, New York, NY 10003.

- (c) The fee for parking automotive vehicles in the Long Term Parking Lot (Lot 9) shall be as follows:

Up to 12 hours or part	\$3.00
Up to 24 hours or part	\$10.00
Each additional 12 hour period or part	\$5.00

- (d) The fee for parking automotive vehicles in Employee Parking Lot 8 shall be as follows:

For each month, \$30.00 per vehicle, payable in advance by the employer.

There shall be a penalty fee of \$30.00 for a lost parking lot entrance gate card, payable upon notification by the employer.

2. The foregoing Schedule of Charges shall not apply to the vehicles:

- (a) Vehicles owned by the Port Authority.
- (b) Vehicles carrying holders of annual passes issued by the Port Authority.
- (c) For the first 24 hours of parking, vehicles carrying persons who present Port Authority Official Business Passes. At the expiration of the first 24-hour parking period the vehicular parking charges shall commence.

- (d) For the first 24 hours of parking, vehicles carrying Port Authority employees who present personal passes issued by the Port Authority, with the exception of Lots 1, 2, 3, 4, 5 and 7 at Kennedy International Airport, where the free parking privilege is limited to 4 hours; with the further exception of the green, blue, orange and red parking lots (formerly lots 1, 2, 3, 4, 5 and 7) at Kennedy International Airport, where there is no free parking privilege. At the expiration of the first 4-hour period in the green, blue, orange, and red parking lots at Kennedy International Airport, the vehicular parking charges shall commence as of the time the vehicle was initially parked; and in all other lots the vehicular parking charge shall commence at the expiration of the first 24-hour parking period.
- (e) For the first 24 hours of parking, vehicles carrying newsmen and photographers holding press passes. (Newsmen and photographers presenting press passes may make arrangements to park for an extended period of time by obtaining prior permission from the Airport Manager.) At the expiration of the first 24-hour parking period the vehicular parking charge shall commence.
- (f) For the first 24 hours of parking, company identified vehicles carrying employees of public utility companies provided these employees are on official business involving the Air Terminal at which parked. If such official business requires parking for more than 24 hours, prior permission must be obtained from the Airport Manager. At the expiration of the first 24-hour parking period the vehicular parking charge shall commence.
- (g) For the first 24 hours of parking, vehicles carrying federal, state or municipal police officers and health, fire, building, labor or sanitation inspectors on official business affecting the Air Terminal at which parked. If such official business requires parking for more than 24 hours, prior permission must be obtained from the Airport Manager. At the expiration of the first 24-hour parking period the vehicular parking charge shall commence.
- (h) For the first 24 hours of parking, vehicles carrying employees of the Federal Aviation Administration, The Department of Transportation, The Federal Communications Commission and the National Transportation Safety Board on official business at a Port Authority Air Terminal. If such official business requires parking for more than 24 hours, prior permission must be obtained from the Airport Manager. (Federal employees of the above-mentioned federal agencies permanently stationed at a Port Authority Air Terminal shall not park without fee at any other place at the Air Terminal except in the parking area set aside for such employees unless their official duties require their presence elsewhere at a Port Authority terminal.) At the expiration of the first 24-hour parking period the vehicular parking charge shall commence.
- (i) Vehicles carrying employees of those airport lessees and permittees whose leases or permits provide for parking without additional charge.
- (j) Vehicles carrying as passengers or vehicles waiting to receive as passengers any one of the following persons and their official parties:
  1. The President of the United States, the Vice President of the United States, the Governors of the States of New York and New Jersey, the United States Senators for the States of New York and New Jersey, and United States Congressmen from the Port District;
  2. The Mayor of any municipality in which any Airport is totally or partially located;
  3. Chiefs of Staff of any branch of the military service and Chiefs of military missions;
  4. Foreign dignitaries of the rank of ambassador or counsel-general or a rank equivalent to any of the above.

- (k) The foregoing Schedule of Charges shall not apply, in Parking Lot 6 Delta Rooftop Parking, to the following vehicles:
1. Vehicles carrying holders of annual passes issued by the Port Authority.
  2. For the first 24 hours of parking, vehicles carrying persons who present Port Authority Official Business Passes. At the expiration of the first 24-hour parking period the vehicular parking charge shall commence.
  3. Vehicles carrying as passengers or vehicles waiting to receive as passengers any one of the following persons and their official parties:
    - a. The President of the United States, the Vice President of the United States, the Governors of the States of New York and New Jersey, the United States Senators for the States of New York and New Jersey, and United States Congressmen from the Port District;
    - b. The Mayor of any municipality in which any Airport is totally or partially located;
    - c. Chiefs of Staff of any branch of the military service and Chiefs of military missions;
    - d. Foreign dignitaries of the rank of ambassador or consul-general or a rank equivalent to any of the above.
  4. For the first 6 hours of parking, vehicles carrying newsmen and photographers holding press passes. Newsmen and photographers presenting press passes may make other arrangements to park for an extended period of time at the airport by obtaining prior permission from the Airport Manager. At the expiration of the first 6-hour parking period in Lot 6 the vehicular parking charge shall commence.
- (l) Vehicles parked pursuant to the terms of a permit, lease or other agreement with the Port Authority.

# NEWARK LIBERTY INTERNATIONAL AIRPORT - SCHEDULE OF CHARGES For The Use Of The Public Landing Area, and Related Areas and Services

## *I. Public Landing Area Charges*

1. (a) Except as set forth in paragraph 1.(b) below, the charge for each aircraft takeoff shall be \$5.65 (effective 01/1/04) per thousand pounds of maximum gross weight, prorated per fraction thereof, provided that the minimum charge for each such takeoff shall be as follows:  
.....\$25.00\*;

Notwithstanding the provisions of any Schedule of Charges heretofore adopted for the use of the public areas at Newark International Airport, no charge shall be made for the use of such areas at such Air Terminal by the following aircraft:

\* With the exception of scheduled commuter air carriers maintaining a schedule of one or more round trips per day, at least five days a week into a single airport, pursuant and subject to a Port Authority permit, the minimum fee for each such take-off shall be \$20, provided that the minimum fee for each such take-off by an aircraft which either takes-off or lands (or both) between the hours of 8:00 A.M. and 10:00 A.M. and between the hours of 5:00 P.M. and 10:00 P.M. shall be \$50.

