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Sent: Wednesday, January 21, 2015 3:54 PM
To: Duffy, Daniel
Cc: Torres Rojas, Genara; Van Duyne, Sheree; Ng, Danny
Subject: Freedom of Information Online Request Form

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Required copies of the records: No

List of specific record(s):

Lease agreement between PANYNJ and the developers of the ARK animal handling facility

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

October 13, 2015

Ms. Rosemary Sifford
US Department of Agriculture
920 Main Campus Drive, Suite 200
Raleigh, NC 27606

Re: Freedom of Information Reference No. 15719

Dear Ms. Sifford:

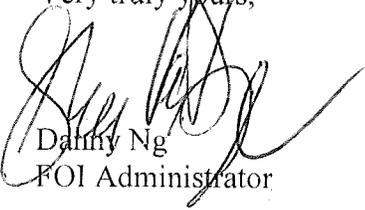
This is in response to your January 21, 2015 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code", copy enclosed) for a copy of the "Lease agreement between PANYNJ and the developers of the ARK animal handling facility."

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/15719-LPA.pdf>. Paper copies of the available records are available upon request.

Pursuant to the Code, certain portions of the material responsive to your request are exempt from disclosure as, among other classifications, privacy and security.

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

Very truly yours,



Danny Ng
FOI Administrator

Enclosure

*4 World Trade Center, 18th Floor
150 Greenwich Street
New York, NY 10007
T: 212 435 7348 F: 212 435 7555*

EXECUTION COPY

Lease No. AYE-245

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

AGREEMENT OF LEASE

Between

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

And

ARK DEVELOPMENT LLC

Dated as of: December 19, 2014

DATED: December 19, 2014

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SCHEDULE E	Affirmative Action – Equal Opportunity – Minority Business Enterprises – Women Owned Business Enterprises
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SCHEDULE F	Local Business Enterprise Program
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THIS AGREEMENT SHALL NOT BE BINDING UPON THE PORT AUTHORITY UNTIL DULY EXECUTED BY AN EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE LESSEE BY AN AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Lease No. AYE-245

AGREEMENT OF LEASE

THIS AGREEMENT OF LEASE (this "*Agreement*"), made as of the 19th day of December, 2014, 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 York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003, and **ARK Development LLC** (hereinafter called the "*Lessee*"), a Delaware limited liability company, having an office address at c/o Racebrook Capital Partners LLC, 488 Madison Avenue, Suite 201, New York, New York 10022, whose representative is the General Counsel.

WITNESSETH, That:

WHEREAS, the Lessee desires to lease certain property from the Port Authority at the Airport; and

WHEREAS, in anticipation of the execution of this Agreement to lease such property, the Lessee heretofore entered into a right of entry letter agreement with the Port Authority, dated as of January 1, 2013 (the "*ROE*") pursuant to which the Lessee was granted access to certain property to perform the following: (1) topographic survey to determine terrain contours and corresponding location of utilities; (2) geotechnical survey to evaluate soil and subsurface conditions of exterior, (3) asbestos survey and abatement design by NYS-certified building inspector and (4) building condition assessment by observation of structural, mechanical, electrical, plumbing, fire protection and building envelope systems.

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

Section 1. Definitions

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

(a) "***AB Completion Date***" shall have the meaning set forth in Paragraph (bb) of the Section of this Agreement entitled "*Construction by the Lessee*".

(b) "***AB Rent Commencement Date***" shall have the meaning set forth in Part A of the Section of this Agreement entitled "*Rental and Abatement*."

(c) “*Accrued Compound Interest Formula*” shall mean the sum, raised to the nth power, of (a) one plus (b) the quotient of the Interest Rate divided by the number of years over which the applicable deferred rent has accrued. The nth power shall equal the product obtained by multiplying (x) the number of times the interest rate is compounded per year by (y) the number of years over which the applicable deferred rent has accrued.

(d) “*Additional Financing Rental*” shall have the meaning provided in Paragraph (x) of the Section of this Agreement entitled “*Leasehold Mortgage – Foreclosure Rights*”.

(e) “*Adjustment Period*” shall have the meaning set forth in Part A of the Section of this Agreement entitled “*Rental and Abatement*”.

(f) “*Affiliate*” shall mean any person that directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the Lessee, Permitted Cargo Handler, Mandatory Operating Sublessee, Institutional Lender or proposed transferee, as applicable, and any entity in which the Lessee, Permitted Cargo Handler, Mandatory Operating Sublessee, Institutional Lender or proposed transferee, as applicable, or a shareholder of the Lessee, Permitted Cargo Handler, Mandatory Operating Sublessee, Institutional Lender or proposed transferee, as applicable, has an ownership, licensor/licensee or franchiser/franchisee interest or relationship, but if the Lessee, Permitted Cargo Handler, Mandatory Operating Sublessee, Institutional Lender or proposed transferee, as applicable, shall be a corporation whose voting securities shall be registered with the Securities and Exchange Commission and publicly traded on a regular basis then only such shareholder of the Lessee, Permitted Cargo Handler, Mandatory Operating Sublessee, Institutional Lender or proposed transferee, as applicable, having an ownership interest greater than five percent (5%). The term “**control**” (including the terms controlling, controlled by and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise.

(g) “*Agreement*” shall mean this agreement of lease.

(h) “*Airport*” or “*Facility*” shall mean John F. Kennedy International Airport, consisting of certain premises identified as “JFK International Airport” on Sheet JFK-1 of Exhibit A, and more particularly described in Exhibit B, annexed to the Basic Lease, and such other property as may be acquired in connection with and added to such premises pursuant to the terms of the Basic Lease.

(i) “*Alternative Exit Baseline*” shall have the meaning set forth in Paragraph (i) of the Section of this Agreement entitled “*Environmental Baselines*”.

(j) “*Analyzed Item*” and “*Analyzed Items*” shall have the meaning set forth in Paragraph (a) of the Section of this Agreement entitled “*Environmental Baselines*”.

(k) “*Analyzed Item Increases*” shall have the meaning set forth in Paragraph (h) of the Section of this Agreement entitled “*Environmental Baselines*”.

- (l) “*animal*” shall mean every living creature except a human being.
- (m) “*Animal Handling Facility*” shall have the meaning set forth in Paragraph (a) of the Section of this Agreement entitled “*Construction by the Lessee*”.
- (n) “*Anniversary Date*” shall have the meaning set forth in Part A of the Section of this Agreement entitled “*Rental and Abatement*”.
- (o) “*Annual Period*” shall have the meaning set forth in Part C of the Section of this Agreement entitled “*Rental and Abatement*”.
- (p) “*Area C*” shall mean that portion of the Premises shown in cross-diagonal hatching on “Exhibit A”.
- (q) “*Assignment*” shall mean any sale, conveyance, transfer, exchange, mortgage, assignment or other disposition of all or any portion of the Lessee’s interest in this Agreement or the leasehold estate created hereby, whether directly or indirectly or by operation of law or otherwise.
- (r) “*Baggage*” shall mean a passenger’s or crew member’s personal belongings carried or loaded on board an aircraft, whether checked or unchecked.
- (s) “*Baggage Handling*” shall mean the coordination and integration of operations involved with the movement of Baggage from one place to another within, at, from or to the Airport.
- (t) “*Bankruptcy Brokerage Commissions*” shall have the meaning set forth in the Section of this Agreement entitled “*Remedies under Bankruptcy and Insolvency Codes*”.
- (u) “*Base Period*” shall have the meaning set forth in Part A of the Section of this Agreement entitled “*Rental and Abatement*”.
- (v) “*Basic Ground Rental*” and “*Basic Ground Rentals*” shall have the meanings set forth in Part A of the Section of this Agreement entitled “*Rental and Abatement*”.
- (w) “*Basic Ground Rental AB*” shall have the meaning set forth in Part A of the Section of this Agreement entitled “*Rental and Abatement*”.
- (x) “*Basic Ground Rental C*” shall have the meaning set forth in Part A of the Section of this Agreement entitled “*Rental and Abatement*”.
- (y) “*Basic Lease*” shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and The Port Authority of New York and New Jersey, as Tenant, dated as of November 24, 2004 and recorded in the office of the City Register of The City of New York on December 3, 2004 under City Register File No. 2004000748687, as the same may have been or may be amended or supplemented.

(z) “**Basis of Design**” shall have the meaning set forth in paragraph (a) of the Section of this Agreement entitled “*Construction by the Lessee*”.

(aa) “**Blocked Persons**” shall have the meaning set forth in the Section of this Agreement entitled “*OFAC Compliance*”.

(bb) “**Blocked Persons Laws**” shall have the meaning set forth in the Section of this Agreement entitled “*OFAC Compliance*”.

(cc) “**Bonds**” shall have the meaning provided in Paragraph (a) of the Section of this Agreement entitled “*Leasehold Mortgage – Foreclosure Rights*”.

(dd) “**Build NYC**” shall have the meaning provided in Paragraph (a) of the Section of this Agreement entitled “*Leasehold Mortgage – Foreclosure Rights*”.

(ee) “**Building**” shall have the meaning set forth in Paragraph (a) of the Section of this Agreement entitled “*Construction by the Lessee*”.

(ff) “**Building Area C**” shall have the meaning set forth in Paragraph (a) of the Section of this Agreement entitled “*Construction by the Lessee*”.

(gg) “**Building Deferral Period**” shall have the meaning set forth in Part B of the Section of this Agreement entitled “*Rental and Abatement*.”

(hh) “**Building Deferred Rent**” shall have the meaning set forth in Part B of the Section of this Agreement entitled “*Rental and Abatement*.”

(ii) “**Building Rental**” shall have the meaning set forth in Part B of the Section of this Agreement entitled “*Rental and Abatement*”.

(jj) “**C Completion Date**” shall have the meaning set forth in Paragraph (bb) of the Section of this Agreement entitled “*Construction by the Lessee*”.

(kk) “**C Rent Commencement Date**” shall have the meaning set forth in Part A of the Section of this Agreement entitled “*Rental and Abatement*.”

(ll) “**cargo**” shall mean articles, goods, materials, merchandise, or wares (which includes animals).

(mm) “**cargo handling**” shall mean the coordination and integration of operations such as un-packing, re-packing, packaging, and movement of cargo from one place to another within, at, from or to the Airport.

(nn) “**Cargo Handling Facility**” shall have the meaning set forth in Paragraph (a) of the Section of this Agreement entitled “*Construction by the Lessee*”.

(oo) “**Cargo Permit**” shall have the meaning set forth in the Section of this Agreement entitled “*Additional Provisions Concerning the Cargo Handling Facility*”.

(pp) "**City**" shall mean The City of New York, in the State of New York.

(qq) "**City Insureds**" shall mean the following entities: The City of New York, the officials and employees of The City of New York (to the extent that the officials and employees of the Port Authority of New York and New Jersey are likewise insured) and the New York City Economic Development Corporation, a local development corporation formed pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York, or such successor entity as may be designated by the City.

(rr) "**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, he shall be deemed to be a Civil Aircraft Operator only to the extent that he engages in the operation of Aircraft for civilian purposes.

(ss) "**Commencement Date**" shall mean December 19, 2014.

(tt) "**Condition Exceptions**" shall have the meaning set forth in Paragraph (a) of the Section of this Agreement entitled "*Environmental Baselines*".

(uu) "**Condition Survey**" shall have the meaning set forth in the Section of this Agreement entitled "*Joint Periodic Condition Survey*".

(vv) "**Condition Survey Contract**" shall have the meaning set forth in the Section of this Agreement entitled "*Joint Periodic Condition Survey*".

(ww) "**Condition Survey Contractor**" shall have the meaning set forth in the Section of this Agreement entitled "*Joint Periodic Condition Survey*".

(xx) "**Condition Survey Costs**" shall have the meaning set forth in the Section of this Agreement entitled "*Joint Periodic Condition Survey*".

(yy) "**Condition Survey Report**" shall have the meaning set forth in the Section of this Agreement entitled "*Joint Periodic Condition Survey*".

(zz) "**Construction Application**" shall have the meaning set forth in Paragraph (e) of the Section of this Agreement entitled "*Construction by the Lessee*".

(aaa) "**Construction Work**" shall have the meaning set forth in Paragraph (a) of the Section of this Agreement entitled "*Construction by the Lessee*".

(bbb) "**Contractor**" shall have the meaning set forth in Subparagraph (c)(19) of the Section of this Agreement entitled "*Construction by the Lessee*".

(ccc) "**Core Sublessee**" shall mean any Permitted Cargo Handler or Mandatory Operating Sublessee and "**Core Sublessees**" shall mean all Permitted Cargo Handlers and Mandatory Operating Sublessees.

(ddd) "**Date of Taking**" shall have the meaning set forth in the Section of this Agreement entitled "**Condemnation**".

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

(fff) "**Environmental Consultant**" shall have the meaning set forth in Paragraph (b) of the Section of this Agreement entitled "**Environmental Baselines**".

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

(hhh) "**Environmental Requirements**" and "**Environmental Requirement**" shall mean all common law and all past, present and future laws, statutes, enactments, resolutions, regulations, rules, directives, ordinances, codes, licenses, permits, orders, memoranda of understanding and memoranda of agreement, guidances, approvals, plans, authorizations, concessions, franchises, requirements and similar items of all governmental agencies, departments, commissions, boards, bureaus or instrumentalities of the United States, states and political subdivisions thereof, all pollution prevention programs, "best management practices plans", and other programs adopted and agreements made by the Port Authority 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:

(1) 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; and

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

(3) 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.

(iii) “*Exclusive Services*” shall have the meaning set forth in the Section of this Agreement entitled “*Exclusive Use*”.

(jjj) “*Existing Condition*” shall have the meaning set forth in Paragraph (a) of the Section of this Agreement entitled “*Environmental Baselines*”.

(kkk) “*Exit Baseline*” shall have the meaning set forth in Paragraph (i) of the Section of this Agreement entitled “*Environmental Baselines*”.

(lll) “*Experienced Animal Handler*” shall have the meaning provided in Paragraph (p) of the Section of this Agreement entitled “*Leasehold Mortgage – Foreclosure Rights*”.

(mmm) “*Expiration Date*” shall mean the date that is the earlier of (i) the date that is the day preceding the twenty-fifth anniversary of the AB Completion Date or the C Completion date, whichever is earlier, and (ii) December 18, 2041.

(nnn) “*Expressly Prohibited Activity*” shall mean any use of the Premises that is expressly prohibited pursuant to Paragraph (c) of the Section of this Agreement entitled “*Use of Premises*”.

(ooo) “*Extension Period*” shall have the meaning set forth in the Section of this Agreement entitled “*Option to Extend*”.

(ppp) “*Force Majeure*” shall have the meaning set forth in the Section of this Agreement entitled “*Force Majeure*”.

(qqq) “*Financing Effective Date*” shall have the meaning provided in Paragraph (x) of the Section of this Agreement entitled “*Leasehold Mortgage – Foreclosure Rights*”.

(rrr) “*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

General Manager by this Agreement; but until further notice from the Port Authority to the Lessee it shall mean the General Manager (or the temporary or acting General Manager) of the Airport for the time being, or his duly designated representative or representatives.

(sss) "**Governmental Authority**", "**Governmental Board**", "**Governmental Agency**" shall mean federal, state, municipal and other governmental authorities, boards and agencies of any state, nation or government including, without limitation, agencies under the United States Departments of Interior, Commerce and Agriculture, the United States Food and Drug Administration and the United States Centers for Disease Control and Prevention, except that it shall not be construed to include The Port Authority of New York and New Jersey, the lessor under this Agreement.

(ttt) "**Gross Receipts**" shall have the meaning set forth in Part C of the Section of this Agreement entitled "**Rental and Abatement**".

(uuu) "**Ground Area**" shall have the meaning set forth in Paragraph (a) of the Section of this Agreement entitled "**Construction by the Lessee**".