- (b) For each aircraft either landing or taking off or both landing and taking-off between the hours of 8:00 A.M. and 10:00 A.M. and between the hours of 5:00 P.M. and 10:00 P.M. every day, there shall be a charge of \$100 in addition to the charge based on maximum gross weight.
  - (c) The additional charge of \$100 set forth in paragraph 1.(b) above shall not apply to helicopters, scheduled commuters or airlines.
2. Maximum gross weight for takeoff shall mean the maximum gross weight which an aircraft may lawfully have, at the time of leaving the ground at any airport in the United States (under the most favorable conditions which may exist at such airport and without regard to special limiting factors arising out of the particular time, place or circumstances of the particular takeoff, such as runway length, air temperature, or the like.) If such maximum gross weight is not fixed by or pursuant to law, then said phrase shall mean the actual gross weight at takeoff.
    - (a) In the event an aircraft departs from the Air Terminal for another destination, which aircraft, without making a stop to another airport, is forced to land at the Air Terminal because of meteorological conditions, operating causes, or for any similar emergency or precautionary reason, such charge shall not be payable in connection with the subsequent departure of such aircraft or a substituted aircraft; provided, however, that on such subsequent departure the aircraft or substituted aircraft is destined for the same point and transports the same or substantially the same load.

## *II. Public Ramp and Apron Area Charges*

1. For an aircraft remaining on the public ramp and apron area for more than 10 minutes after the Manager of the Air Terminal has directed that such aircraft be removed because of congestion of aircraft upon the said area, the urgency for making space available for other aircraft, snow removal, or other operational requirements, which said notice shall not in any event be given to

an aircraft which has been assigned a parking position until the aircraft has been on such area for 20 minutes: (effective 10/1/90)

For the first 15 minutes or fraction thereof.....	\$500.00
For each additional 15 minutes or fraction thereof....	\$1,000.00

(effective 5/1/00)

### ***III. Public Aircraft Parking and Storage Area Charges (effective 2/1/93.)***

For aircraft parked or stored in the public aircraft parking and storage areas:

1. Free Time  
For time not exceeding one hour... No Charge
2. Additional Time  
For each eight hours or fraction thereof
  - (a) For each aircraft not exceeding 100,000 pounds maximum gross weight for take-off... \$25.00
  - (b) For each aircraft exceeding 100,001 pounds but not exceeding 200,000 pounds of maximum gross weight for take-off... \$40.00
  - (c) For each additional 25,000 pounds or fraction thereof in excess of 200,000 pounds maximum gross weight for take-off an additional... \$12.00
3. Maximum gross weight for take-off shall have the meaning set forth in the Public Landing Area Charges of the Schedule of Charges.
4. Operators of aircraft who have entered into agreements with The Port Authority of New York and New Jersey for the exclusive use of a portion of the public aircraft parking and storage areas sufficient to accommodate their aircraft, shall not be subject to payment of the charges set forth in this section.

### ***IV. Free Use of Air Terminal***

Notwithstanding the provisions of any Schedule of Charges heretofore adopted for the use of the public areas at Newark Liberty International Airport, no charge shall be made for the use of such areas at such Air Terminal by the following aircraft:

1. Aircraft owned, leased or chartered by the agencies of the following governmental entities:
  - a. The United States of America provided, however, that during any calendar month;
    - 1) The total number of movements (counting each landing as a movement and each takeoff as a movement) of such government aircraft does not exceed 300, and
    - 2) The gross accumulative weight of such government aircraft (the total movements multiplied by gross certified weights of such aircraft) does not exceed five million pounds.
  - b. The State of New York and their agencies.

- c. *The State of New Jersey and their agencies.*
  - d. *States other than New York and New Jersey and their agencies with whom the Port Authority may enter into reciprocal fee- waiver agreements wherever practical at the discretion of the Director of Aviation.*
  - e. *Local governmental agencies within the Port District.*
  - f. *Any local governmental agency, when there is a reciprocal agreement between that agency and The Port Authority of New York and New Jersey.*
2. *Aircraft owned, leased or chartered by The Port Authority of New York and New Jersey.*

***V. 1. Federal Inspection Space Charges Terminal B (International)***

For each passenger disembarking from an aircraft and using space made available for the inspection and examination of aircraft passengers and their property by the Bureau of Customs, the Immigration and Naturalization Service, the Public Health Service, the Bureau of Entomology and Plant Quarantine and other governmental agencies.....\$13.50 (effective 1/12/96)

***V. 2. Terminal B - General Terminal Charge.***

For each passenger (Domestic or International) arriving or departing at the Terminal B International Facility \$5.50 (effective 4/11/96)

The cumulative charges stated in V.1 and V.2 shall be no less than \$50.00 for each aircraft arriving at or departing from the airport via Terminal B International Facility.

***VI. Passenger Facility Charge (PFC)***

Per F.A.A. Regulation 158.43 of 14 CFR, for each eligible enplaned passenger (Domestic or International) departing from any terminal.....\$3.00 (effective 10/1/92)

***VII. Special Terminal Charge***

For each 8 hour police tour, or at the discretion of the Airport Manager any portion thereof, for providing police security requested by an airline or required by federal regulation when the airline in question has no prior agreement with the Port Authority as to the provision of such service.....\$987.00 (effective 1/1/02)

The Executive Director may revise the rate at his discretion.

### ***VIII. AirTrain (formerly Monorail) Charge***

To recover the costs of constructing and operating the airport AirTrain (formerly monorail) system, the charge for each passenger aircraft utilizing the central terminal buildings shall be \$2.35 (effective 1/1/04) per thousand pounds of maximum gross takeoff weight.

### ***IX. Terminal B (International) Departure Ticket Counter Charge***

For each shared departure ticket counter position with a baggage belt.....\$5.60 per hour and for each shared departure ticket counter position without a baggage belt.....\$4.25 per hour (effective 10/1/98)

# NEWARK LIBERTY INTERNATIONAL AIRPORT - SCHEDULE OF CHARGES - For The Use Of Public Vehicular Parking Areas

## *I. Public Vehicular Parking Areas*

- 1 a. The fee for parking automotive vehicles in Short Term Lots A, B, C shall be as follows:

Up to 1/2 hour or part.....\$3.00  
Up to 1 hour.....\$6.00

Thereafter, \$3.00 each hour or part thereof to a maximum of \$30.00 for each 24 hours.

- b. The fee for Daily parking automotive vehicles in P1, P3, and P4 shall be as follows:

Up to 1/2 hour or part.....\$3.00  
Up to 1 hour .....\$6.00

Thereafter, for each succeeding hour or part an additional \$3 to a maximum of \$20.00 for each 24 hours.

The fee for parking vehicles of the disabled shall be the same as the lowest rate available at the airport. Spaces for disabled persons are identified by the international symbol for the disabled. Vehicles parked in these specially designated spaces must display state or municipal identification or they will be towed away. For additional information, write to The Port Authority of New York and New Jersey, Aviation Communications Division, 225 Park Avenue South, 9<sup>th</sup> Floor, New York, New York 10003.

- c. The fees for parking automotive vehicles in Economy Parking Lots P6, and P7 (and on a designated basis, during certain peak periods, other public lots) shall be as follows:

First 24 hour period or part.....\$10.00  
Each additional 12 hour period or part.....\$5.00

- d. The fees for parking automotive vehicles in the Valet Parking Lot at AirTrain Station P4 shall be as follows: **Valet Parking Services Will End On February 22, 2004**

\$ 28.00 for the first day or part  
\$ 14.00 for each 12 hours or part thereafter

2. The foregoing Schedule of Charges shall not apply to the following vehicles:

- a) Vehicles owned by the Port Authority.
- b) Vehicles carrying holders of annual passes issued by the Port Authority.
- c) For the first 24 hours of parking, vehicles carrying persons who present Port Authority Official Business Passes. At the expiration of the first 24-hour parking period the vehicular parking charge shall commence.
- d) For the first 24 hours of parking, vehicles carrying Port Authority employees who present personal passes issued by the Port Authority, with the exception of Daily Lots A, B and C at

Newark Liberty International Airport, where the free parking privilege is limited to 4 hours. At the expiration of the first 4-hour period in these lots, the vehicular parking charge shall commence as of the time the vehicle was initially parked; and in all other lots the vehicular parking charge shall commence at the expiration of the first 24-hour parking period. (This section does not apply to Hourly Lots.)

- e) For the first 24 hours of parking, vehicles carrying news-persons and photographers holding press passes. (Newspersons and photographers presenting press passes may make arrangements to park for an extended period of time by obtaining prior permission from the Airport Manager.) At the expiration of the first 24-hour parking period the vehicular parking charge shall commence (except for short term Hourly Lots where the free parking time is limited to the first 6 hours of parking; after the expiration of the first 6 hour parking period, the short term Hourly Lots vehicular parking charge shall commence.)
- f) For the first 24 hours of parking, company identified vehicles carrying employees of public utility companies provided these employees are on official business involving the Air Terminal at which parked. If such official business requires parking for more than 24 hours, prior permission must be obtained from the Airport Manager. At the expiration of the first 24 -hour parking period the vehicular parking charge shall commence. (This section does not apply to Hourly Lots.)
- g) For the first 24 hours of parking, vehicles carrying federal, state or municipal police officers and health, fire, building, labor or sanitation inspectors on official business affecting the Air Terminal at which parked. If such official business requires parking for more than 24 hours, prior permission must be obtained from the Airport Manager. At the expiration of the first 24-hour parking period the vehicular parking charge shall commence. (This section does not apply to Hourly Lots.)
- h) For the first 24 hours of parking, vehicles carrying employees of the Federal Aviation Administration, The Department of Transportation, The Federal Communications Commission and the National Transportation Safety Board on official business at a Port Authority Air Terminal. If such official business requires parking for more than 24 hours, prior permission must be obtained from the Airport Manager. (Federal employees of the above-mentioned federal agencies permanently stationed at a Port Authority Air Terminal shall not park without fee at any other place at the Air Terminal except in the parking area set aside for such employees unless their official duties require their presence elsewhere at a Port Authority terminal.) At the expiration of the first 24-hour parking period the vehicular parking charge shall commence. (This section does not apply to Hourly Lots.)
- i) Vehicles carrying employees of those airport lessees and permittees whose leases and permits provide for parking without additional charge. (This section does not apply to Hourly Lots.)
- j) Vehicles carrying as passengers or vehicles waiting to receive as passengers any one of the following persons and their official parties:
  - 1. The President of the United States, the Vice President of the United States, the Governors of the States of New York and New Jersey, the United States Senators for the States of New York and New Jersey, and United States Congressmen from the Port District;
  - 2. The Mayor of any municipality in which any Airport is totally or partially located;
  - 3. Chiefs of Staff of any branch of the military service and Chiefs of military missions;
  - 4. Foreign dignitaries of the rank of ambassador or consul-general or a rank equivalent to any of the above.

- k) Vehicles parked pursuant to the terms of a permit, lease or other agreement with the Port Authority.

## ***II. Limousine Parking - Lots A, B and C***

- 1.) The limousine parking rate for hourly Lots A, B and C is \$2.00 up to 1/2 hour or part, \$4.00 up to 2 hours or part plus \$4.00 per hour thereafter to a maximum of 48.00 per 24 hours for authorized users only.

# TETERBORO AIRPORT - SCHEDULE OF CHARGES For The Use Of The Public Landing Area

The operator of any aircraft using the public landing area at Teterboro Airport, except pursuant to the terms of a lease or other agreement with The Port Authority of New York and New Jersey or the Airport Operator, shall pay for such use at the rate set forth herein.

## *I. Public Landing Area Charges (Effective 9/1/03).*

1. For each takeoff of aircraft not exceeding 2,500 pounds of maximum gross weight for takeoff .....\$15.00.
2. For each takeoff of aircraft exceeding 2,500 pounds but not exceeding 7,500 pounds of maximum gross weight for takeoff.....\$15.00.
3. For each takeoff of aircraft exceeding 7,500 pounds but not exceeding 12,500 pounds of maximum gross weight for takeoff.....\$15.00.
4. For each takeoff of aircraft exceeding 12,500 pounds but not exceeding 80,000 pounds of maximum gross weight for takeoff \$2.10 per 1,000 pounds of maximum gross weight for takeoff.  
  