(vvv) "**Ground Area AB**" shall have the meaning set forth in Paragraph (a) of the Section of this Agreement entitled "**Construction by the Lessee**".

(www) "**Ground Area C**" shall have the meaning set forth in Paragraph (a) of the Section of this Agreement entitled "**Construction by the Lessee**".

(xxx) "**Ground C Deferral Period**" shall have the meaning set forth in Part A of the Section of this Agreement entitled "**Rental and Abatement**."

(yyy) "**Ground C Deferred Rent**" shall have the meaning set forth in Part A of the Section of this Agreement entitled "**Rental and Abatement**."

(zzz) "**Hazardous Substance**" and "**Hazardous Substances**" shall mean and include without limitation, any pollutant, contaminant, toxic or hazardous waste, dangerous substance, potentially dangerous substance, noxious substance, toxic substance, flammable, explosive, radioactive material, urea formaldehyde foam insulation, asbestos, polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, petroleum and petroleum products and other substances which has or in the future shall be declared to be hazardous or toxic, or the removal of which has or in the future shall be required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which has or in the future shall be restricted, prohibited, regulated or penalized by any Environmental Requirement.

(aaaa) "**Index**" shall have the meaning set forth in Part A of the Section of this Agreement entitled "**Rental and Abatement**".

(bbbb) "**Initial Baseline**" shall have the meaning set forth in Paragraph (b) of the Section of this Agreement entitled "**Environmental Baselines**".

(cccc) ***“Initial Environmental Report”*** shall have the meaning set forth in Paragraph (a) of the Section of this Agreement entitled ***“Environmental Baselines”***.

(dddd) ***“Inoperable Period”*** shall have the meaning set forth in Paragraph (b) of Part C of the Section of this Agreement entitled ***“Rental and Abatement”***.

(eeee) ***“Institutional Lender”*** shall have the meaning provided in Paragraph (a) of the Section of this Agreement entitled ***“Leasehold Mortgage – Foreclosure Rights”***.

(ffff) ***“Interest Rate”*** a fixed rate per annum equal to Six and Seventy-five one-hundredths percent (6.75%).

(gggg) ***“Isolation Areas”*** shall mean isolation areas for animals that exhibit symptoms of contagious disease or illness in order to prevent or reduce the spread of disease to healthy animals.

(hhhh) ***“Leasehold Mortgage”*** shall have the meaning provided in Paragraph (a) of the Section of this Agreement entitled ***“Leasehold Mortgage – Foreclosure Rights”***.

(iiii) ***“Leasehold Mortgagee”*** shall have the meaning provided in Paragraph (a) of the Section of this Agreement entitled ***“Leasehold Mortgage – Foreclosure Rights”***.

(jjjj) ***“Lessee’s Act”*** shall have the meaning set forth in Paragraph (a) of the Section of this Agreement entitled ***“Environmental Baselines”***.

(kkkk) ***“Lessee’s Facility”*** shall have the meaning set forth in Paragraph (a) of the Section of this Agreement entitled ***“Construction by the Lessee”***.

(llll) ***“Lessee’s Records”*** shall have the meaning set forth in the Section of this Agreement entitled ***“Obligations in Connection with the Conduct of the Lessee’s Business”***.

(mmmm) ***“Letting”*** shall mean the letting under this Agreement for the original term stated herein, and shall include any extension thereof.

(nnnn) ***“Mandatory Operating Sublease”*** shall have the meaning set forth in the Section of this Agreement entitled ***“Additional Provisions Concerning Mandatory Operating Subleases”***.

(oooo) ***“Mandatory Operating Sublessee”*** shall have the meaning set forth in the Section of this Agreement entitled ***“Additional Provisions Concerning Mandatory Operating Subleases”***.

(pppp) ***“Mandatory Service”*** shall mean a service or activity that the Lessee is required to provide or conduct, or cause the provision or conduction of, on the Premises or at the Airport pursuant to Paragraph (a) of the Section of this Agreement entitled ***“Use of Premises”***.

(qqqq) "**Material Part**" shall have the meaning set forth in the Section of this Agreement entitled "**Condemnation**".

(rrrr) "**Matter**" shall have the meaning set forth in Paragraph (q) of the Section of this Agreement entitled "**Construction by the Lessee**".

(ssss) "**Migrated Hazardous Substances**" shall have the meaning set forth in Paragraph (a) of the Section of this Agreement entitled "**Environmental Baselines**".

(tttt) "**Monthly Interest Rate**" shall mean the Interest Rate divided by twelve (12).

(uuuu) "**Mortgage Amount**" shall have the meaning provided in Paragraph (a) of the Section of this Agreement entitled "**Leasehold Mortgage – Foreclosure Rights**".

(vvvv) "**OFAC**" shall have the meaning set forth in the Section of this Agreement entitled "**OFAC Compliance**".

(wwww) "**Other PA Agreement**" shall have the meaning set forth in the Section of this Agreement entitled "**Security Deposit**".

(xxxx) "**Other Relevant Records**" shall have the meaning set forth in the Section of this Agreement entitled "**Obligations in Connection with the Conduct of the Lessee's Business**".

(yyyy) "**Partial Approval Work**" shall have the meaning set forth in Paragraph (aa) of the Section of this Agreement entitled "**Construction by the Lessee**".

(zzzz) "**Partial Approval Work Plans**" shall have the meaning set forth in Paragraph (aa) of the Section of this Agreement entitled "**Construction by the Lessee**".

(aaaa) "**Percentage Increase**" shall have the meaning set forth in Part A of the Section of this Agreement entitled "**Rental and Abatement**".

(bbbb) "**Percentage Rent**" shall have the meaning set forth in Part C of the Section of this Agreement entitled "**Rental and Abatement**".

(cccc) "**Permanent Financing**" shall have the meaning provided in Paragraph (a) of the Section of this Agreement entitled "**Leasehold Mortgage – Foreclosure Rights**".

(dddd) "**Permitted Cargo Handler**" shall have the meaning set forth in the Section of this Agreement entitled "**Additional Provisions Concerning the Cargo Handling Facility**".

(eeee) "**Permitted Cargo Handler Sublease**" shall have the meaning set forth in the Section of this Agreement entitled "**Additional Provisions Concerning the Cargo Handling Facility**".

(ffff) "**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.

(ggggg) "**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**").

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

(iiii) "**Premises**" as defined in the Section of this Agreement entitled "**Letting**" shall without limiting the generality of said Section include the land, 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, refrigeration, communications, gas and other systems, and their pipes, wires, mains, lines, tubes, conduits, equipment and fixtures, and all paving, drains, culverts, ditches and catch-basin.

(jjjj) "**Public Aircraft Facilities**" 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 force majeure event) are usable for such purposes regardless of whether or not they are actually used or usable in whole or in part by the Lessee:

(1) Public Aircraft Parking and Storage Space- by which is meant space at the Airport for the purpose of parking and storing aircraft, for the purpose of servicing aircraft with fuel and lubricants and other supplies for use thereon, and for the purpose of making minor or emergency repairs to aircraft; and

(2) Public Ramp and Apron Area – by which is meant area adjacent to the Public Landing Area designated and made available from time to time by the Port Authority for common use for the loading and unloading of passengers or cargo to or from aircraft using the Public Landing Area.; and

(3) Runways (including approaches thereto) – by which is meant the portion of the Airport used for the purpose of the landing and taking-off of aircraft.

(4) Taxiways – by which is meant 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 aircraft parking and storage space and other portions of the Airport

(not including, however, any taxiways, the exclusive use of which is granted to the Lessee or any other person by lease, permit or otherwise); and

(5) Facilities Incidental to the Runways, Ramp and Apron Area, Aircraft Parking and Storage Area and Taxiways - 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.

(kkkkk) "**Public Landing Area**" shall mean the area of land at the Airport including runways, taxiways and the areas between and adjacent to runways and taxiways, designated and made available from time to time by the Port Authority for the landing and taking-off of aircraft.

(lllll) "**RCP**" shall have the meaning set forth in paragraph (a) of the Section of this Agreement entitled "*Additional Right of Termination -- Change in Control*".

(mmmmm) "**Records**" shall have the meaning set forth in the Section of this Agreement entitled "*Obligations in Connection with the Conduct of the Lessee's Business*".

(nnnnn) "**Refinancing of the Leasehold Mortgage**" shall have the meaning provided in Paragraph (a) of the Section of this Agreement entitled "*Leasehold Mortgage -- Foreclosure Rights*".

(ooooo) "**Relocation Work**" shall have the meaning set forth in Paragraph (w) of the Section of this Agreement entitled "*Construction by the Lessee*".

(ppppp) "**Remediate**" or "**Remediation**" shall mean the investigation (including any feasibility studies or reports), cleanup, removal, abatement, transportation, disposal, treatment (including in-situ treatment), management, stabilization, neutralization, collection, or containment of a Hazardous Substance or contamination, that may be required to satisfy, the Environmental Requirements, including, without limitation, any closure, restoration or monitoring, operations and maintenance activities that may be required by any Government Agency after the completion of such investigation, cleanup, removal, transportation, disposal, treatment, neutralization, collection, or containment activities as well as the performance of any and all obligations imposed by any Governmental Agency in connection with such investigation, cleanup, removal, transportation, disposal, treatment (including in situ treatment), management, stabilization, neutralization, collection, or containment (including any such obligation that may be imposed pursuant to an Environmental Permit or a consent order).

(qqqqq) "**Remediation Completion Report**" shall have the meaning set forth in Paragraph (d) of the Section of this Agreement entitled "*Environmental Baselines*".

(rrrrr) "**Rentals**" shall have the meaning provided in Paragraph (i) of the Section of this Agreement entitled "*Leasehold Mortgage – Foreclosure Rights*".

(sssss) "**Report Date**" shall have the meaning set forth in the Section of this Agreement entitled "*Joint Periodic Condition Survey*".

(ttttt) "**Required Security**" shall have the meaning set forth in the Section of this Agreement entitled "*Security Deposit*".

(uuuuu) "**Required Security Amount**" shall have the meaning set forth in the Section of this Agreement entitled "*Security Deposit*".

(vvvvv) "**ROE**" shall have the meaning set forth in the second WHEREAS clause in the recitals hereunder.

(wwwww) "**Semi-Monthly Installment**" shall have the meaning set forth in Part A of the Section of this Agreement entitled "*Rental and Abatement*."

(xxxxx) "**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.

(yyyyy) "**Taking**" shall have the meaning set forth in the Section of this Agreement entitled "*Condemnation*".

(zzzzz) "**Tank**" or "**Tanks**" shall have the meaning set forth in the Section of this Agreement entitled "*Storage Tanks*".

(aaaaa) "**Total Building Deferred Rent**" shall have the meaning set forth in Part B of the Section of this Agreement entitled "*Rental and Abatement*."

(bbbbb) "**Total Ground C Deferred Rent**" shall have the meaning set forth in Part A of the Section of this Agreement entitled "*Rental and Abatement*."

(ccccc) "**Transfer**", for purposes of the Sections hereof entitled "*Assignment and Subletting*", "*Additional Right of Termination - Change in Control*", "*Additional Provisions Concerning the Cargo Handling Facility*" and "*Additional Provisions Concerning Mandatory Operating Subleases*" shall mean the transfer, sale, assignment, pledge, hypothecation or other disposition of any interest in the Lessee, Permitted Cargo Handler or Mandatory Operating Sublessee, as applicable, or in any direct or indirect constituent entity of the Lessee, Permitted Cargo Handler or Mandatory Operating Sublessee, as applicable, 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 Lessee, Permitted Cargo Handler or Mandatory Operating Sublessee, as applicable, and shall include but not be limited to (i) 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 Lessee, Permitted Cargo Handler or Mandatory Operating Sublessee, as applicable, or that is the

general partner of any partnership that is the Lessee, Permitted Cargo Handler or Mandatory Operating Sublessee, as applicable, (ii) the issuance of additional stock or membership interest in, respectively, any corporation or limited liability company that is the Lessee, Permitted Cargo Handler or Mandatory Operating Sublessee, as applicable, or that is the general partner of any partnership that is the Lessee, Permitted Cargo Handler or Mandatory Operating Sublessee, as applicable, and (iii) 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 Lessee, Permitted Cargo Handler or Mandatory Operating Sublessee, as applicable, or that is a general or limited partner of any partnership that is the Lessee, Permitted Cargo Handler or Mandatory Operating Sublessee, as applicable.

(ddddd) "*Unfavorable Experience*" shall have the meaning provided in subparagraph (o)(vi) of the Section of this Agreement entitled "*Leasehold Mortgage – Foreclosure Rights*".

(eeeeee) "*Veterinarian*" shall mean a person practicing Veterinary Medicine who is licensed or exempt from licensure in the State of New York.

(ffffff) "*Veterinary Records*" shall have the meaning set forth in the Section of this Agreement entitled "*Obligations in Connection with the Conduct of the Lessee's Business*".

(gggggg) "*Veterinary Medicine*" shall mean the diagnosing, treating, operating, or prescribing for any animal disease, pain, injury, deformity or physical condition, or the subcutaneous insertion of a microchip intended to be used to identify an animal. The term "animal" includes every living creature except a human being.

Section 2. Letting

(a) **Premises.** Effective as of the Commencement Date, the Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority at the Facility, upon all the terms, conditions, provisions and agreements of this Agreement, the following spaces: (i) the space shown in diagonal-hatching on the drawing attached hereto, hereby made a part hereof, and marked "Exhibit A," (ii) Area C and (iii) and all buildings, structures, additions, fixtures, improvements, and facilities located, constructed or installed, or which may be located, constructed or installed therein, thereon or thereunder, and all easements and other rights appurtenant thereto and granted by this Agreement, all of the foregoing being hereinafter collectively referred to as the "*Premises*."

(b) **Non-Residential.** The parties acknowledge that the Premises constitute non-residential real property.

Section 3. Term

The term of the letting under this Agreement shall commence upon the Commencement Date, and, unless sooner terminated, expire at 11:59 o'clock p.m. on the Expiration Date.

Section 4. Construction by the Lessee

(a) Design and Construction.

(1) *Plans and Specifications.* The Basis of Design for the construction of the Lessee's Facility entitled "Exhibit B" attached hereto and made a part hereof has been approved by the Port Authority and initialed by all parties. The Lessee represents that such basis of design includes, at a minimum, all renderings, layouts, locations, models, and preliminary functional plans, planning parameters, codes, standards, guidelines and other Port Authority requirements for all project elements for the development of the Premises (the "**Basis of Design**"). The Lessee shall submit to the Port Authority plans and specifications for the Construction Work, which plans and specifications must be approved by the Port Authority all in accordance with paragraph (e) of this Section. In preparing such plans and specifications, the Lessee shall consult with reputable and qualified architects, engineers and other experts who (w) specialize in the construction of state-of-the-art animal facilities at which veterinary and animal transport functions are performed (e.g., veterinary hospitals, veterinary clinics, animal quarantine areas, boarding facilities), (x) who have been engaged in the construction of such state-of-the-art animal facilities during the five (5) years prior to the Commencement Date; (y) are knowledgeable in, among other things, the necessary air circulation, climate control, lighting, animal transport, and waste management systems, and associated materials for such systems, that are necessary to assure the highest level of care, safety and humane treatment of animals and (z) are familiar with applicable guidelines, laws, regulations and the like to ensure compliance therewith and accreditation of the Facility for the uses contemplated under this Agreement.