For each takeoff of aircraft exceeding 80,000 pounds: \$3.90 per 1,000 pounds of maximum gross weight for takeoff.
5. Maximum gross weight for takeoff shall mean the maximum gross weight which an aircraft may lawfully have, at the time of leaving the ground at any airport in the United States (under the most favorable conditions which may exist at such airport and without regard to special limiting factors arising out of the particular time, place or circumstances of the particular takeoff, such as runway length, air temperature, or the like.) If such maximum gross weight is not fixed by or pursuant to law, then said phrase shall mean the actual gross weight at takeoff.
6. For each "Touch and Go" operation, the normal landing fee for that aircraft will be charged.

## *II. Free Use of Public Landing Area.*

Notwithstanding the provisions of any Schedule of Charges heretofore adopted for the use of Teterboro Airport, no charge shall be made for the use of such Air Terminal by the following aircraft:

1. Aircraft owned, leased or chartered by the agencies of the following governmental entities:
  - a. The United States of America provided, however, that during any calendar month;
    - 1) The total number of movements (counting each landing as a movement and each takeoff as a movement) of such government aircraft does not exceed 300, and
    - 2) The gross accumulative weight of such government aircraft (the total movements multiplied by gross certified weights of such aircraft) does not exceed five million pounds.
  - b. The State of New York and their agencies.
  - c. The State of New Jersey and their agencies.
  - d. States other than New York and New Jersey and their agencies with whom the Port Authority may enter into reciprocal fee-waiver agreements wherever practical at the discretion of the Director of Aviation.
  - e. Local governmental agencies within the Port District.
  - f. Any local governmental agency, when there is a reciprocal agreement between that agency and The Port Authority of New York and New Jersey.
2. Aircraft owned, leased or chartered by The Port Authority of New York and New Jersey.
3. Aircraft operated under orders of the Civil Air Patrol when engaged in the execution of official airport search and rescue missions or in officially ordered practice aircraft search and rescue missions.

# DOWNTOWN MANHATTAN HELIPORT - SCHEDULE OF CHARGES

The operators of any aircraft using the Downtown Manhattan Heliport, except pursuant to the terms of a lease or other agreement with The Port Authority of New York and New Jersey, shall pay for such use at the rate set forth herein.

## *I. Take-off Charges*

1. The charge for each helicopter take-off shall be \$40.00 plus \$8.00 per one thousand pounds or prorated per fraction thereof of maximum take-off weight rounded off to next whole dollar amount. (effective December 1, 2003).
2. Maximum gross take-off weight shall mean the maximum gross weight, which an aircraft may lawfully have at the time of leaving the ground at any heliport in the United States (under the most favorable conditions which may exist at such heliport and without regard to special limiting factors arising out of the time, place or circumstances of the particular take-off.) If such maximum gross weight is not fixed by or pursuant to law, then said phrase shall mean the actual gross weight at take-off.
3. For the initial 15 minute period during which a helicopter is on the Heliport following the preceding landing of such helicopter and prior to its next succeeding take-off.....No Charge.
4. For each helicopter remaining on the Heliport for more than 10 minutes beyond the initial 15 minute period and after the Port Authority or its authorized representative has directed that such helicopter be removed, for each additional hour or fraction thereof.....Twice the applicable parking charge.
5. In the event a helicopter departs from the Heliport for another destination and, without making a stop, is forced to return to land at the Heliport because of meteorological conditions, mechanical or operating causes, or for any similar emergency or precautionary reason, such charge shall not be payable in connection with the subsequent departure of such helicopter or a substituted helicopter; providing, however, that on such subsequent departure the helicopter or substituted helicopter is destined for the same point and transports the same or substantially the same load.

## II. Helicopter Parking Charges

For the time during which a helicopter is on the Heliport following the preceding landing of such helicopter and prior to its next succeeding takeoff:

1. Free Time

For the initial 15 minute period as provided in Section I hereof..... No Charge.

2. Additional Time

For each helicopter remaining on the Heliport in excess of the free time permitted under this Section II, provided prior arrangement for helicopter parking is made with the Port Authority or its authorized representative, the following helicopter parking rates will be charged:

Maximum Gross Weight	Next Hour (After first 15 minutes)	Each Additional Hour or part thereof
8,000 pounds or less	\$ 45.00	\$ 35.00
8,001 - 16,000 pounds	\$ 85.00	\$ 60.00
16,001 - 24,000 pounds	\$ 90.00	\$ 75.00
Over 24,000 pounds	\$180.00	\$145.00

Maximum parking time permitted shall be dependent on space available and the discretion of the Port Authority or its authorized representative.

3. Provide that the monthly bulk-use fees at the Downtown Manhattan Heliport be restricted to tenants only. Existing bulk-use agreements for non-tenants would be terminated as soon as possible.

### ***III. Free Use of Public Landing Area***

Notwithstanding the provisions of any Schedule of Charges heretofore adopted for the use of the Heliport, no charge shall be made for the use of public landing areas by the following aircraft:

1. Aircraft owned, leased or chartered by the agencies of the following governmental entities:
  - a. The United States of America provided, however, that during any calendar month:
    - 1) The total number of movements (counting each landing as a movement and each takeoff as a movement) of such government aircraft does not exceed 300; and
    - 2) The gross cumulative weight of such aircraft (the total movements multiplied by gross certified weights of such aircraft) does not exceed five million pounds.
  - b. The State of New York and its agencies.
  - c. The State of New Jersey and its agencies.
  - d. States other than New York and New Jersey and their agencies with whom the Port Authority may enter into reciprocal fee-waiver agreements wherever practical at the discretion of the Director of Aviation.
  - e. Local governments within the Port District.
  - f. Any local government when there is a reciprocal agreement between that entity and The Port Authority of New York and New Jersey.
2. Aircraft owned, leased or chartered by The Port Authority of New York and New Jersey.
3. Aircraft operated under orders of the Civil Air Patrol when engaged in the execution of official airport search and rescue missions or in officially ordered practice aircraft search and rescue missions.

### ***IV. NOTAM Charges (For off-hour operations)***

For each hour or part thereof with a 4 hour minimum on weekends and holidays.....\$200.00.