(2) *Construction Work.* The Lessee shall provide estimated commencement and completion dates to the Port Authority. The Lessee shall provide written notice to the Port Authority of its intent to commence construction at least fifteen (15) days prior to the date of such commencement. Without limiting the above, the Lessee agrees that the Basis of Design shall include (x) the rehabilitation of existing structures, fixtures and other improvements at the Premises and (y) the design and construction on and under the Premises of among other things:

(i) Within Building 78 consisting of approximately 172,165 square feet of enclosed space (the "**Building**") and on associated ground area of approximately 14.4 acres of open space (the "**Ground Area**"), the following:

(a) A state-of-the-art animal handling facility (the "**Animal Handling Facility**"), which shall include, among other things, the following: a business center; animal handling modules; a Veterinary Medicine clinic for small animals; Veterinary Medical laboratory; aviary (pet and exotic birds); equestrian areas; areas for companion animal boarding and grooming; animal exercise areas; mandatory quarantine area and Isolation Areas. The Animal Handling Facility shall occupy approximately 78,265 square feet of the Building as shown in diagonal hatching on "Exhibit A" and approximately six and one-half (6.5) acres of the Ground Area ("**Ground Area AB**"), including the design, construction and installation of appropriate fixtures, furnishings and equipment appropriate and necessary for the provision of each and every one of the Mandatory Services, all as approved in advance by the

Port Authority; provided, however, the portion of the space to be sublet for the provision of companion animal kenneling, boarding, and grooming services as of the AB Rent Commencement Date (the "**Original Kenneling Space**"), which space shall be no larger than 20,000 square feet, may be subsequently reconfigured for the provision of cargo handling services subject to the same terms, conditions and requirements that apply to the Cargo Handling Facility (the "**Kenneling Reconfiguration**"), but only if all of the following conditions precedent are fully satisfied: (1) the Kenneling Reconfiguration and repurposing may not occur prior to the third anniversary of the AB Rent Commencement Date; (2) the Original Kenneling Space is physically suitable for the provision of cargo handling services, as determined in the Port Authority's sole discretion; (3) the Lessee has obtained the Port Authority's prior written consent to the Kenneling Reconfiguration and repurposing of the Original Kenneling Space for cargo handling purposes; (4) the remaining space in the Animal Handling Facility is reconfigured so that all of the Mandatory Services including, without limitation, the kenneling, boarding and grooming services as required in subparagraph (a)(1)(iii) of the Section of this Agreement entitled "*Use of Premises*" continue to be provided at the Animal Handling Facility (the "**AHF Reconfiguration**") prior to the Kenneling Reconfiguration; (5) the Lessee shall have obtained the Port Authority's written consent to the AHF Reconfiguration prior to the commencement of the performance of the AHF Reconfiguration; and (6) the performance and provision of all Mandatory Services at Ground Area AB shall continue without interruption and at the same state-of-the-art standard as required under this Agreement, the satisfaction of which shall be determined in the Port Authority's sole discretion. The Kenneling Reconfiguration and the AHF Reconfiguration shall constitute amendments to the Basis of Design.

(b) State-of-the-art cargo handling facility occupying approximately seven and nine tenths (7.9) acres of the Ground Area ("**Ground Area C**") and approximately 93,900 square feet of the Building ("**Building Area C**") consisting of office and warehouse space for cargo operations permitted hereunder, including the design, construction and installation of appropriate fixtures, furnishings and equipment as approved by the Port Authority. Ground Area C and Building Area C collectively shall hereinafter be called the "**Cargo Handling Facility**"; together with the Animal Handling Facility, the "**Lessee's Facility**";

(ii) The replacement of the heating system at the Building on the date that is the earlier of beneficial occupancy by the Lessee and the date that is twelve (12) months from the Commencement Date;

(iii) The replacement of the ventilation system at the Building on the Commencement Date with multiple separate ventilation systems that assure the health and safety of all animals located in or at the Premises and that are adequate for the operation of a state-of-the-art animal handling facility and cargo handling facility;

(iv) Installation and/or modification of existing sprinkler system in all portions of the Premises which may be used for or occupied by animals so as to assure the health and safety of all such animals, comparable to in quality and efficacy to any sprinkler system that may be installed or warranted for areas occupied or operated by persons;

(v) All appropriate lines, mains, cables, manholes, wires, conduits and other facilities required in connection with or relating to the Construction Work;

(vi) Mechanical, electrical, storm sewer, sanitary sewer, telephone, fire alarm, fire protection, gas, communications, water, security, utilities and other systems needed for the Lessee's Facility, including all necessary relocations and upgrades with sufficient capacity for the Lessee's Facility;

(vii) All necessary roadways, ramps, parking and pedestrian circulation areas, together with all associated and related areas and facilities;

(viii) All grading and paving of ground areas and appropriate landscaping, together with all associated and related areas; and

(ix) All necessary or required blast fences, security fencing and other fencing.

All of the foregoing demolition, design, construction and installation work shall be performed by the Lessee on the Premises and off the Premises where required and, where performed on the Premises, shall be and become a part of the Premises under this Agreement and is sometimes collectively referred to herein as the "*Construction Work*."

(3) *Quality of Construction Work.* In connection with the Animal Handling Facility as well as the Cargo Handling Facility, the Lessee shall implement and comply with all Federal, State and Local codes and, in addition, with industry "best practices" guidelines used by architects/engineers in the construction of state-of-the-art veterinary clinics and quarantine areas as of the Commencement Date.

(4) *Updates.* The Lessee shall keep the basis of design covered by this Paragraph (a) up to date and shall submit to the Port Authority for its prior approval any amendment, revision or modification thereof.

(5) *Construction Related Investment.*

(i) The Lessee intends to invest Forty-eight Million Dollars (\$48,000,000.00) in direct payments to contractors, architects, suppliers, subcontractors or any other person engaged by the Lessee or any of its contractors for work performed or materials purchased in connection with the design, construction and installation constituting the Construction Work and other ancillary costs, and shall, subject to the provisions of the Section entitled "*Force Majeure*" hereof, substantially complete the Construction Work no later than the day preceding the second anniversary of the Commencement Date, time being of the essence.

(ii) Racebrook ARK, LLC shall deposit with the Lessee a minimum of Five Million Dollars (\$5,000,000) (the "*Equity*") of its unencumbered liquid assets to finance the construction and development of the Facility, such encumbrances to include without limitation, funds that are pledged, assigned or used to secure a lien. The Equity shall be deposited with the Lessee no later than the Commencement Date.

(b) **Risk of Loss.**

The Lessee hereby assumes the risk of loss or damage to all of the Construction Work prior to the completion thereof and the risk of loss or damage to all property of the Port Authority arising out of or in connection with the performance of the Construction Work. In the event of such loss or damage, the Lessee shall forthwith repair, replace and make good the Construction Work and the property of the Port Authority without cost or expense to the Port Authority. The Lessee shall itself and shall also require its contractors to indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees from and against all claims and demands, just or unjust, of third persons (including employees, officers and agents of the Port Authority) arising or alleged to arise out of the performance of the Construction Work and for all expenses incurred by it and by them in the defense, settlement or satisfaction thereof including, without limitation, thereto, claims and demands for death, for personal injury or for property damage, direct or consequential, whether they arise from the acts or omissions of the Lessee, of any contractors of the Lessee, of the Port Authority, or of third persons, or from acts of God or of the public enemy, or otherwise, excepting only claims and demands which result solely from affirmative willful acts or omissions done by the Port Authority, its Commissioners, officers, agents and employees with respect to the Construction Work; provided, however, that the Lessee shall not be required to indemnify the Port Authority where indemnity would be precluded pursuant to the provisions of Section 5-322.1 of the General Obligations Law of the State of New York. If so directed, the Lessee shall at its own expense defend any suit based upon such claim or demand (even if such suit, claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining express advance written permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.

(c) **Required Subcontract Provision.** Unless a general contractor, contractor or subcontractor is listed on "Exhibit C" attached hereto and hereby made a part hereof, prior to entering into a contract or contracts for any part of the Construction Work, the Lessee shall submit to the Port Authority for its approval the names of the general contractor and other contractors and subcontractors to whom the Lessee proposes to award said contract or contracts. The Port Authority shall have the right to disapprove any contractor who may be unacceptable to it. The Lessee shall include in all such contracts such provisions and conditions, as may be required by the Port Authority. Without limiting the generality of the foregoing all of the Lessee's construction contracts shall provide as follows:

"If (i) the Contractor fails to perform any of his obligations under the Contract, including his obligation to the Lessee to pay any claims lawfully made against him by any materialman, subcontractor or workman or other third person which arises out of or in connection with the performance of the Contract or (ii) any claim (just or unjust) which arises out of or in connection with the Contract is made against the Lessee or (iii) any subcontractor under the Contract fails to pay any claims lawfully made against him by any materialman, subcontractor,

workman or other third persons which arise out of or in connection with the Contract or if in the Lessee's opinion any of the aforesaid contingencies is likely to arise, then the Lessee shall have the right, in its discretion, to withhold out of any payment (final or otherwise and even though such payments have already been certified as due) such sums as the Lessee may deem ample to protect it against delay or loss or to assume the payment of just claims of third persons, and to apply such sums in such manner as the Lessee may deem proper to secure such protection or satisfy such claims.

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

(d) **Performance and Payment Bond.** Prior to the commencement of the Construction Work, the Lessee shall cause to be delivered to the Port Authority, a payment and performance bond either (A) in the form attached hereto as "Exhibit D" and hereby made a part hereof or (B) in another form approved in advance in form and substance to the Port Authority in its sole discretion and whereby the Port Authority shall be listed as a payee, protecting the Port Authority from monetary risk during, relating to or arising out of the Construction Work, and in all events, such bond shall be only with a surety listed in the Financial Management Service of the United States Department of the Treasury. The said payment and performance bond shall be in an amount equal to the entire contract price for the Construction Work. Said payment and performance bond shall guarantee the full, faithful and prompt performance of and compliance with, on the part of the Lessee, all of the terms, provisions, covenants and conditions of this Agreement relating to the Construction Work. Such payment and performance bond shall apply to and be in effect during the period from the commencement of the Construction Work to and including the later of the AB Completion Date and the C Completion Date, including but not limited to the terms, provisions, covenants and conditions which relate to the Construction Work and the insurance, indemnity and environmental obligations associated with the Construction Work, and the Lessee shall keep and maintain said payment and performance bond in full force and effect; provided, however, that such payment and performance bond shall remain in effect in all respects after the later of the AB Completion Date and the C Completion Date, and indefinitely, until the Lessee fully satisfies its obligations hereunder relating to the Construction Work. The existence of the payment and performance bond described in this Agreement shall not limit or alter any other remedies of the Port Authority under this Agreement, and the Port Authority may from time to time and at any time elect to pursue (or not to pursue) its rights

under any payment and performance bond without thereby limiting, voiding or relinquishing any of its other rights or remedies under this Agreement.

(e) **Construction Application; Contractors.**

(1) Prior to the commencement of the Construction Work and in addition to the aforesaid basis of design, the Lessee shall execute and submit to the Port Authority for the Port Authority's approval a construction application or applications in the form prescribed by the Port Authority and including complete plans and specifications of the Construction Work pursuant to and in accordance with the Port Authority's Tenant Construction and Alteration Process manual (hereinafter collectively called the "*Construction Application*") setting forth in detail by appropriate plans and specifications the work the Lessee proposes to perform and the manner of and time periods for performing the same including, without limitation, a schedule listing each contract proposed to be entered into for the performance of the work and the estimated cost of the work to be performed under each such contract. The data to be supplied by the Lessee shall identify each of the items constituting the Construction Work, and shall describe in detail the systems, improvements, fixtures and equipment to be installed by the Lessee. All Construction Work shall be done in accordance with the plans and specifications to be submitted to and approved by the Port Authority prior to the commencement of the Construction Work, and until such approval has been obtained the Lessee shall continue to resubmit plans and specifications as required. Upon approval of such plans and specifications by the Port Authority, the Lessee shall proceed diligently at its sole cost and expense to perform the Construction Work. All Construction Work, including workmanship and materials, shall be of state-of-the-art quality. The Lessee shall re-do, replace or construct at its own cost and expense, any Construction Work not done in accordance with the approved plans and specifications, the provisions of this Section or any further requirements of the Port Authority.

(2) The Lessee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be directed by the Port Authority and for developing, completing and submitting detailed plans and specifications for the work. The plans and specifications to be submitted by the Lessee shall be in sufficient detail for a contractor to perform the work and shall bear the seal of a qualified and licensed architect or professional engineer. A qualified and licensed architect or professional engineer shall be responsible for the administration of the work in accordance with the Port Authority's requirements. In connection with review by the Port Authority of the Lessee's submissions under this Paragraph, the Lessee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may find necessary. Following the Port Authority's receipt of the Lessee's complete Construction Application and complete plans and specifications, the Port Authority shall give its written approval or rejection thereof, or shall request such revisions or modifications thereto as the Port Authority may find necessary. The Lessee shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor, and the contract such contractor is operating under, have been approved by the Port Authority. The Lessee shall include in any such contract or subcontract such provisions as are required in accordance with the provisions of this Agreement and the Construction Application approved by the Port Authority. The Lessee shall obtain and maintain or cause each contractor to obtain and maintain in force such insurance

coverage as is described in Paragraph (i) of this Section and such performance bonds as the Port Authority may specify (if any).

(3) The Port Authority may refuse to grant approval with respect to the Construction Work if, in its opinion, any of the proposed Construction Work as set forth in said plans and specifications (all of which shall be in such detail as may permit the Port Authority to make a determination as to whether the requirements hereinafter referred to are met) shall:

(i) be unsafe, unsound, hazardous or improper for the use and occupancy for which it is designed; or

(ii) not comply with the Port Authority's requirements for harmony of external architecture of similar existing or future improvements at the Facility; or

(iii) not comply with the Port Authority's requirements with respect to external and interior building materials and finishes of similar existing or future improvements at the Facility; or

(iv) be designed for use for purposes other than those authorized under this Agreement; or

(v) set forth ground elevations or heights other than those prescribed by the Port Authority; or

(vi) not provide adequate and proper circulation areas; or

(vii) not be at locations or not be oriented in accordance with the basis of design; or

(viii) not comply with the provisions of the Basic Lease, as hereinafter defined, including without limiting the generality thereof, those provisions of the Basic Lease providing that the Port Authority will conform to the enactments, ordinances, resolutions and regulations of the City and its various departments, boards and bureaus in regard to construction and maintenance of buildings and structures and in regard to health and fire protection which would be applicable if the Port Authority were a private corporation to the extent that the Port Authority finds it practicable so to do; or

(ix) be in violation or contravention of any other provisions and terms of this Agreement; or

(x) not comply with all Port Authority standards and guidelines; or

(xi) not comply with all applicable governmental laws, ordinances, enactments, resolutions, rules and orders; or

(xii) not comply with all applicable requirements of the National Board of Fire Underwriters and the Fire Insurance Rating Organization of New York; or

(xiii) not comply with the Port Authority's requirements with respect to landscaping; or

(xiv) not comply with the Port Authority's requirements and standards with respect to noise, air pollution, water pollution or other types of pollution; or

(xv) not comply with any construction limitations set forth in Exhibit A, if any; or

(xvi) not comply with the Americans with Disabilities Act of 1990 and all federal rules, regulations and guidelines pertaining thereto, including but not limited to the American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People, ANSI A117.180.

(4) Prior to engaging or retaining an architect or architects for the Construction Work, the name or names of said architect or architects shall be submitted to the Port Authority for its approval. The Port Authority shall have the right to disapprove any architect who may be unacceptable to it. The Lessee shall furnish or require its architect to furnish a full time resident engineer or, with the consent of the Port Authority, a representative of the Lessee authorized to act on behalf of the Lessee, during the construction period. The Lessee shall require certification by a licensed engineer of all pile driving data and of all controlled concrete work and such other certifications as may be requested by the Port Authority from time to time. The Lessee shall file with the Port Authority a copy of its contracts with its contractors prior to start of the Construction Work.

(f) Minimization of Pollution and Noise.

(1) The Construction Work shall be constructed in such a manner that there will be at all times a minimum of air pollution, water pollution or any other type of pollution and a minimum of noise emanating from, arising out of or resulting from the operation, use or maintenance of the Premises by the Lessee and from the operations of the Lessee under this Agreement. Accordingly, and in addition to all other obligations imposed on the Lessee under this Agreement and without diminishing, limiting, modifying or affecting any of the same, the Lessee shall be obligated to construct as part of the Construction Work hereunder such structures, fences, equipment, devices and other facilities as may be necessary or appropriate to accomplish the foregoing and each of the foregoing shall be and become a part of the Construction Work hereunder.

(2) Notwithstanding the provisions of Subparagraph (1) above and in addition thereto, the Port Authority hereby reserves the right from time to time and at any time during the term of this Agreement to require the Lessee subsequent to the completion of the Construction Work to design and construct at its sole cost and expense such further structures, fences, equipment, devices and other facilities as may be necessary or appropriate to accomplish the objectives as set forth in the first sentence of Subparagraph (1) hereof. The Port Authority

shall determine all locations, the manner, type and method of construction and the size of any of the foregoing. The Lessee shall submit for Port Authority approval its plans and specifications covering the required work and upon receiving such approval shall proceed diligently to construct the same. All other provisions of this Section with respect to the Construction Work shall apply and pertain with like effect to any work that the Lessee is obligated to perform pursuant to this Paragraph (f) and upon completion of each portion of such work it shall be and become a part of the Premises. The obligations assumed by the Lessee under this Paragraph (f) are a special inducement and consideration to the Port Authority in granting this Agreement to the Lessee.

(g) No Port Authority Responsibility.

(1) The Lessee agrees to be solely responsible for any plans and specifications used by it and for any loss or damages resulting from the use thereof, notwithstanding the same have been approved by the Port Authority and notwithstanding the incorporation therein of Port Authority recommendations or requirements. Notwithstanding the requirement for approval by the Port Authority of the contracts to be entered into by the Lessee or the incorporation therein of Port Authority requirements or recommendations, and notwithstanding any rights the Port Authority may have reserved to itself hereunder, the Port Authority shall have no liabilities or obligations of any kind to any contractors engaged by the Lessee or for any other matter in connection therewith and the Lessee hereby releases and discharges the Port Authority, its Commissioners, officers, agents, representatives and employees of and from any and all liability, claims for damages or losses of any kind, whether legal or equitable, or from any action or cause of action arising or alleged to arise out of the performance of any Construction Work pursuant to the contracts between the Lessee and its contractors. Any warranties contained in any construction contract entered into by the Lessee for the performance of the Construction Work hereunder shall be for the benefit of the Port Authority, as well as the Lessee.

(2) Without limiting or affecting any other term or provision of this Agreement, the Lessee shall be solely responsible for the design, adequacy and operation of any utility, mechanical, electrical, communications and other systems installed in the Premises by the Lessee as Construction Work and any other improvements, additions, fixtures, finishes, decorations and equipment made or installed by the Lessee in the Premises as Construction Work and shall do preventive maintenance and make such repairs, replacements, rebuilding (ordinary or extraordinary, structural or non-structural) and painting necessary to keep such systems, improvements, additions, fixtures, finishes, decorations and equipment (whether the same involves structural or non-structural work) in the condition they were in when made or installed except for reasonable wear which does not adversely affect the efficient or proper utilization of any part of the Premises.

(h) Third-party Claims. The Lessee shall pay or cause to be paid all claims lawfully made against it by its contractors, subcontractors, materialmen and workmen, and all claims lawfully made against it by other third persons arising out of or in connection with or because of the performance of the Construction Work, and shall cause its contractors and subcontractors to pay all such claims lawfully made against them; provided, however, that

nothing herein contained shall be construed to limit the right of the Lessee to contest any claim of a contractor, subcontractor, materialman, workman or other person and no such claim shall be considered to be an obligation of the Lessee within the meaning of this Section unless and until the same shall have been finally adjudicated. The Lessee shall use its best efforts to resolve any such claims and shall keep the Port Authority fully informed of its actions with respect thereto.

(i) **Liability Insurance.**

(1) The Lessee in its own name as insured and with the Port Authority and the City Insureds as additional insureds shall procure and maintain a policy or policies of (i) Environmental Liability Insurance with a limit of \$5 million per occurrence and \$5 million in the aggregate covering bodily injury, property damage or environmental damage caused by pollution conditions; including coverage for environmental cleanup on land, in air and on water, and (ii) Commercial General Liability Insurance including, but not limited to, coverage with a broad form property damage endorsement, premises-operations, products-completed operations (for a minimum of 3 years after the later of the AB Completion Date and the C Completion Date) and explosion, collapse and underground property damages coverage, personal injury and independent contractors and providing for the coverage in the limit set forth below; (iii) Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles, automatically covering newly acquired vehicles, and providing for coverage in the limit set forth below; with contractual liability endorsements, where applicable, covering the obligations assumed by the Lessee hereunder and the obligations required of the Lessee's contractors pursuant to this Paragraph; and (iv) Workers' Compensation Insurance in accordance with the requirements of law; which insurance shall be in addition to all policies of insurance otherwise required by this Agreement, or the Lessee may provide such insurance by requiring each contractor engaged by it for the Construction Work to procure and maintain such insurance in the contractor's name as insured and with the exceptions of the Workers' Compensation Policy, with the Port Authority of New York and New Jersey, the City Insureds and the Lessee as additional insureds including, where applicable, such contractual liability endorsements, said insurance not to contain any exclusion for bodily injury to or sickness, disease or death of any employee of the Lessee or of any of its contractors which would conflict with or in any way impair coverage under the contractual liability endorsement. The said liability policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the named insured thereunder with respect to any claim or action against the named insured by a third person shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority and the City Insureds thereunder as additional insureds. In addition, said liability policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Port Authority thereunder with respect to any claim or action against the Port Authority by the Lessee or its contractor(s) shall be the same as the protections afforded the named insured thereunder with respect to any claim or action against the named insured by a third person as if the Port Authority were the named insured thereunder. Said insurance shall be in not less than the following amounts:

Minimum Limits

- | | | |
|------|--|--------------|
| (i) | Commercial General Liability Insurance:

Combined single limit per occurrence for death, bodily injury and property damage liability | \$50,000,000 |
| (ii) | Commercial Automobile Liability Insurance: (covering owned, non-owned and hired vehicles)

Combined single limit per occurrence for death, bodily injury and property damage liability | \$25,000,000 |

(2) The insurance required hereunder shall be maintained in effect during the performance of the Construction Work and shall be in compliance with and subject to the provisions of Paragraph (b) of the Section of this Agreement entitled "*Indemnity and Liability Insurance*".

(j) **Title to Improvements.** Title to all the Construction Work shall pass to the City as the same or any part thereof is erected, constructed or installed and the same shall be and become a part of the Premises hereunder. For purposes of this Paragraph, the term Construction Work shall not include the Lessee's personal property, trade fixtures or equipment.

(k) **Labor Harmony.** In the performance of the Construction Work, the Lessee will not permit any situation or condition to arise or continue that causes any labor troubles at, or emanating from, the Premises which interferes with the operations (including any construction work) at the Premises. The determination of the Port Authority shall be conclusive on the Lessee and upon written notice from the Port Authority of the threat of any such labor troubles, the Lessee will (or will cause its contractor to, as applicable) immediately rectify any condition causing or contributing to labor troubles as specified in such notice. In the event of failure by the Lessee (or any of its contractors, as applicable) to timely comply with the requirements of this Paragraph, the Port Authority, will have the right, by notice from the Port Authority to the Lessee, to require the Lessee to suspend the Port Authority's permission to the Lessee to proceed with the applicable portion of each specific construction project or, as applicable, of the Construction Work being performed by or on behalf of the Lessee and the Lessee will thereupon immediately cease the same. When labor troubles will be so settled that such interference or the threat of such interference no longer exists, the Port Authority by notice to the Lessee will reinstate the permission to the Lessee to perform the Construction Work on all the same terms and conditions as before the suspension. "Labor troubles" will mean and include strikes, boycotts, picketing, work-stoppages, slowdowns, disputes, complaints, or any other type

of labor trouble, regardless of the employer of the person involved or their employment status, if any.

(l) **No Third Party Beneficiary.** No contractor or third party shall, or shall be deemed to, have acquired any rights against the Port Authority by virtue of the execution of this Agreement and nothing contained herein shall operate or give to any such contractor or third party any claim or right of action against the Port Authority and its Commissioners, officers, agents and employees.

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

(n) **Non-Discrimination.** In addition to and without limiting any terms and provisions of this Agreement, the Lessee shall provide in its contracts and all subcontracts covering the Construction Work, or any portion thereof, that:

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

(2) At the request of either the Port Authority or the Lessee, the contractor shall request such employment agency, labor union or authorized representative of workers with which it has a collective bargaining or other agreement or understanding and which is involved in the performance of the contract with the Lessee to furnish a written statement that

such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder;

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

(4) The contractor will include the provisions of items (1) through (3) of this Subparagraph in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work in connection with the contract; and

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

(o) **Port Authority Inspections; No Duty to Inspect or Police.**

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

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

(p) **Soil Erosion Control Measures.** The Lessee shall take all measures to prevent erosion of the soil and the blowing of sand during the performance of the Construction Work including, but not limited to, the fencing of the Premises or portions thereof or other areas and the covering of open areas with asphaltic emulsion or similar materials as the Port Authority may direct.

(q) **Matter.** Any soil, dirt, sand or other matter (hereinafter in this Paragraph collectively called the "**Matter**") excavated by the Lessee during the course of the Construction Work and not used at the site shall be delivered and deposited by the Lessee at its expense to any location on the Facility or to any location off the Facility within or without the Port of New York District as may be designated by the Port Authority, subject to and in accordance with the

provisions of this Section. The entire proceeds, if any, of the sale or other disposition of the Matter shall belong to the Port Authority. Notwithstanding the foregoing the Port Authority may elect by prior written notice to the Lessee to waive any rights it may have hereunder as to all or portions of the Matter in which event the Lessee at the Lessee's expense shall dispose of the same without further instruction from the Port Authority, subject to and in accordance with the provisions of Section.

(r) **Backfilling of Excavations.** Prior to backfilling any excavations in which the construction of utilities has been completed, the Lessee shall notify the Port Authority Resident Engineer that such excavations are ready to be backfilled. Such excavations shall not be backfilled until the Port Authority shall have documented and surveyed the line and grade of such utilities.

(s) **Studies and Reports.** The Lessee shall, prior to the commencement of construction and at all times during construction, submit to the Port Authority all engineering studies with respect to construction and samples of construction materials as may be required at any time and from time to time by the Port Authority.

(t) **Forecasts.** Upon the request of the Port Authority from time to time, the Lessee shall submit to the Port Authority its forecasts of the number of people who will be working at various times during the period of construction and the term of the letting hereunder at the Premises, the expected utility demands, noise profiles and such other information as the Port Authority may require. The Lessee shall continue to submit its latest forecasts and such other information as may be required as aforesaid as the Port Authority shall from time to time and at any time request.

(u) **No Engineer Approval Authority.** It is hereby expressly understood and agreed that neither the field engineer nor the Resident Engineer has any authority to approve any plans and specifications of the Lessee with respect to the Construction Work, to approve the construction by the Lessee of any portion of the Construction Work or to agree to any variation by the Lessee from compliance with the terms of this Agreement, or the Construction Application or the approval letter with respect to the Construction Work. Notwithstanding the foregoing, should the field engineer or the Resident Engineer give any directions or approvals with respect to the Lessee's performance of any portions of the Construction Work which are contrary to the provisions of this Agreement, the Construction Application or the approval letter, said directions or approvals shall not affect the obligations of the Lessee as set forth herein nor release or relieve the Lessee from the strict compliance therewith. It is hereby further understood and agreed that the Port Authority has no duty or obligation of any kind whatsoever to inspect or police the performance of the Construction Work by the Lessee and the rights granted to the Port Authority hereunder shall not create or be deemed to create such a duty or obligation. Accordingly, the fact that the Resident Engineer has not exercised the Port Authority's right to require the Lessee to cease its construction of all or any part of the Construction Work shall not be or be deemed to be an agreement or acknowledgment on the part of the Port Authority that the Lessee has in fact performed such portion of the Construction Work in accordance with the terms of this Agreement, the Construction Application or the approval letter nor shall such fact be or be deemed to be a waiver by the Port Authority from the requirement of strict compliance by the

Lessee with the provisions of this Agreement, the Construction Application and the approval letter with respect to the Construction Work.

(v) **Builder's Risk Insurance.** The Lessee shall procure and maintain Builder's Risk (all Risk) Completed Value Insurance on a complete value form covering the Construction Work during the performance thereof including material delivered to the Premises but not attached to the realty, or existing property, until the Construction Work is completed. Such insurance shall be in compliance with and subject to the applicable provisions of the Section of this Agreement entitled "*Insurance*" hereof and shall name the Port Authority, the City Insureds, the Lessee and its contractors and subcontractors as insureds and such policy shall provide that the loss shall be adjusted with and payable to the Port Authority. The Lessee shall use such proceeds for the repair, replacement or rebuilding of the Construction Work and any excess shall be paid over to the Port Authority.

(w) **Relocation of Utilities.** The Lessee understands that there may be communications and utility lines and conduits located on or under the site, which do not, and may not in the future, serve the Premises. The Lessee agrees, at its sole cost and expense, if directed by the Port Authority to do so prior to the issuance by the Port Authority of the certificate as set forth in Paragraph (bb) hereof, to relocate and reinstall such communications and utility lines and conduits as may be deemed necessary by the Port Authority in connection with the Construction Work on the Premises or off the Premises as directed by the Port Authority and to restore all affected areas (such work being hereinafter collectively called the "**Relocation Work**"). The Lessee shall perform the Relocation Work subject to and in accordance with all the terms and provisions of this Section and the Relocation Work shall be and become a part of the Construction Work, it being understood, however, that the Relocation Work shall not be or become a part of the Premises hereunder.

(x) **Non-Liability of Individuals.** Nothing contained in this Agreement shall grant or be deemed to grant any contractor, architect, supplier, subcontractor or any other person engaged by the Lessee or any of its contractors in the performance of any part of the Construction Work any right of action or claim against the Port Authority, its Commissioners, officers, agents and employees with respect to any work any of them may do in connection with the Construction Work or otherwise. Nothing contained herein shall create or be deemed to create any relationship between the Port Authority and any such contractor, architect, supplier, subcontractor or any other person engaged by the Lessee or any of its contractors in the performance of any part of the Construction Work and the Port Authority shall not be responsible to any of the foregoing for any payments due or alleged to be due thereto for any work performed or materials purchased in connection with the Construction Work.

(y) **Field Engineer.** The Port Authority will assign to the Construction Work one or more field engineers. The Lessee shall pay to the Port Authority, for the services of said engineer or engineers, the rate that the Port Authority shall charge Civil Aircraft Operators at the Airport for the services of such engineer or engineers.

(z) **Utilities.** The Lessee shall, at its sole cost and expense and if and to the extent required, bring appropriate roadway access stubs and service lines for the supply of cold

water, electric power, communications, and sanitary and storm sewers (said service lines and sanitary and storm sewers being hereinafter collectively referred to as "utility service lines") to such locations at the perimeter of the Premises or to the nearest manhole or to other locations off the Premises as the Port Authority, in consultation with the Lessee, shall determine. The Lessee at its sole cost and expense is hereby obligated to tie its utility lines and roadways into such locations at or near the perimeter of the Premises where such utility service lines and roadway access stubs will be brought by the Lessee hereunder.