## SCHEDULE E

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

#### Part I. Affirmative Action Guidelines - Equal Employment Opportunity

I. As a matter of policy the Port Authority hereby requires the Lessee and the Lessee shall require the Contractor, as hereinafter defined, to comply with the provisions set forth hereinafter in this Schedule E and in Section 50 of Port Authority Agreement No. AGA-658 (herein called the "Lease") with <sup>East Linstead</sup> ~~Jet Center, LLC~~ herein and in the Lease called the "Lessee"). The provisions set forth in this Part I are similar to the conditions for bidding on federal government contract adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

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

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

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

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

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

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

(b) The Contractor shall provide written notification to the Lessee and the Lessee shall provide written notification to the General Manager of the Economic Development Department's Business and Job Opportunity 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 must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

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

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

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

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

(3) Maintain a current file of the names, addresses and telephone number 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 union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

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

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

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

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

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

(9) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and

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

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

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

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

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

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

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

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

(i) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under Paragraph (h) hereof provided that: the Contractor actively

participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

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

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

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

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

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

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that

existing records satisfy this requirement, contractors shall not be required to maintain separate records.

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

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

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

As a matter of policy the Port Authority requires the Lessee and the Lessee shall itself and shall require the general contractor or other construction supervisor and each of the Lessee's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction work pursuant to the provisions of this Schedule E. For purposes hereof, "Minority Business Enterprise" "(MBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, "Women-owned Business Enterprise" "(WBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by women and such ownership is real, substantial and continuing. A minority shall be as defined in paragraph II(c) of Part I of this Schedule E. "Meaningful participation" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

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

(b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female contractor associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names

and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision. .

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

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

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

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

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

Certification of MBEs and WBEs hereunder shall be made by the Economic Development Department's Business and Job Opportunity Unit of the Port Authority. If the Contractor wishes to utilize a firm not already certified by the Port Authority, it shall submit to the Port Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Port Authority. All such requests shall be in writing addressed to the Economic Development Department's Business and Job Opportunity Unit, Port Authority of New York and New Jersey, 1 Riverfront Plaza, 9<sup>th</sup> floor, Newark New Jersey 07102 or such other address as the Port Authority may specify by notice to the Lessee. Certification shall be effective only if made in writing the Director in charge of the Economic Development Department's Business and Job Opportunity Unit of the Port Authority. The determination of the Port Authority shall be final and binding.

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

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

Please note that only sixty percent (60%) of expenditures to MBE or WBE suppliers will count towards meeting the MBE and WBE goals. However, expenditures

to MBE or WBE manufacturer's (i.e. suppliers that produce goods from raw materials or substantially alter them before resale) are counted dollar for dollar.



\_\_\_\_\_  
For the Port Authority

Initialed:



\_\_\_\_\_  
For the Operator

## SCHEDULE F

### LOCAL BUSINESS ENTERPRISES PROGRAM

As a matter of policy the Port Authority hereby requires the Operator and the Operator shall require any Contractor, as hereinafter defined, employed in the future by the Operator to perform construction work on the premises, to comply with the provisions set forth hereinafter in this Schedule F.

(1) The Operator and each contractor an subcontractor of the Operator (herein collectively called "Contractor") shall use every good faith to maximize the participation of Local Business Enterprises (LBEs) in the construction work. In order to assure familiarity with the services and materials provided by LBEs, the Contractor shall attend such meetings as may be called by the General Managers of the Airport at which all bidders will be given a directory of LBEs. The Port Authority has not checked the references, capabilities or financial background of the firms listed in the directory, but will be making such directory available to the bidders solely for the purpose of advising the bidders of LBEs who may be interested in providing services and/or materials to the successful bidder.

(2) Good Faith efforts to include participation by LBEs in the construction work shall include at least the following:

(i) Dividing the work to be subcontracted and services and materials to be procured into small portions, where feasible.

(ii) Meeting on a regular basis with and giving reasonable advance written notice on a monthly basis of specific subcontracting and purchasing opportunities to the Council for Airport Opportunity (CAO), Queens Air Service Development Office, and such other local businesses and community organizations as may be appropriate. Such notice shall be sent in sufficient time for such organizations to advise their membership and other LBEs of such opportunities.

(iii) Soliciting bids on portions of the work to be subcontracted and services and materials to be procured from firms listed in the Local Business Enterprises Directory referred to above and such other LBEs as the Lessee deems appropriate.

(3) The Port Authority is committed to making employment opportunities available to local residents and expects that the Contractor will work with the CAO to utilize the labor talent available in the local communities.

(4) It is specifically understood and agreed that the requirements set forth herein for the participation of LBEs shall not alter, limit or diminish or modify any of the obligations under this Lease including, without limitation, the obligation to put into

effect the affirmative action program and the MBE and WBE programs in accordance with the provisions set forth in Schedule E hereof.



\_\_\_\_\_  
For the Port Authority

Initialed:



\_\_\_\_\_  
For the Operator

For the Port Authority

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

On the 25 day of JUNE, 2004, before me personally came FRANCIS A. DIMOLA to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1 that he is the

ASST Director, Aviation Dept of the Port Authority of New York & 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.

Peggy M. Spinelli  
(notarial seal and stamp)

PEGGY M. SPINELLI  
Notary Public, State of New York  
No. 01SP6057870  
Qualified in New York County  
Commission Expires April 30, 2008 7

For the Operator

STATE OF FLORIDA )  
 )ss:  
COUNTY OF BROWARD )

On the 21 day of June, 2004, before me personally came Gerald M. Holland to me known, who, being by me duly sworn, did depose and say that he resides at EX. 1

hat he is the \_\_\_\_\_ President of Fort Lauderdale Jet Center, LLC 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 hereto by like order.

Elizabeth H. Miller  
(notarial seal and stamp)



Elizabeth H. Miller  
Commission #DD311169  
Expires: May 29, 2008  
Bonded Thru  
Atlantic Bonding Co., Inc.