(aa) **Partial Completion.**

If the Lessee desires to commence construction of portions of the Lessee's Construction Work prior to the approval by the Port Authority of the complete Construction Application and plans and specifications covering all of such work, the Lessee shall submit to the Port Authority a separate Construction Application for each portion of the Lessee's Construction Work the Lessee so desires to commence (each such portion of the Lessee's Construction Work being hereinafter designated as "*Partial Approval Work*") which shall be executed by an authorized officer of the Lessee and shall be accompanied by final and complete plans, specifications, drawings, and data with respect to such portion of the Lessee's Construction Work (the final and complete plans, specifications, drawings, and data covering each such portion of the Lessee's Construction Work are hereinafter referred to as the "*Partial Approval Work Plans*" with respect to such portion of the Lessee's Construction Work) setting forth in detail the work to be performed in connection with each such portion of the Lessee's Construction Work. The Port Authority shall use its discretion to determine whether to permit the Lessee to proceed with the performance of any Partial Approval Work. If the Port Authority consents to the performance of any Partial Approval Work, the Port Authority shall review the Construction Application covering such work and shall give its written approval or rejection of the Partial Approval Work Plans with respect thereto or shall request such revisions or modifications thereto as the Port Authority may find necessary. Upon the Port Authority's approval of the Construction Application covering an item of Partial Approval Work and its approval of the Partial Approval Work Plans with respect thereto, the Lessee may proceed to perform such item of Partial Approval Work subject to and in accordance with the following terms and conditions:

(1) The performance by the Lessee of any item of Partial Approval Work in accordance with the Port Authority's approval will be at its sole risk and if for any reason the plans and specifications for the balance of the Lessee's Construction Work or, any part thereof, are not approved by the Port Authority or if the approval thereof calls for modifications or changes in any item of Partial Approval Work undertaken by the Lessee under any approval granted by the Port Authority pursuant to this paragraph, the Lessee will, as directed by the Port Authority, and at the Lessee's sole cost and expense, either restore the area affected to the condition existing prior to the commencement of such item of Partial Approval Work or make such modifications and changes to such work as may be required by the Port Authority.

(2) Nothing contained in any approval given pursuant to this paragraph shall constitute a determination or indication by the Port Authority that the Lessee has complied with any laws, rules, orders, ordinances, enactments, resolutions,

regulations, statutes, requirements, codes, directions, and executive orders including, but not limited to, those of the State of New York, Borough of Queens or City of New York, which may pertain to the Partial Approval Work to be performed.

(3) Each item of Partial Approval Work shall be performed in accordance with and subject to the terms and provisions of this Agreement covering the Lessee's Construction Work and in accordance with the approved Construction Application covering such item of Partial Approval Work and in accordance with the approved Partial Approval Work Plans constituting a part of such Construction Application, and subject to any requirements, stipulations, and provisions which the Port Authority may impose in its approval of the performance of such item of Partial Approval Work.

(4) No Partial Approval Work performed by the Lessee pursuant to the provisions of this paragraph shall affect or limit the obligations of the Lessee with respect to the Lessee's Construction Work or any prior approvals thereof.

(5) The Lessee specifically understands that neither the Port Authority's approval of any Construction Application and Partial Approval Work Plans covering any item of Partial Approval Work nor the performance by the Lessee of any item of Partial Approval Work pursuant to such approval shall obligate the Port Authority to approve the Construction Application and plans and specifications submitted by the Lessee for the balance of the Lessee's Construction Work or shall create or be deemed to create any obligation on the part of the Port Authority to permit subsequent Partial Approval Work to be performed. Without limiting the generality of the provisions of this paragraph, it is specifically understood that the Port Authority may withhold its approval of a Construction Application and Partial Approval Work Plans covering any item of Partial Approval Work if the Port Authority determines that review of subsequent items of Partial Approval Work is required before the Port Authority can approve, reject, or comment upon such Partial Approval Work Plans.

(bb) Certificate of Completion.

(i) When all the Construction Work is substantially completed and ready for use the Lessee shall advise the Port Authority to such effect and shall deliver to the Port Authority a certificate by an authorized officer of the Lessee and the Lessee's architect or engineer certifying that the Construction Work has been constructed in accordance with the approved plans and specifications and the provisions of this Agreement and in compliance with all applicable laws, ordinances and governmental rules, regulations and orders. Thereafter the Construction Work will be inspected by the Port Authority and if the same has been completed as certified by the Lessee and the Lessee's architect or engineer, a certificate to such effect shall be delivered to the Lessee by the Port Authority, subject to the condition that all risks thereafter with respect to the construction and installation of the same and any liability therefor for negligence or other reason shall be borne by the Lessee. Subject to the subparagraph of this Section entitled "Partial Completion", the Lessee shall not use or permit the use of the Construction Work

for the purposes set forth in this Agreement until such certificate is received from the Port Authority. The Port Authority certificate referred to in this Paragraph shall be either a Temporary Certificate of Authorization to Occupy or Use or a Certificate of Authorization to Occupy or Use, both as defined in the Tenant Construction and Alteration Process Manual. The date specified in such temporary certificate or certificate received by the Lessee in connection with the occupancy and use of the animal handling area, whichever is received first, shall be referred to in this Agreement as the "**AB Completion Date**"; for the purposes of this subparagraph (i) only, the animal handling area shall not include the veterinary clinic or the animal kenneling and grooming facility. For the cargo handling area, the date specified in such temporary certificate or certificate received by the Lessee in connection with the occupancy and use of the cargo handling area, whichever is received first, shall be referred to in this Agreement as the "**C Completion Date**".

(ii) Notwithstanding the provisions of the foregoing subparagraph (i), when a discrete, integral and material portion of the Construction Work is substantially completed or is properly usable, the Lessee may advise the Port Authority to such effect and may deliver to the Port Authority: [a] a certificate signed by an authorized officer of the Lessee certifying that such portion of the Construction Work has been constructed in accordance with the approved plans and specifications and the provisions of this Agreement and in compliance with all applicable law; [b] a certificate signed and sealed on behalf of the Project Engineer by a New York State licensed architect on its staff certifying that the approved plans and specifications are in compliance with all applicable laws; and [c] a certificate signed and sealed on behalf of the Project Engineer by a New York State licensed engineer on its staff certifying that such portion of the Construction Work has been constructed in accordance with the approved plans and specifications. The Lessee shall also certify that such portion of the Construction Work can be properly used even though the Construction Work has not been completed and that the Lessee desires such use. In the event the Port Authority issues such certificate, the Lessee may use such discrete, integral and material portion subject to the condition that all risks thereafter with respect to the construction and installation of the same and any liability therefor for negligence or other reason shall be borne by the Lessee, and subject to the risks as set forth above in the paragraph relating to Partial Approval Work.

(cc) **Lease Controls.** The Lessee shall comply with all the terms and provisions of the approved Construction Application. In the event of any inconsistency between the terms of any Construction Application and the terms of this Agreement, the terms of this Agreement shall prevail and control.

(dd) **"as built" Drawings.** The Lessee agrees that it shall deliver to the Port Authority upon completion of the Project two (2) sets of "as built" drawings of the Construction Work in an electronic CADD data file in a format to be designated by the Port Authority, all of which shall conform to the specifications of the Port Authority (the receipt of a copy of said specifications prior to the execution of this Agreement being hereby acknowledged by the Lessee), together with two (2) complete hard copies of such drawings, all engineering reports, engineering analysis, boring logs, survey information and engineering design calculations and

operation and maintenance manuals in a comprehensive, coordinated package. The Lessee shall during the term of this Agreement maintain, and provide to the Port Authority upon request, a set of current construction documents showing thereon any changes or modifications which have been made.

(ee) **Compliance with Sustainable Design Guidelines.** The Lessee shall, in the performance of all Construction Work, comply with the Port Authority's policy on sustainable design as set forth in the sustainable design guidelines promulgated by the Port Authority Engineering Department from time to time.

(ff) **Environmental Management Plan.** The Lessee shall submit to the Port Authority for its approval prior to the commencement of the Construction Work an environmental management plan setting forth in detail the Lessee's plans for all handling, excavation, depositing, testing, screening, backfilling, removal, storage, transportation, disposal and other handling of soil and the treatment of ground and wastewater in the performance of the Construction Work. The Construction Work shall be performed in accordance with such environmental management plan.

Section 5. Rental and Abatement

A. Basic Ground Rental

(a) The Lessee agrees to pay to the Port Authority the following ground rentals for the Premises:

(1) For Ground Area AB

(i) The rent for Ground Area AB shall become due and payable by the Lessee as of the date that is the earlier of (x) the second anniversary of the Commencement Date and (y) the AB Completion Date (the "**AB Rent Commencement Date**"); provided, however, that if the AB Rent Commencement Date occurs on a day other than the first day of a calendar month, the first annual period shall include the portion of the month in which the AB Rent 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 AB Rent Commencement Date occurs.

(ii) During the period commencing on the AB Rent Commencement Date and continuing through the balance of the term of the letting (including any Extension Period), the Lessee shall pay to the Port Authority a rental for Ground Area AB at the annual rate of Eight Hundred Fifty-six Thousand Nine Hundred Seventy-three Dollars and No Cents (\$856,973.00) ("**Basic Ground Rental AB**"), payable in equal, consecutive monthly installments in the amount of Seventy-one Thousand Four Hundred Fourteen Dollars and Forty-two Cents (\$71,414.42) on the AB Rent Commencement Date and on the first day of each calendar month thereafter throughout the term of the letting hereunder, subject to the increases as provided in Paragraph (c) below.

(2) For Ground Area C

(i) The rent for Ground Area C shall become due and payable by the Lessee as of the date that is the earlier of (x) the second anniversary of the Commencement Date and (y) the C Completion Date (the "**C Rent Commencement Date**"; each of the C Rent Commencement Date and the AB Rent Commencement Date, is a "**Rent Commencement Date**"; provided, however, that if the C Rent Commencement Date occurs on a day other than the first day of a calendar month, the first annual period shall include the portion of the month in which the C Rent 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 C Rent Commencement Date occurs, and such date shall become the C Rent Commencement Date.

(ii) During the period commencing on the C Rent Commencement Date and continuing through the day preceding the first anniversary of the C Rent Commencement Date, the Lessee shall pay to the Port Authority a rental for Ground Area C at the annual rate of Five Hundred Twenty-two Thousand Seven Hundred Fifty-three Dollars and Fifty-three Cents (\$522,753.53) payable in equal, consecutive monthly installments in the amount of Forty-three Thousand Five Hundred Sixty-two Dollars and Seventy-nine Cents (\$43,562.79) on the first day of each calendar month during such period. During the period commencing on the first anniversary of the C Rent Commencement Date, and continuing through the day preceding the second anniversary of the C Rent Commencement Date, the Lessee shall pay to the Port Authority a rental for Ground Area C at the annual rate of Five hundred Forty-three Thousand Six Hundred Sixty-four Dollars and Ninety-four Cents (\$543,664.94) payable in equal, consecutive monthly installments in the amount of Forty-five Thousand Three Hundred Five Dollars and Forty-one Cents (\$45,305.41) on the first day of each calendar month during such period.

(iii) During the period commencing on the second anniversary of the C Rent Commencement Date and continuing through the balance of the term of the letting (including any Extension Period), the Lessee shall pay to the Port Authority a rental for Ground Area C at the annual rate of One Million One Hundred Thirty Thousand Eight Hundred Eighteen Dollars and No Cents (\$1,130,818.00) payable in equal, consecutive monthly installments in the amount of Ninety-four Thousand Two Hundred Thirty-four Dollars and Eighty-three Cents (\$94,234.83) ("**Basic Ground Rental C**"; and Basic Ground Rental AB, shall hereinafter each be called a "**Basic Ground Rental**" and together shall be called the "**Basic Ground Rentals**"), on the first day of each calendar month thereafter throughout the term of the letting hereunder, subject to the increases as provided in Paragraph (c) below.

(iv) During the period commencing on the C Rent Commencement Date through and including the day preceding the second anniversary of the C Rent Commencement Date, payment of the Basic Ground Rental C shall be deferred until and including the day preceding the fourth anniversary of the C Rent Commencement Date (the "**Ground C Deferral Period**"). As of the second anniversary of the C Rent Commencement Date, the Lessee shall commence payment of the current Basic Ground Rental C.

(v) The deferred Basic Ground Rental C (the "**Ground C Deferred Rent**") shall be assessed interest compounded on a monthly basis in advance as of the C Rent Commencement Date. The Ground C Deferred Rent shall accrue interest until the date that all Ground C Deferred Rent has been paid to the Port Authority in full. The total amount of Ground C Deferred Rent accrued from the C Rent Commencement Date until the fourth anniversary of the C Rent Commencement Date shall be calculated as follows: each month of the Ground C Deferral Period, the total amount of Ground C Deferred Rent accrued as of such month (which amount shall include accrued interest) shall be multiplied by the Accrued Compound Interest Formula; such result shall be called the "**Total Ground C Deferred Rent**".

(vi) As of the fourth anniversary of the C Rent Commencement Date, in addition to the payment of current Basic Ground Rental C, the Lessee shall commence payment of the Ground C Deferred Rent to the Port Authority. The Ground C Deferred Rent shall be payable in equal, consecutive semi-monthly installments on the first and fifteenth day of each calendar month (each, a "**Semi-Monthly Installment**") until the date that all Ground C Deferred Rent has been paid to the Port Authority in full. The amount of the Semi-Monthly Installment shall be computed on the basis of an amortization schedule with (i) a principal amount equal to the Total Ground C Deferred Rent, (ii) an amortization period of ten (10) years, and (iii) the Monthly Interest Rate.

(b) As used in Subparagraph (c) of this Paragraph:

(1) "**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.

(2) "**Base Period**" shall mean, as the context requires, the calendar month that is three (3) months prior to a Rent Commencement Date.

(3) "**Adjustment Period**" shall mean, as the context requires, the calendar month that is three (3) months prior to the First Anniversary Date and the same calendar month of every calendar year which thereafter occurs during the balance of the term of the letting granted under this Agreement.

(4) "**Anniversary Date**" shall mean, as the context requires, one (1) year from a Rent Commencement Date (the "**First Anniversary Date**"), and every twelve month period which thereafter occurs during the balance of the term of the letting granted under this Agreement.

(5) "**Percentage Increase**" shall mean one-half (1/2) of 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 Adjustment Period one (1)

year prior to the Adjustment Period immediately preceding such Anniversary Date, and the denominator shall be the Index for the Adjustment Period one (1) year prior to the Adjustment Period immediately preceding such Anniversary Date (for example, the Percentage Increase for the Anniversary Date in December 2018 would be one-half (1/2) of the fraction of which the numerator is the Index for September 2017 less the Index for September 2016 and the denominator is the Index for September 2016).

(c) Commencing on the First Anniversary Date, and in each case continuing through to the day preceding the next Anniversary Date, or the Expiration Date of this Agreement, as the case may be, in lieu of each Basic Ground Rental set forth in Subparagraph (a) hereof, the Lessee shall pay each Basic Ground Rental at an annual rate equal to the greater of:

(x) the sum of [i] Basic Ground Rentals payable immediately prior to such Anniversary Date, including all amounts included therein as a result of prior adjustment thereof pursuant to this Subparagraph (A)(c) and [ii] the product obtained by multiplying such Basic Ground Rentals by the Percentage Increase for such Anniversary Date, or

(y) the sum of [i] the Basic Ground Rentals payable immediately prior to such Anniversary Date, including all amounts included therein as a result of prior adjustment thereof pursuant to this Subparagraph (A)(c) and [ii] the product obtained by multiplying such Basic Ground Rentals by four percent (4%).

For the avoidance of doubt, the adjusted Basic Ground Rental AB and the adjusted Basic Ground Rental C shall never be less than the applicable Basic Ground Rental in effect during the Annual Period immediately preceding the relevant Anniversary Date at which such Basic Ground Rentals shall be adjusted.

(d) In the event the Index to be used in computing any adjustment referred to in Subparagraph (c) hereof is not available on the effective date of such adjustment, the Lessee shall continue to pay the Basic Ground Rentals at the annual rate then in effect subject to retroactive adjustment at such time as the specified Index becomes available; provided, however, that the Port Authority may at its option substitute for such Index the Index for the latest 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 adjustment as the Port Authority in its discretion determine.

If after an adjustment in monthly Basic Ground Rentals shall have been fixed for any period, the Index used for computing such adjustment shall be changed or adjusted, then the Basic Ground Rentals adjustment for that period shall be recomputed, and from and after notification of the

change or adjustment, the Lessee shall make payments based upon the recomputed Basic Ground Rentals and upon demand shall pay any excess in the monthly Basic Ground Rentals due for such period as recomputed over amounts theretofore actually paid on account of the monthly Basic Ground Rentals for such period.

(e) Upon any termination of the letting hereunder (even if stated to have the same effect as expiration), the Lessee shall within twenty (20) days after the effective date of such termination, make a payment of the applicable Basic Ground Rental computed as follows: if the letting hereunder is terminated effective on a date other than the last day of a month the Basic Ground Rentals for the portion of that month in which the letting remains effective shall be the amount of the monthly installment of Basic Ground Rentals prorated on a daily basis, and if the monthly installment due on the first day of that month has not been paid the Lessee shall pay the prorated part of the amount of that installment; if the monthly installment has been paid, then the excess thereof shall be credited to the Lessee's obligations.

(f) Nothing contained in the foregoing shall affect the survival obligations of the Lessee as set forth in the Section of this Agreement entitled "*Survival of the Obligations of the Lessee*".

B. Building Rental

(a) In addition to the Basic Ground Rentals, the Lessee agrees to pay to the Port Authority a building rental for Building Area C (the "***Building Rental***") in an amount equal to the following:

(1) The Building Rental shall become due and payable by the Lessee as of the C Rent Commencement Date.

(2) During the period commencing on the C Rent Commencement Date and continuing through the day preceding the first anniversary of the C Rent Commencement Date, the Lessee shall pay to the Port Authority a rental for Building Area C at the annual rate of Three Hundred Seventy-five Thousand Six Hundred Dollars and No Cents (\$375,600.00) payable in equal, consecutive monthly installments in the amount of Thirty-one Thousand Three Hundred Dollars and No Cents (\$31,300.00) on the first day of each calendar month thereafter through such period.

(3) During the period commencing on the first anniversary of the C Rent Commencement Date and continuing through the day preceding the second anniversary of the C Rent Commencement Date, the Lessee shall pay to the Port Authority a Building Rental for Area C at the annual rate of Three Hundred Eighty-three Thousand One Hundred Twelve Dollars and No Cents (\$383,112.00) payable in equal, consecutive monthly installments in the amount of Thirty-one Thousand Nine Hundred Twenty-six Dollars and No Cents (\$31,926.00) on the first day of each calendar month thereafter through such period.

(4) During the period commencing on the second anniversary of the C Rent Commencement Date and continuing through the day preceding the third anniversary of the C Rent Commencement Date, the Lessee shall pay to the Port Authority a Building Rental

for Area C at the annual rate of Seven Hundred fifty-one Thousand Two Hundred Dollars and No Cents (\$751,200.00) payable in equal, consecutive monthly installments in the amount of Sixty-two Thousand Six Hundred Dollars and No Cents (\$62,600.00) on the first day of each calendar month thereafter through such period.

(5) During the period commencing on the third anniversary of the C Rent Commencement Date and continuing through the day preceding the fourth anniversary of the C Rent Commencement Date, the Lessee shall pay to the Port Authority a Building Rental for Area C at the annual rate of Seven Hundred Sixty-six Thousand Two Hundred Twenty-four Dollars and No Cents (\$766,224.00) payable in equal, consecutive monthly installments in the amount of Sixty-three Thousand Eight Hundred Fifty-two Dollars and No Cents (\$63,852.00) on the first day of each calendar month thereafter through such period.

(6) During the period commencing on the fourth anniversary of the C Rent Commencement Date and continuing through the day preceding the fifth anniversary of the C Rent Commencement Date, the Lessee shall pay to the Port Authority a Building Rental for Area C at the annual rate of Seven Hundred Eighty-one Thousand Two Hundred Forty-eight Dollars and No Cents (\$781,248.00) payable in equal, consecutive monthly installments in the amount of Sixty-five Thousand One Hundred Four Dollars and No Cents (\$65,104.00) on the first day of each calendar month thereafter through such period.

(7) During the period commencing on the fifth anniversary of the C Rent Commencement Date and continuing through the balance of the term of the letting (including any Extension Period), the Lessee shall pay to the Port Authority a Building Rental for Area C at the annual rate of Nine Hundred and Thirty-nine Thousand Dollars and No Cents (\$939,000.00), payable in equal, consecutive monthly installments in the amount of Seventy-eight Thousand Two Hundred Fifty Dollars and No Cents (\$78,250.00) on the first day of each calendar month throughout the term of the letting hereunder, subject to the increases as provided in Paragraph (b) below.

(8) Commencing on the sixth anniversary of the C Rent Commencement Date and on each Anniversary Date thereafter continuing through to the day preceding the next Anniversary Date, or the Expiration Date, as the case may be, in lieu of the Building Rental set forth in Subparagraph (a) hereof, the Lessee shall pay the Building Rental for Area C at a rate per year equal to the sum of (x) the Building Rental payable immediately prior to the Anniversary Date, including all amounts included therein as a result of prior adjustment thereof pursuant to this Subparagraph (B)(b) and (y) the product obtained by multiplying such Building Rental by two percent (2%).

(9) During the period commencing on the C Rent Commencement Date through and including the day preceding the fourth anniversary of the C Rent Commencement Date, payment of the Building Rental shall be deferred (the "***Building Deferral Period***"). As of the fourth anniversary of the C Rent Commencement Date, the Lessee shall commence payment of the current Building Rental.

(10) The deferred Building Rental (the "***Building Deferred Rent***") shall be assessed interest compounded on a monthly basis in advance as of the C Rent Commencement Date. The Building Deferred Rent shall accrue interest until the date that all Building Deferred Rent has been paid to the Port Authority in full. The total amount of Building Deferred Rent accrued from the C Rent Commencement Date until the fourth anniversary of the C Rent Commencement Date shall be calculated as follows: each month of the Building Deferral Period, the total amount of Building Deferred Rent accrued as of such month (which amount shall include accrued interest) shall be multiplied by the Accrued Compound Interest Formula; such result shall be called the "***Total Building Deferred Rent***".

(11) As of the fourth anniversary of the C Rent Commencement Date, in addition to the payment of current Building Rental, the Lessee shall commence payment of the Building Deferred Rent to the Port Authority. The Building Deferred Rent shall be payable in Semi-Monthly Installments on the first and fifteenth day of each calendar month until the date that all Building Deferred Rent has been paid to the Port Authority in full. The amount of the Semi-Monthly Installment is computed on the basis of an amortization schedule with (i) a principal amount equal to the Total Building Deferred Rent, (ii) an amortization period of ten (10) years, and (iii) the Monthly Interest Rate.

(b) Upon any termination of the letting hereunder (even if stated to have the same effect as expiration), the Lessee shall within twenty (20) days after the effective date of such termination, make a payment of the applicable Building Rental computed as follows: if the letting hereunder is terminated effective on a date other than the last day of a month the Building Rental for the portion of that month in which the letting remains effective shall be the amount of the monthly installment of Building Rental prorated on a daily basis, and if the monthly installment due on the first day of that month has not been paid the Lessee shall pay the prorated part of the amount of that installment; if the monthly installment has been paid, then the excess thereof shall be credited to the Lessee's obligations.

(c) Nothing contained in the foregoing shall affect the survival obligations of the Lessee as set forth in the Section of this Agreement entitled "*Survival of the Obligations of the Lessee*".

C. Percentage Rent

(a) *Definitions.* As used herein:

(i) "***Annual Period***" shall mean, as the context requires, the twelve-month period commencing with the fifth anniversary of the AB Rent Commencement Date and each of the twelve-month periods thereafter occurring during the term of the letting.

(ii) "***Gross Receipts***" shall include all monies paid or payable to the Lessee for sales made and for services rendered at or from the Facility, regardless of when or where the order therefor is received, and outside the Airport, if the order therefor is received at the Facility, including any other revenues of any type arising out of or in connection with the Lessee's operations at the Facility (including, without limitation, all non-Area C sublease rents, which rents shall include without limitation, fixed and percentage rents); provided, however (a)

that any rental payments received from sublessees of Area C only shall be excluded (which exclusion shall include amounts from Permitted Cargo Handlers) and (b) that any taxes imposed by law which are separately stated to and paid by the customer and directly payable to the taxing authority by the Lessee, shall be excluded therefrom.

Notwithstanding that the percentage fee hereunder is measured by a percentage of gross receipts, no partnership relationship between the parties hereto or joint venture is created by this Agreement.

(iii) "*Percentage Rent*" shall mean for and during the period commencing on the AB Rent Commencement Date and continuing throughout the term of the letting hereunder, both dates inclusive, for each Annual Period, the amount to be paid by the Lessee as follows:

(w) From the fifth anniversary of the AB Rent Commencement Date through and including the day preceding the tenth anniversary of the AB Rent Commencement Date, an amount equal to five percent (5%) of the Lessee's Gross Receipts during each Annual Period; and

(x) From the tenth anniversary of the AB Rent Commencement Date through and including the day preceding the fifteenth anniversary of the AB Rent Commencement Date, an amount equal to seven and one-half percent (7.5%) of the greater of (i) the Lessee's Gross Receipts during the Annual Period for which the calculation is being made, (ii) the Lessee's Gross Receipts during the Annual Period immediately preceding the tenth anniversary of the AB Rent Commencement Date and (iii) the Lessee's average annual Gross Receipts during the period commencing with the fifth anniversary of the AB Rent Commencement Date through the day preceding the tenth Anniversary Date of the AB Rent Commencement Date; and

(y) From the fifteenth anniversary of the AB Rent Commencement Date through and including the stated Expiration Date (as defined herein), an amount equal to ten percent (10%) of the greater of (i) the Lessee's Gross Receipts during the Annual Period for which the calculation is being made, (ii) the Lessee's Gross Receipts during the Annual Period immediately preceding the tenth anniversary of the AB Rent Commencement Date and (iii) the Lessee's average annual Gross Receipts during the period commencing with the fifth anniversary of the AB Rent Commencement Date through the day preceding the tenth Anniversary Date of the AB Rent Commencement Date;

(z) From the commencement date of any Extension Period through the balance of the letting, an amount equal to the greater of (i) ten percent (10%) of the Lessee's Gross Receipts during the Annual Period for which the calculation is being made, (ii) ten percent (10%) of the

Lessee's Gross Receipts during the eighteenth Annual Period following the AB Rent Commencement Date, i.e., the Annual Period immediately preceding the eighteenth anniversary of the AB Rent Commencement Date and (iii) fifteen percent (15%) of the Lessee's Gross Receipts during the tenth annual period of the term, i.e., the Annual Period preceding the tenth anniversary of the AB Rent Commencement Date.

By way of example, for the sixteenth Annual Period, i.e., the Annual Period commencing with the fifteenth anniversary of the AB Rent Commencement Date, the Percentage Rent would be equal to 10% of the greater of (i) the Lessee's Gross Receipts during the sixteenth annual period following the AB Rent Commencement Date, (ii) the Lessee's Gross Receipts during the tenth Annual Period following the AB Rent Commencement Date and (iii) the Lessee's average annual Gross Receipts during the sixth through tenth Annual Periods following the AB Rent Commencement Date.

(b) The Percentage Rent shall be payable by Lessee to the Port Authority as provided in the Section of this Agreement entitled "*Place of Payment.*" The computation of the Percentage Rent 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. The time for making payment and the method of calculation of the Percentage Rent shall be as set forth in Subparagraph (D), below.

(A) For the purpose of calculating the Percentage Rent due for any Annual Period which contains more or less than three-hundred-sixty five (365) days, the Percentage Rent shall be equal to the Percentage Rent described above multiplied by a fraction, the numerator of which shall be the number of days from the commencement of such Annual Period through the last day thereof, both dates inclusive, and the denominator of which shall be three-hundred-sixty five (365).

(B) For the purpose of calculating the Percentage Rent due during any period in which the Lessee was unable to operate its business (the "*Inoperable Period*"), for calculation of the amount of Gross Receipts that would have been received by the Lessee, the amount of Gross Receipts shall be derived by multiplying the number of days in the Inoperable Period by the Lessee's "average daily gross receipts". The term "average daily gross receipts" shall be equal to the amount of Gross Receipts of the Lessee used in the calculation of percentage rent for the immediately preceding Annual Period divided by three hundred sixty-five (365).

(C) Intentionally Omitted.

(D) (i) Actual Gross Receipts shall be reported and the Percentage Rent shall be paid as follows: on the twentieth (20th) day of the first month following the commencement of each Annual Period, and on the twentieth (20th) day of each and every month thereafter, including the month following the end of each Annual Period and the month following the expiration or earlier termination of this Agreement, the Lessee shall render to the

Port Authority a sworn statement showing all Gross Receipts arising from the Lessee's operations in the Premises in the preceding month, and cumulative for the Annual Period, and specifying the Percentage Rent payable with respect thereto, with respect to the preceding monthly period and from the date of the commencement of the Annual Period for which the report is made through the last day of the preceding month, and the percentages applicable thereto. The Lessee shall pay to the Port Authority at the time of rendering the statement an amount equal to the Percentage Rent, and shall thereafter on the twentieth (20th) day of each month during that Annual Period, and the month following the end of that Annual Period, including the month following the expiration of the term of the letting, pay a sum equal to the Percentage Rent of all its Gross Receipts for each subsequent month during that Annual Period. After the end of each Annual Period, the Port Authority shall determine the Percentage Rent due for such Annual Period as provided in Subparagraph (a)(iii) of the Part of this Section entitled "*Percentage Rent*". If the Percentage Rent due is in excess of the Percentage Rent actually paid by the Lessee, then such excess amount shall be payable to the Port Authority on demand.

(ii) Upon any termination of the term of the letting hereunder (even if stated to have the same effect as expiration), Gross Receipts shall be reported and Percentage Rent shall be paid on the twentieth (20th) day of the first month following the month in which the effective date of such termination occurs, as follows. The Lessee shall render to the Port Authority a sworn statement of all Gross Receipts for the Annual Period in which the effective date of termination falls and specifying the Percentage Rent payable hereunder, which shall be the payment then due.

D. Abatement

(a) In the event the Lessee shall at any time by the provisions of this Agreement become entitled to an abatement of Basic Ground Rental AB and/or the Basic Ground Rental C, for each square foot of Ground Area AB the use of which is denied the Lessee, shall be reduced for each calendar day or major fraction thereof at the daily rate of \$0.0086301, which rate shall increase proportionately to the increase in Ground Area Rental AB and for each square foot of Ground Area C the use of which is denied the Lessee, shall be reduced for each calendar day or major fraction thereof at the daily rate of \$0.0089589, which rate shall increase proportionately to the increase in Ground Area Rental C.

(b) In the event the Lessee shall at any time by the provisions of this Agreement become entitled to an abatement of Building Rental, the Building Rental for each square foot of space the use of which is denied the Lessee, shall be reduced for each calendar day or major fraction thereof at the daily rate of:

(i) \$0.0109589 during the period commencing on the C Rent Commencement Date and continuing through the day preceding the second anniversary of the C Rent Commencement Date;

(ii) \$0.0219178 during the period commencing on the second anniversary of the C Rent Commencement Date and continuing through the day preceding the fifth anniversary of the C Rent Commencement Date; and

(iii) \$0.0273973 during the period commencing on the fifth anniversary of the C Rent Commencement Date and continuing through the Expiration Date (or if extended, through the expiration date of the Extension Period)

each as appropriately adjusted to reflect any and all Index adjustments pursuant to Part A of this Section, above as appropriately adjusted to reflect any and all Index adjustments pursuant to Part B of this Section, above.