Certificate of Secretary

I, John F. Schmatz, Secretary of  
Fort Lauderdale Jet Center, LLC a  
corporation organized and existing under and by virtue of the laws of the State of Florida  
with an office and place of business at 1100 Lee Wagener Blvd, Ft. Lauderdale, FL  
do hereby certify as follows:

1. That the following is a full, true and correct copy of resolutions adopted by unanimous vote of the Board of Directors of the said Corporation, present at a meeting duly called and held on the \_\_\_\_\_ day of \_\_\_\_\_, 2004, in accordance with law and with the charter and by-laws of the said Corporation, at which a quorum was present; and that the said resolutions have not been altered or repealed, and are now in full force and effect:

“RESOLVED, that in order to induce the Port Authority of New York and New Jersey (the “Port Authority”) to enter into a certain Agreement (the “Agreement”) by and between \_\_\_\_\_  
Fort Lauderdale Jet Center, LLC  
\_\_\_\_\_ (the “Operator”) and the Port Authority, such Agreement covering premises at the Port Authority LaGuardia Airport, in the Borough of Queens, City, County and State of New York (a copy of which Agreement is before this Board and shall be deemed a part of this resolution as if set forth herein at length), this Corporation shall guarantee the obligations of the Operator under the said Agreement; and be it further

“RESOLVED, that in the judgment of the Board of Directors of this Corporation, such action will effectuate the purposes and objects of this Corporation, inure to its benefit and promote, enhance and develop its business, interests and assets; and be it further

“RESOLVED, that any officer of this Corporation be and he hereby is authorized and directed to make, execute and deliver on behalf and in the name of this Corporation a contract of guaranty, guaranteeing such obligations; and be it further

“RESOLVED, that the officers of this Corporation and each of them are hereby authorized and directed to take such steps, execute such documents and perform such other acts and things as may be necessary and convenient for the purpose of effecting such contract of guaranty.”

2. That the purpose of this certificate is to induce the Port Authority of New York and New Jersey to enter into an Agreement with  
Fort Lauderdale Jet Center, LLC and the Port Authority of New York and New Jersey, such Agreement covering premises at the LaGuardia Airport, in the Borough of Queens, City, County and State of New York, and with the intent that

the Port Authority of New York and New Jersey, its Commissioners, officers, agents and representatives shall rely on the truth of the matters contained herein.

IN WITNESS WHEREOF, I have signed my name and affixed the corporate seal this as of the 18 day of June, 2004.

  
Secretary  
John F. Schmatz

(Corporate Seal)

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

Port Authority Permit No. AGA-658  
LaGuardia Airport  
Supplement No. 1

**ASSIGNMENT WITH ASSUMPTION AND CONSENT AGREEMENT  
AND SUPPLEMENTAL AGREEMENT**

**THIS AGREEMENT**, dated as of December 31, 2006, by and among **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**, a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States of America, having an office for the transaction of business at 225 Park Avenue South, New York, New York 10003 (hereinafter called the "Port Authority"), **FORT LAUDERDALE JET CENTER, LLC**, a limited liability company organized and existing under the laws of the State of Florida, having an office for the transaction of business at 1100 Lee Wagener Boulevard, Fort Lauderdale, Florida 33315 (hereinafter called the "Assignor") and **SHELT AIR AVIATION LGA, LLC**, a limited liability company organized and existing under the laws of the State of Florida, having an office for the transaction of business at 4860 N.E. 12<sup>th</sup> Avenue, Fort Lauderdale, Florida 33334 (hereinafter called the "Assignee"), whose representative is Richard Dodson, Chief Operating Officer and President,

**WITNESSETH, That:**

**WHEREAS**, heretofore and as of June 24, 2004, the Port Authority and the Assignor entered into a Fixed Base Operator Lease bearing Port Authority Agreement Number AGA-658 (hereinafter, as the same may have been heretofore amended, extended and supplemented, called the "Agreement"), covering premises at LaGuardia Airport, in the Borough of Queen, City, County and State of New York (hereinafter referred to as the "Airport") as well as granting to the Assignor the privilege of providing certain services at the Airport, such privilege as more particularly set forth in the Agreement; and

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

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

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

1. The Assignor does hereby assign, transfer and set over to the Assignee and its successors, to its and their own proper use, benefit and behoof forever, the Agreement, to have and to hold the same unto the Assignee, and its successors, from January 1, 2007 (hereinafter called the "Effective Date"), for and during the balance of the term of the letting under the Agreement, subject nevertheless to all the terms, provisions and conditions therein contained.

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

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

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

5. Subject to and in accordance with the provisions of with the Section of the Agreement entitled "Security Deposit", upon execution of this Agreement and delivery thereof to the Port Authority, the Assignee shall contemporaneously deliver to the Port Authority 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 effective term under the Agreement and for a period of not less than six (6) months thereafter; such continuance may be by provision for automatic renewal or by substitution of a subsequent clean and irrevocable satisfactory letter of credit. If requested by the Port Authority, said letter of credit shall be accompanied by a letter explaining the opinion of counsel for the banking institution that the issuance of said clean, irrevocable letter of credit is a appropriate and valid exercise by the banking

institution of the corporate power conferred upon it by law. Upon notice of cancellation of a letter of credit, the Assignee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof and thereafter the Port Authority will hold the same as security. Failure to provide such a letter of credit at any time during the effective term under the Agreement, valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit shall be deemed to be a breach of the Agreement on the part of the Assignee as Operator thereunder. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Assignee on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to its full amount. No action by the Port Authority pursuant to the terms of any letter of credit, or any receipt by the Port Authority of funds from any bank issuing such letter of credit, shall be or be deemed to waiver of any default by the Assignee, as Operator under the Agreement, under the terms of the Agreement and all remedies of the Agreement and of the Port Authority consequent upon such default shall not be affected by the existence of a recourse to any such letter of credit. For the purposes of this Assignment Agreement, the Assignee certifies that its federal taxpayer identification number is EX. 1

6. (a) From and after the Effective Date, the following Section 59 shall be deemed added to the Agreement:

“Section 59. Late Charges

“If the Operator should fail to pay any amount required under this Agreement when due to the Port Authority, including without limitation any payment of any fixed or percentage fee or any payment of utility or other charges, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of 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 of this Agreement with respect to such unpaid amount. Nothing in this Section shall be deemed to waive 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 Sections 24 and 46 of this Agreement or (ii) any obligations of the Operator under this Agreement. 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 this Agreement shall be payable instead at such legal maximum.”

(b) Effective as of the Effective Date, the following paragraph (f) shall be deemed added to Section 24 of the Agreement:

“(f) Further, in the event the Port Authority exercises its right to terminate this Agreement for any reason other than “without cause”, the Operator 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, cancellation, re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space/premises which may be used and occupied under this Agreement (on failure of the Operator to have restored), preparing such space/premises for use by a succeeding lessee/permittee, the care and maintenance of such space/premises during any period of non-use of the space/premises, the foregoing to include without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space/premises and putting the space/premises in order (such as but not limited to cleaning and decorating the same).”