Section 6. Use of Premises

(a) Animal Handling Facility.

(1) The Lessee shall use the Animal Handling Facility and Ground Area AB for the following purposes (each a "*Mandatory Service*"):

(i) Veterinary Medicine clinic for small animals which shall provide services including, without limitation, internal medicine and 24-hour emergency care. Veterinary services shall also include all typical services needed by users of the Airport to satisfy animal-related legal import and export requirements including, by way of example, the provision of tests, vaccinations and required health certificates;

(ii) 3-day equine quarantine stalls and non-equine animal quarantine areas for short-term stays;

(iii) Facilities for the kenneling, boarding, day-care and grooming of companion animals to include, without limitation, an area for the exercise of no fewer than sixty (60) animals and housing of Airport service dogs;

(iv) Aviary use for the care and transport needs of in-transit pet and exotic birds;

(v) Use of, prescription for, and sale of prescription and non-prescription medications to be used for the benefit of animals when therapeutically indicated for the health and/or well-being of the animal in connection with services permitted to be provided by the Lessee under this Section;

(vi) Animal handling services of small animals, livestock and horses, which shall not include the cargo handling or Baggage Handling of animals;

(vii) Waste management center, containing a stand-alone incinerator and related equipment necessary to handle animal waste and to clean supplies, machinery, vehicles and cargo containers

(viii) Administrative offices for the use by the Lessee, Governmental Agencies (e.g., U.S. Department of Agriculture, Centers for Disease Control and Prevention, U.S. Department of the Interior), and non-profit and other organizations involved in the import, export and handling of animals occupying space at the Premises pursuant to this

Agreement, agreements with Governmental Agencies or with the consent of the Port Authority; and

(ix) Open area to be used for automobile parking for the Lessee's guests, employees and others either operating at the Animal Handling Facility with the Lessee's consent or using or receiving the Animal Handling Facility's services.

(2) The Lessee may use the Animal Handling Facility and Ground Area AB for the following purposes:

(i) Full-scale Veterinary Medical hospital for small and large animals which shall provide services, including, without limitation, surgery and internal medicine, orthopedics, dentistry, dermatology, geriatrics, endoscopy, 24-hour emergency care, neutering services, parasite control, preventative medicine, nutritional counseling, specialist referral, counseling to passengers traveling with animals and trap-neuter-return services;

(ii) Cargo handling and Baggage Handling of animals;

(iii) Instruction and training of Veterinary Medical students who (a) are enrolled in an accredited veterinary college, or have completed all coursework necessary for a doctoral degree in Veterinary Medicine in the State of New York and waiting licensure as a Veterinarian and (b) are under the supervision of a Veterinarian at all times that any Veterinary Medical services are provided by such student;

(iv) Rest areas for use by Veterinary Medical staff, visiting Veterinary Medical students, visiting Veterinarians or veterinary consultants whose services are being provided to the Lessee at the Animal Handling Facility, animal handlers and trainers, and others operating in the Animal Handling Facility with the Lessee's consent;

(v) Staff lounge, staff kitchen, and non-public dining areas for the use by Lessee's employees, contractors, visiting Veterinary Medical students and others operating with the Lessee's consent at the Animal Handling Facility;

(vi) Rehabilitation center for horses and other large animals;

(vii) Sale of products and goods for animals that are ancillary to the provision of Lessee's services permitted under this Section; and

(viii) Pro bono animal-related services with the consent of the Port Authority, it being understood that pro bono services of an emergency nature for the health, safety or well-being of an animal shall not require the consent of the Port Authority.

(b) Cargo Handling Facility.

(1) The Lessee shall use the Cargo Handling Facility and Ground Area C or cause the Cargo Handling Facility and Ground Area C to be used for the following purposes:

(i) for loading and unloading of cargo including, without limitation, animal cargo, from aircraft, strictly in connection with operations at the Cargo Handling Facility; and

(ii) for ramp parking, and parking for the employees of Permitted Cargo Handlers and employees and business guests of others operating at the Cargo Handling Facility.

(2) The Lessee may use the Cargo Handling Facility and Ground Area C or cause the Cargo Handling Facility and Ground Area C to be used for the following purposes:

(i) for the loading and unloading of animal related goods and supplies in connection with the Lessee's management of the Animal Handling Facility, and general administrative and office activities in connection therewith;

(ii) for the parking, routine maintenance, minor repair, cleaning and servicing of aircraft operated by a Permitted Cargo Handler, and mobile equipment used by the Lessee or Permitted Cargo Handler in connection therewith, strictly in connection with the operations at the Cargo Handling Facility; and

(iii) for any other purpose or activity which the Port Authority may, from time to time, expressly authorize in advance and in writing.

(c) **No Other Purpose.** The Premises shall be used as provided in paragraphs (a) and (b) of this Section only and for no other purpose whatsoever.

(d) **Provision of Expertise.**

In addition to the use of the Premises described hereinabove in this Section, the Lessee shall use best efforts to advise any Permitted Cargo Handler, the Port Authority and other aircraft operator at the Airport that may transport animals as requested and/or on an as-needed basis as to all aspects of animal transport that may be useful, appropriate or necessary to assure the safe, secure and effective transport of animals from their point of origin to their point of intended destination. By way of example only, the Lessee may refer a Permitted Cargo Handler to the guidelines established by the National Federation of Humane Societies entitled "Companion Animal Transport Programs-Best Practices", in connection with the transport of companion animals.

(e) **Expressly Prohibited Uses.**

Each of the following shall constitute an expressly prohibited activity ("*Expressly Prohibited Activity*") herein:

(1) the use of any portion of the Lessee's Facility for, or the involvement of any Lessee employee, independent contractor or Veterinary Medical student who provides services at or to the Premises, or any invitee at the Premises in, the transport, conduit,

import, export, sale or otherwise of animals for animal fighting, animal hunting, rites or rituals that are harmful to animals, or animals used for entertainment purposes to the extent such uses are prohibited under City, State of New York (e.g., Agricultural and Markets Law and New York Education Law (including, without limitation, the Practice Guidelines applicable to Veterinary Medicine), or Federal law, or any international law binding on the United States (e.g. Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES treaty);

(2) the sale, use, storage, transfer or other handling of animal fighting paraphernalia;

(3) the use of any portion of the Lessee's Facility for, or the involvement of any Lessee employee, independent contractor or Veterinary Medical student which provides services at or to the Premises, or any invitee at the Premises in, animal experimentation or testing; provided, however, the testing of animals by a Governmental Agency or solely for purposes of an animal's health and welfare shall be permitted;

(4) the use in grooming services for animals of a cage or box dryer which contains a heating element as prohibited under the New York Agriculture and Markets Law;

(5) surgical devocalization procedures or other elective procedures unless medically necessary to relieve an animal from pain or harm;

(6) the provision of services involving any animal for which the Animal Handling Facility is not properly equipped to handle in a safe manner for animals or persons at the Facility and the Airport;

(7) the introduction of infectious or possibly infectious animals into populations of healthy animals;

(8) the sale of animals for any purpose; and

(9) the adoption of animals; provided, however, abandoned animals may be adopted out by the Lessee to no-kill animal humane organizations, shelters or sanctuaries which, after conducting due diligence, the Lessee has a basis for concluding are reputable (by way of example only, do not engage in hoarding of animals), engaged in animal rescue or adoption, have expertise concerning the animal species which is the subject of adoption and have suitable accommodations for the animal to be adopted.

Any activity which is an Expressly Prohibited Activity shall also constitute an Expressly Prohibited Activity for any sublessee or permittee (including, without limitation, any Permitted Cargo Handler) of the Lessee, and their respective officers, agents, employees, invitees, representatives, contractors and subcontractors.

Section 7. Ingress and Egress

(a) The Lessee and Permitted Cargo Handlers, their officers, employees, customers, invitees, contractors, suppliers of material, furnishers of service, agents and representatives, shall have the right of ingress and egress between the Premises and a city street or public way outside the Airport by means of existing roadways used in common with others having rights of passage within the Airport; provided, however, that the Port Authority may from time to time substitute other reasonably equivalent means of ingress and egress.

(b) The use of all roadways shall be subject to the Rules and Regulations of the Port Authority which are now in effect or which may hereafter be promulgated for the safe and efficient operation of the Airport. 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 means of ingress and egress reasonably equivalent to that provided in Paragraph (a) above are concurrently made and remain available to the Lessee and Core Sublessees. The Lessee and all Core Sublessees each hereby releases and discharges the Port Authority, its successors and assigns, of and from any and all claims, demands or causes of action which the Lessee or Core Sublessee 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, taxiway or other area used as such whether within or outside the Airport.

Section 8. Compliance with Governmental Requirements

(a) **Compliance.**

(1) The Lessee 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 of this Agreement which as a matter of law are applicable to or which affect (i) the Premises or soil or groundwater thereunder, (ii) the operations of the Lessee on the Premises or at the Airport, and (iii) the occupancy or use of the Premises. The Lessee shall, in accordance with and subject to the provisions of the Section hereof entitled "*Construction by the Lessee*" or the Section hereof entitled "*Other Construction of the Lessee*", as the case shall be, make any and all structural and non-structural improvements, alterations or repairs of the Premises required in order to fully satisfy the compliance obligations set forth herein.

(2) Without limiting the generality of the Subparagraph (a)(1), above, of this Section, the Lessee hereby acknowledges and agrees that the Lessee, any Core Sublessee, and all employees or other persons operating on the Premises are subject to and shall be in compliance with all applicable animal-related City, New York State (e.g., Agricultural and Markets Law and New York Education Law (including, without limitation, the Practice Guidelines applicable to Veterinary Medicine), and Federal law as well as all animal-related treaties and laws binding on the United States (including, without limitation, the CITES treaty).

(3) Without limiting the generality of the Subparagraph (a)(1), above, of this Section, the Lessee hereby acknowledges and agrees that the Lessee, any Core Sublessee, and all employees or other persons operating on the Premises shall not assist any person directly

or indirectly that they know, or have reason to know, are engaging or intending to engage in acts or omissions that will violate any laws, ordinances, governmental rules, regulations, orders, or similar items that are the subject of the Subparagraph (a)(2), above, of this Section.

(4) The Lessee covenants and agrees to report to Government Authorities (e.g., law enforcement law and regulatory agencies with jurisdiction, or both, as applicable), any and all persons and occurrences where Lessee knows or has reason to know that there is a violation or intent to violate an animal-related City, New York state, Federal and/or international law, rule, regulation, order, treaty (binding on the United States), or the like including, without limitation, instances of animal cruelty, animal abuse, animal neglect and illegal trafficking or commercial trade in animals or animal parts involving endangered species. Such notice shall be made immediately in an oral manner and simultaneously, or followed immediately thereafter, by written notice. Lessee shall be obligated at all times to cooperate with Government Authorities concerning all aspects of any investigation or proceeding concerning violations of the above-described nature.

(5) The Lessee covenants and agrees to require and to cause all Core Sublessees and any other occupant or operator at the Premises with the consent or knowledge of the Lessee to comply with the provisions of this Section in particular and this Agreement generally, as applicable.

(b) **Authorizations.** The Lessee shall procure and shall be responsible for the procurement by its employees or any other person operating on the Premises, of all licenses, certificates, permits or other authorizations, which may be necessary for the conduct of such operations from all Governmental Authorities having jurisdiction over the operations of the Lessee hereunder and shall maintain in full force and effect throughout the term of this Agreement such licenses, certificates, permits and/or other authorizations.

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

(d) **Authorized Non-Compliance.**

(i) Since the Port Authority has agreed in the Basic Lease to conform to the enactments, ordinances, resolutions and regulations of the City 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 Lessee shall comply with all such enactments, ordinances, resolutions and regulations which would be applicable to its operations hereunder if the Port Authority were a private corporation, except in cases where the Port Authority either notifies the Lessee 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 Lessee shall,

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

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

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

Section 9. Rules and Regulations

(a) The Lessee covenants and agrees to observe and obey (and to require all Core Sublessees, and their officers, employees, guests, invitees and those doing business with them to observe and obey) the Rules and Regulations of the Port Authority in effect as of the execution of this Agreement and such future Rules and Regulations and amendments and supplements to existing Rules and Regulations for the government of the conduct and operations of the Lessee, any and all Core Sublessees 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, sanitation or good order. The obligation of the Lessee to require such observance and obedience on the part of a Core Sublessee and their guests, invitees and business visitors shall obtain only while such persons are on the Premises. The Port Authority agrees that, except in cases of emergency, it will give notice to the Lessee of every such future rule or regulation adopted by it at least ten (10) days before the Lessee shall be required to comply therewith.

(b) The use by the Lessee, Core Sublessees and their officers, employees, passengers, guests, invitees, contractors, and those doing business with it or them, of the Public Aircraft Facilities, if permitted hereunder, any and all other portions of the Airport which it may be entitled to use under this Agreement (other than space leased to the Lessee for its exclusive use) shall be subject to the Rules and Regulations of the Port Authority in effect as of the execution of this Agreement, and such future rules and regulations (including amendments and supplements to existing Rules and Regulations) as the Port Authority may from time to time promulgate in the public interest and in the interest of health, safety, sanitation, good order and

for the economic and efficient operation of the Airport. Without limiting the foregoing, the Port Authority may take into account in adopting such rules and regulations the adequacy, capacity and suitability of (i) aircraft using the Airport, (ii) passenger handling facilities at the Airport, (iii) the Public Aircraft Facilities at the Airport, (iv) the roadways and (v) the parking facilities. In the event the Port Authority promulgates rules and regulations pursuant to this Paragraph (b), the Port Authority may devise and implement procedures governing the affected use of the Public Aircraft Facilities including, but not limited to, allocations among lessees at the Airport.

(c) If a copy of the Rules and Regulations is not attached, then the Port Authority will notify the Lessee thereof (i) by delivery of a copy or (ii) by making a copy available at the office of the Secretary of the Port Authority or (iii) by making an electronic copy available on the Port Authority website www.panynj.gov.

Section 10. Various Obligations of the Lessee

(a) **Operate in a Proper Manner.** The Lessee shall conduct its operations hereunder in an orderly and proper manner so as not to annoy, disturb or be offensive to others at or off the Airport. The Lessee shall take all reasonable measures to eliminate vibrations originating on the Premises tending to damage any equipment, structure, building or portion of a building, which is on the Premises, or is a part thereof, or is located elsewhere on or off the Airport.

(b) **Operate in a Safe Manner.** The Lessee shall use its best efforts to conduct all its operations at the Premises in a safe and careful manner, following in all respects the best practices of the Lessee's industry in the United States.

(c) **Port Authority Oversight.** The Port Authority shall have the right to object to the Lessee regarding the conduct and demeanor of sublessees and of the employees of the Lessee whereupon the Lessee will take all steps necessary to remove the cause of the objection. If requested by the Port Authority, the Lessee shall supply and shall require its employees and sublessees' 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) **Vehicular Traffic.** The Lessee shall control all vehicular traffic on the roadways or other areas within the Premises and shall take all precautions necessary to promote the safety of its customers, patrons, business visitors and all other persons. The Lessee 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) **Removal of Waste.** The Lessee shall remove from the Facility 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. Any such waste materials 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 Lessee shall use extreme care when

effecting removal of all such waste materials and shall effect such removal at such times and by such means as first approved 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.