(c) Effective as of the Effective Date, the following paragraph (i) shall be deemed added to Section 4 of the Agreement:

“(i) In the event that upon conducting an examination and audit as described in paragraph (d) of this Section, the Port Authority determines that unpaid amounts are due to the Port Authority by the Operator, the Operator shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount of five percent (5%) of each amount determined by the Port Authority audit findings to be unpaid. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Operator 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 Section with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the basic rental or percentage fees to be paid hereunder. Nothing in this Section shall be deemed to waive 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 Operator under this Agreement.”

7. (a) The Assignee hereby acknowledges that it has received a copy of, and is familiar with the contents of, the City Lease. The Assignee acknowledges that no greater rights or privileges are hereby granted to the Assignee, as Operator under the Agreement, than the Port Authority has the power to grant under the City Lease.

(b) In accordance with the provisions of the City Lease, the Port Authority and the Assignee hereby agree as follows:

(i) The Agreement is subject and subordinate to the City Lease and to any interest superior to that of the Port Authority;

For the Port Authority

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

On the 24<sup>th</sup> day of April in the year 2008, before me, the undersigned, a Notary Public in and for said state, personally appeared Joanne Ciccoletto

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.

Marie M. Edwards  
(notary seal and stamp)

Marie M. Edwards  
Notary Public, State of New York  
No. 01ED4959593  
Qualified in Kings County  
Commission Expires 2/9/2010  
Richmond

For the Assignor

STATE OF FLORIDA )  
 )ss.:  
COUNTY OF BROWARD )

On the 3<sup>RD</sup> day of July in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared

GERALD M HOLLAND

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.

Elizabeth H. Miller  
(notary seal and stamp)



Elizabeth H. Miller  
Commission #DD311169  
Expires: May 29, 2008  
Bonded Thru  
Atlantic Bonding Co., Inc.

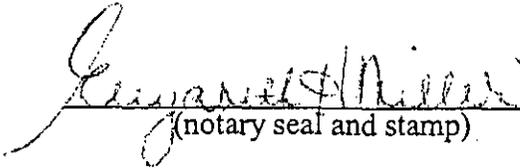
For the Assignee

STATE OF FLORIDA )  
COUNTY OF BROWARD )ss.:

On the 3RD day of July in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared

GERALD M HOLLAND

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.

  
(notary seal and stamp)



Elizabeth H. Miller  
Commission #DD311169  
Expires: May 29, 2008  
Bonded Thru  
Atlantic Bonding Co., Inc.

(ii) The Assignee, as Operator under the Agreement, shall not pay the fees or other sums under the Agreement for more than one (1) month in advance (excluding security or other deposits required under the Agreement);

(iii) With respect to the Agreement, the Assignee, as Operator under the Agreement, on the termination of the City Lease will, at the option of the City, enter into a direct agreement on identical terms with the City;

(iv) The Assignee shall indemnify the City, as third party beneficiary hereunder, with respect to all matters described in Section 31 of the City Lease;

(v) The Assignee shall not use any portion of the Airport for any use other than as permitted under the City Lease;

(vi) The Assignee shall use the Airport in a manner consistent with the Port Authority's obligations under Section 28 of the City Lease;

(vii) The failure of the Assignee to comply with the foregoing provisions shall be an event of default under the Agreement, which shall provide the Port Authority with the right to terminate the Agreement and exercise any other rights that the Port Authority may have as the grantor of the permission hereunder; and

(viii) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Assignee, as Operator under the Agreement, pursuant to the Agreement.

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

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

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

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

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

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

10. No Commissioner, officer, agent or employee of the Port Authority shall be charged personally by the Assignor or by the Assignee with any liability or held liable to either of them under any term or provision of this Assignment Agreement, or because of its execution, or because of any breach or attempted or alleged breach hereof.

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

ATTEST:

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By [Signature]  
Secretary

By [Signature]  
Name Joanne Cicciello  
Manager, Properties & Commercial Development  
(Please Print Clearly)  
(Title) David Kagan  
Assistant Director  
Business, Properties & Airport Development  
(Seal)

ATTEST:

FORT LAUDERDALE JET CENTER, LLC, Assignor

By [Signature]  
Secretary

By [Signature]  
Name GERALD M. HOLLAND  
(Please Print Clearly)  
(Title) President Member/Manager  
[Signature] (Seal)

ATTEST:

SHELTAIR AVIATION LGA, LLC, Assignee

By [Signature]  
Secretary

By [Signature]  
Name GERALD M HOLLAND  
(Please Print Clearly)  
(Title) Member/Manager  
(Seal)  
[Signature]  
OCC

Port Authority Use Only	
Approval as to Terms:	Approval as to Form:
<u>[Signature]</u>	<u>[Signature]</u>

OCC

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

Supplement No. 2  
LaGuardia Airport  
Port Authority Lease No. AGA-658

### SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT, made as of the 16th day of March, 2009 by and between the PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter referred to as the "Port Authority"), and SHELTAIR AVIATION LGA, LLC. (hereinafter called the "Operator"),

WITNESSETH, That:

WHEREAS, by a certain agreement of lease made as of August 1, 2004 (which agreement of lease, as the same has been supplemented and amended, is hereinafter called the "Lease"), the Port Authority leased and granted to the Lessee certain premises, rights, licenses and privileges at LaGuardia Airport (hereinafter called "the Airport"), as more particularly described in the Lease; and

WHEREAS, the parties hereto desire to amend the lease in certain respects as hereinafter provided;

NOW, THEREFORE, in consideration of the covenants and mutual agreements herein contained, the Port Authority and the Lessee hereby agree, effective as of the dates set forth below, to amend the Lease, effective as of the date set forth above as follows:

1. Effective as of March 16, 2009, the following changes were made in Section 6 of the Agreement:

(a) The words "at its own expense and without additional charge" appearing in the second line of Section 6 (b) shall be deleted.

(b) Subparagraph (e) (1) in Section 6 shall be deleted and the following Section 6(e)(1) shall be deemed inserted in lieu thereof:

"(e) (1) The Operator shall conduct the business of selling aviation fuel and dispensing the same into plane for aircraft operated by air taxi, scheduled commuter, general aviation, and itinerant aircraft operators adequate to meet

all demands therefore at the Airport upon request therefore by the operators of such aircraft (hereinafter called "the Fueling Service").

The Operator shall have available and shall sell in the Fueling Service the types of aviation fuel used by the customer's aircraft including, but not limited to, Jet A type fuel and 100 octane aviation gasoline and shall conduct the Fueling Service in accordance with the highest standards for safety and security in the aircraft fueling industry and in accordance with the procedures contained in the Port Authority's Rules and Regulations as they may be supplemented and amended from time to time.

The Fueling Service shall be offered to owners/operators of the customer's aircraft at a price equivalent to the greater of:

(i) an amount equivalent to the retail price, all taxes included (averaged per airport) charged from time to time for each type of fuel of the same type dispensed to aircraft, or

(ii) the applicable facility fee, charged per aircraft, as illustrated in the form of Schedule X attached hereto and hereby made a part hereof, which fee shall be waived by the Operator upon the purchase of a minimum amount of fuel by the customer. The fee set forth in a final form of Schedule X shall vary based on aircraft size, and shall be subject to adjustment by the Operator from time to time and at any time during the balance of the term of the letting as the same may be extended and;

*provided, however*, that in no event shall the fees charged in subdivisions (i) and (ii) above, be greater than 10.5% above the average retail price, all taxes included (averaged per airport), from time to time for each type of fuel of the same type as dispensed (or, as applicable, the facility fee charged for services provided) to aircraft similar to those of customers' aircraft at Long Island MacArthur Airport, Ronkonkoma at, New York, White Plains (Westchester County) Airport, White Plains, New York and East Farmingdale Republic Airport, East Farmingdale, New York with the Port Authority having the right in its absolute unrestricted discretion to substitute or add at any time and from time to time upon sixty (60) days' prior written notice to the Operator, any other airport(s) on Long Island (other than New York City), Orange County, or Dutchess County, New York having scheduled commercial aircraft operations."

(c) Nothing contained in Section 6 as herein amended, shall constitute a determination or indication by the Port Authority that the Operator has complied with applicable governmental laws, ordinances, enactments, resolutions, rules and orders as the same may pertain to the Operator's collection of fees for its services and, otherwise, its operations on the premises. The collection of fees for the sale of fuel and for other ground support provided by the Operator hereunder shall be in accordance with and subject to the terms, indemnities and provisions of this Agreement, as herein amended.

2. Effective as of the date hereof, Section 11, entitled "Federal Airport Aid" shall be deleted and the following Section 11 shall be deemed inserted in lieu thereof:

"Section 11. Federal Airport Aid.

The Port Authority has applied for and received a grant or grants of money from the Administrator of the Federal Aviation Administration pursuant to the Airport and Airways Development Act of 1970, as the same has been amended and supplemented, and under prior federal statutes which said Act superseded and the Port Authority may in the future apply for and receive further such grants. In connection therewith, the Port Authority has undertaken and may in the future undertake certain obligations respecting its operation of the Airport and the activities of its contractors, operators, and permittees thereon. The Operator agrees that the performance by the Operator of the promises and obligations contained in this Agreement consistent with such obligations of the Port Authority is, therefore, a special consideration and inducement to the execution of this Agreement by the Port Authority, and the Operator further agrees that: (a) if the Administrator of the Federal Aviation Administration or any other governmental officer or body having jurisdiction over the enforcement of the obligations of the Port Authority in connection with Federal Airport Aid, shall make any orders, recommendations, or suggestions, or adopt any policies, with regard to such obligations of the Port Authority respecting the performance by the Operator of its obligations under this Agreement, the Operator will promptly comply therewith at the time or times, when and to the extent that the Port Authority may direct; and (b) the Port Authority's determination as to whether any such order recommendation, or suggestion has been made, or any such policy has been adopted, and the Port Authority's interpretation of any such order, recommendation, suggestion, or policy shall be final and binding upon the Operator."

3. The Operator shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, and representatives from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses, including reasonable legal expenses incurred in connection with the defense of) all claims of any governmental authority for damages arising out of the improper imposition of the fees set forth in Section 6 of the Agreement, as hereinabove amended, in violation of any governmental laws, rules or regulations, or out of the use or occupancy of the premises by the Operator.

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

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

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 this Agreement.

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

ATTEST:

[Signature]  
Secretary

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

By: [Signature]

(Title) David Kagan  
Assistant Director  
Business Property & Airport Development

ATTEST:

[Signature]  
Secretary

SHELTAIR AVIATION LLC.

By: [Signature] M.M.

(Title) PRESIDENT AND MANAGING MEMBER  
(Corporate Seal)

APPROVED FOR TRANSMITTAL FORM	TERMS
<u>W</u>	<u>H</u>

ooc

For the Port Authority

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

On the 30<sup>TH</sup> day of MARCH in the year 2009, before me, the undersigned, a Notary Public in and for said state, personally appeared DAVID KAGAN personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

GAIL E. MITCHELL  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01M16026210  
Qualified in Queens County  
My Commission Expires June 14, 2011

Gail E. Mitchell  
(notarial seal and stamp)

GAIL E. MITCHELL  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01M16026210  
Qualified in Queens County  
My Commission Expires June 14, 2011

STATE OF FLORIDA )  
 ) ss.  
COUNTY OF BROWARD )

On the 12 day of MARCH in the year 2009 before me, the undersigned, a Notary Public in and for said state, personally appeared GERALD M. HOLLAND 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.

Judith A. Utvich  
(notarial seal and stamp)

NOTARY PUBLIC  
STATE OF FLORIDA  
Notary Public State of Florida  
Judith A Utvich  
My Commission DD758128  
Expires 03/08/2012

**SAMPLE FORM OF EXHIBIT X**

**HANDLING FEE SCHEDULE**

**AGA-658**

<u>AIRCRAFT TYPE</u>	<u>HANDLING FEE</u>
BBJ-737	\$2,000.00
Super Heavy-Global Express	\$ 945.00
Heavy Jet- GIV	\$ 612.50
Medium Jet-LR55	\$ 395.00
Light Jet-LR35	\$ 300.00
Very Light Jet-Eclipse	\$ 170.00
Light Turbo-TBM	\$ 201.25
Medium Turbo-BE 90	\$ 235.00
Heavy Turbo-BE200	\$ 255.00
Single Turbo-Pilatus	\$ 132.50
Heavy Twin-Areo Commander	\$ 157.50
Helicopters-S76	\$ 88.75