(f) **Fire Safety.** From time to time and as often as required by the Port Authority, the Lessee shall conduct pressure, water-flow, and other appropriate tests of the fire-extinguishing system and apparatus, fire-alarm and smoke detection systems and any other fire protection systems which constitute a part of the Premises. The Lessee shall keep in proper functioning order all fire-fighting equipment, fire alarm and smoke detection equipment on the Premises. The Lessee shall at all times maintain on the Premises adequate stocks of fresh, usable chemicals for use in such systems and apparatus. The Lessee shall notify the Port Authority prior to conducting such tests. If requested by the Port Authority, the Lessee shall furnish the Port Authority with a copy of written reports of such tests. Without limiting the generality of the foregoing, the Lessee shall install a state-of-the-art sprinkler system in all portions of the Premises which may be used for or occupied by animals so as to assure the health and safety of all such animals, comparable to in quality and efficacy to any sprinkler system that may be installed or warranted for areas occupied or operated by persons.

(g) **Evacuation/Contingency Plan.** The Lessee shall devise an evacuation/contingency plan to be implemented in the event of emergencies and/or disasters (including, by way of example only, floods, fires, earthquakes, hurricanes, and power or HVAC failures) that provides for the safe, secure and effective handling, treatment, transportation, housing and care of all animals on the Premises. The Lessee and all of its employees must be trained in the implementation of such evacuation/contingency plan. If the Lessee elects or is required to evacuate the Premises or if the Port Authority evacuates all non-essential personnel at the Airport, then the Lessee shall implement such evacuation plan.

(h) **Minimization of Pollution.**

(1) In addition to compliance by the Lessee 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 Lessee of the Premises or the operations of the Lessee 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 Lessee 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 from, arising out of or resulting from the operation, use or maintenance of the Premises by the Lessee and from the operations of the Lessee under this Agreement. The Port Authority hereby reserves the right from time to time and at any time during the term of this Agreement to require the Lessee and the Lessee agrees to design and construct at its sole cost and expense such 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 Lessee shall submit for Port Authority approval its plans and specifications covering the required work and upon receiving such approval shall proceed diligently to construct the same.

(2) Without limiting any other of the Lessee's operations under this Agreement, the obligations assumed by the Lessee under Subparagraph (g)(1) hereof 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 during the term of this Agreement consented to or approved any particular procedure or method of operation which the Lessee may have proposed or that the Port Authority may have itself prescribed the use of any procedure or method. The agreement of the Lessee to assume the obligations under Subparagraph (g)(1) hereof is a special inducement and consideration to the Port Authority in entering into this Agreement with the Lessee.

(i) **Noise from Aircraft Engine Operations.** 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 Lessee's operations. To this end the Lessee shall conduct its operations, and cause to be conducted the operations of any Core Sublessee, 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. Aircraft testing and aircraft run-ups will be conducted only in such areas as shall meet with the prior and continuing approval of the Port Authority. The obligations assumed by the Lessee under this paragraph (h) shall not diminish, limit, modify or affect all other obligations of the Lessee with respect to noise under this Agreement.

(j) **Jet or Prop Blast Interference.** In its use of the Premises, the Lessee 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. In the event the Port Authority determines at any time and from time to time that the Lessee has not so minimized the jet or prop blast interference, it may serve a notice on the Lessee 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 Lessee 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 and method of construction. The obligations assumed by the Lessee under this paragraph shall not diminish, limit, modify or affect all other obligations of the Lessee with respect to interference under this Agreement.

(k) **Security Plan.** The Lessee must provide and implement a security plan that is in compliance with the Tenant Construction and Alteration Process manual and the Lessee must maintain such compliance and implementation of a security plan throughout the term of the letting hereunder.

Section 11. Prohibited Acts

(a) **Unlawful Acts.** The Lessee shall commit no unlawful nuisance, waste or injury on the Premises or at the Facility 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 at the Facility.

(b) **Odors.** The Lessee shall not create nor permit to be caused or created upon the Premises any obnoxious odors or smokes, or noxious gases or vapors.

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

(d) **Safety Violations.** The Lessee shall not itself do nor shall the Lessee give its permission to any other to do any act or thing upon the Premises or at the Facility (1) which will invalidate or conflict with any fire insurance, extended coverage or rental insurance policies covering the Premises or any part thereof, or the Facility or any part thereof, or (2) which, in the opinion of the Port Authority, may constitute an extra-hazardous condition so as to increase the risks normally attendant upon the operations contemplated by the Section of this Agreement entitled "*Use of Premises*" hereof. The Lessee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the Insurance Services Offices of New York and the National Fire Protection Association, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Lessee on the Premises, and the Lessee shall, subject to and in accordance with the provisions of the Section of this Agreement entitled "*Construction by the Lessee*", make any and all structural and non-structural improvements, alterations or repairs of the Premises that may be required at any time hereafter by any such present or future rule, regulation, requirement, order or direction. If by reason of any failure on the part of the Lessee to comply with the provisions of this Paragraph any fire insurance rate, extended coverage or rental insurance rate on the Premises or any part thereof, or on the Facility or any part thereof, shall at any time be higher than it would be if the Premises were properly used for the purposes permitted by the Section of this Agreement entitled "*Use of Premises*", then the Lessee shall pay to the Port Authority, as an item of additional rent, that part of all insurance premiums paid by the Port Authority which shall have been charged because of such violation or failure by the Lessee.

(e) **Obstacles.** The Lessee 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 so as to create any obstacle that will hamper or interfere with the free, orderly, unobstructed and uninterrupted passage of vehicles or aircraft while such vehicle is operating or aircraft is taxiing or being transported or towed along the runways, taxiways and roads outside of and adjacent to the Premises.

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

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

(h) **Vending Machines.**

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

(2) The Port Authority, by itself or by contractors, lessees or permittees, shall have the exclusive right to install, maintain and receive the revenues from all coin-operated or other vending machines or devices installed by it and operated on the Premises for the sale of merchandise of all types or for the rendering of services; provided, however, that no such machine or device shall be installed except upon the request of the Lessee. If the Port Authority does not install and maintain any such machine that the Lessee may reasonably request, the Lessee shall have the right to do so; provided, however, (1) that the Lessee shall pay or cause to be paid to the Port Authority each month for each machine upon the same basis for the preceding month as any concessionaire, permittee or licensee of the Port Authority then operating machines at the Facility for the sale of similar merchandise or the rendering of similar services, and (2) that in the event the Lessee exercises such right, the Port Authority at any time thereafter, may substitute for the Lessee's machines other machines selling similar merchandise or services operated by the Port Authority or by its licensee, permittee or concessionaire, and thereupon the Lessee shall remove its machines.

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

(j) **Fueling.** The Lessee shall not fuel or defuel its automotive vehicles or other equipment in the enclosed portion of the Premises without the prior approval of the General Manager of the Airport.

(k) **Cleaning Materials.** The Lessee shall not use any cleaning materials having a harmful or corrosive effect, on any part of the Premises, except those cleaning materials that are used in the ordinary course of office and animal handling operations; provided, however, that, the storage and use of any such harmful or corrosive materials are in compliance with all applicable laws, rules, ordinances, resolutions or regulations of the type and nature described in the Sections of this Agreement entitled "*Compliance with Governmental Requirements*" and "*Rules and Regulations*".

(l) **Use of Structural Supports.** The Lessee shall not use or permit the use of any truss or structural supporting member of the building or roof or any part thereof for the storage of any material or equipment, or to hoist, lift, move or support any material or equipment or other weight or load, by means of said trusses or structural supporting members, without the prior written approval of the Port Authority.

(m) **Flammable Liquids.** The Lessee shall not keep or store during any twenty-four (24) hour period flammable liquids within the enclosed portion of the Premises in excess of the Lessee's working requirements during the said twenty-four (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 Underwriter Laboratories of the Factory Mutual Insurance Association. The Lessee shall not keep or store in the Premises explosives, inflammable liquids or solids or oxidized materials.

(n) **Aircraft Maintenance Prohibited.** The Lessee shall not perform any aircraft maintenance on the Premises except that emergency aircraft maintenance and transit or turn around aircraft maintenance shall not be deemed to be prohibited by this provision.

(o) **Storage of Aviation Fuel.** The Lessee shall not keep or store aviation fuel on the Premises except that fueling equipment may be operated on the Premises in accordance with the provisions of the Airport fueling agreements covering the underground fueling system and with the Port Authority Rules and Regulations pertaining thereto.

Section 12. Care, Maintenance, Rebuilding and Repair by the Lessee

(a) **Maintenance and Repair.** The Lessee shall, throughout the term of this Agreement, assume the entire responsibility and shall relieve the Port Authority from all responsibility for all repair, rebuilding and maintenance whatsoever in the Premises, whether such repair, rebuilding or maintenance be ordinary or extraordinary, partial or entire, inside or outside, foreseen or unforeseen, structural or otherwise, and without limiting the generality of the foregoing, the Lessee shall:

(1) Keep at all times in a clean and orderly condition and appearance, the Premises and all the Lessee's fixtures, equipment and personal property which are located in any part of the Premises which is open to or visible by the general public;

(2) Remove all snow and ice and perform all other activities and functions necessary or proper to make the Premises available for use by the Lessee;

(3) Take good care of the Premises and maintain the same at all times in state-of-the-art condition, perform all necessary preventive maintenance, including but not limited to, painting (the exterior of the structures on the Premises and areas visible to the general public to be painted only in colors which have been approved by the Port Authority); and make all repairs and replacements and, subject to and in accordance with the provisions of the Section of this Agreement entitled "*Construction by the Lessee*", do all rebuilding, inside and outside, ordinary and extraordinary, partial and entire, foreseen and unforeseen, structural or otherwise, which repairs, rebuilding and replacements by the Lessee shall be in quality and class not inferior to the original in materials and workmanship; and to pay promptly the cost and expense of such repairs, replacements and maintenance;

(4) Without limiting its obligations elsewhere in this Section, the Lessee agrees to perform all decorating and painting (including redecorating and repainting) so that at all times the Premises and all parts thereof are in state-of-the-art appearance and condition;

(5) 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*";

(6) Take such anti-erosion measures and maintain the landscaping on the Premises at all times in good condition, including but not limited to, periodic planting and replanting, as the Port Authority may require, and perform and maintain such other landscaping with respect to all portions of the Premises not paved or built upon as the Port Authority may require;

(7) Be responsible for the maintenance and repair of all utility service lines including, but not limited to, service lines for the supply of low pressure water, gas service lines, electrical power and telephone conduits and lines, sanitary sewers and storm sewers, located upon the Premises and used by the Lessee exclusively or in common, or, subject to having access thereto, located off the Premises and used by the Lessee exclusively or in common; and

(8) Repair any damage to the paving or other surface of the Premises caused by any oil, gasoline, grease, lubricants or other flammable liquids and substances having a corrosive or detrimental effect thereon.

(b) **Failure to Maintain or Repair.** In the event the Lessee fails to commence so to maintain, clean, repair, replace, rebuild or paint within a period twenty (20) days after notice from the Port Authority so to do or in the event that the said notice specifies that the required work to be accomplished by the Lessee includes maintenance or repair other than preventive maintenance, or within a period of twenty (20) days if the said notice specifies that the work to be accomplished by the Lessee involves preventive maintenance only, or fails diligently to continue to completion the repair, replacement, rebuilding or painting of all of the Premises required to be repaired, replaced, rebuilt or painted by the Lessee under the terms of

this Agreement, the Port Authority may, at its option and in addition to any other remedies which may be available to it, repair, replace, rebuild or paint all or any part of the Premises included in the said notice, and the cost thereof shall be payable by the Lessee upon demand.

Section 13. Property Insurance and Business Interruption Insurance

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

(b) **Business Interruption Insurance.** In addition to all other policies of insurance required under this Agreement, the Lessee shall also procure and maintain throughout the term of this Agreement (including any and all extensions) Business Interruption Insurance in such amount as shall be at least sufficient to cover, and applicable to, all fees, charges and other payments that are payable by the Lessee to the Port Authority under this Agreement including rental expenses for a period of not less than three (3) years for any business interruption losses in business revenue that occur when the Premises or any portion thereof is unusable or is out of operation due to a fire or for any other risks or hazards that are normally covered under a standard form of "All Risk" policy.

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

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

(e) **Port Authority Approval.** The insurance covered by this Section shall be written by companies approved by the Port Authority. All insurance coverages and policies

required under this Section may be reviewed by the Port Authority for adequacy of terms, conditions and limits of coverage at any time and from time to time during the term this Agreement remains in effect. The Port Authority at any such time may make additions, deletions, amendments to or modifications of the above-scheduled insurance requirements and may require such other and additional insurance, in such amounts, against such other insurable risks and hazards, as the Port Authority may deem advisable and the Lessee shall promptly comply therewith.

Section 14. Damage to or Destruction of Premises

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

(b) **Damage to the Premises.** If the Premises, or any part thereof, shall be damaged by fire, the elements, the public enemy or other casualty, the Premises shall be repaired with due diligence in accordance with the plans and specifications for the Premises, including, without limitation, the same or higher quality of materials, as they existed prior to such damage by and at the expense of the Lessee. If such damage is covered by insurance, the proceeds thereof shall be made available to and be used by the Lessee for that purpose. Subject to the requirements of the Basic Lease, any excess proceeds of insurance over costs of the restoration shall be distributed as follows:

(1) First, to the Port Authority in an amount equal to all expenses incurred by the Port Authority in connection with such casualty and the repair and restoration of the Premises including, without limitation, the costs of Port Authority personnel involved in the administration of any Construction Application process; and

(2) Second, if any proceeds remain, to the Lessee or, to the extent required by the Leasehold Mortgage and pursuant to and consistent with the Leasehold Mortgage, to the Leasehold Mortgagee and the Lessee; provided, that the Lessee has instructed the Port Authority in writing (x) to distribute all or a portion of such proceeds to the Leasehold Mortgagee, (y) if only a portion of such proceeds are to be distributed to the Leasehold Mortgagee, the amounts to be distributed to each party and (z) the address(es) to where such proceeds or portions thereof should be sent.

(c) **Section 227 of the RPL.** 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 and Liability Insurance

(a) Indemnity.

(1) The Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses, including legal expenses, incurred in connection with the defense of) all claims and demands of third persons, including but not limited to, claims and demands for death or personal injuries, or for property damages, arising out of any default of the Lessee in performing or observing any term or provision of this Agreement, or out of the use or occupancy of the Premises by the Lessee or by others with its consent or out of any of the acts or omissions of the Lessee, its officers, employees, agents, guests, invitees and other persons who are doing business with the Lessee or who are at the Premises with the consent of the Lessee or arising out of the acts or omissions of the Lessee, its officers, agents and employees elsewhere at the Airport (excepting only claims and demands arising from the sole willful acts of the Port Authority), including claims and demands of the City 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 or the Leasehold Mortgage or any of the terms and provisions thereof.

(2) If so directed, the Lessee shall at its own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling 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.

(b) Liability Insurance.

(1) *Policies.* In addition to the obligations set forth in Paragraph (a) of this Section and all other insurance required under this Agreement, the Lessee during the term of this Agreement in its own name as insured and including the Port Authority of New York and New Jersey and the City Insureds as an additional insured shall maintain and pay the premiums on a policy or policies of Commercial General Liability Insurance, including products-completed operations, premises-operations, and covering bodily injury, including death, and property damage liability, Warehouseman's Legal Liability, and Fire Legal Liability, and providing for coverage in the limit set forth below; and, from thirty (30) days prior to the commencement of Lessee's operations at the Premises and continuing through and including the date of expiration or earlier termination of this Agreement, Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles and including automatic coverage for newly acquired vehicles and providing for coverage in the limit set forth below; and Workers' Compensation Insurance in accordance with the requirements of law. Additionally, the Lessee during the term of this Agreement in its own name as insured and including the Port Authority of New York and New Jersey and the City Insureds as an additional insured shall procure, maintain, and pay premiums on an Environmental Liability Insurance Policy providing coverage for bodily injury

liability, property damage, or environmental damage caused by pollution conditions, including coverage for environmental cleanup on land, in air, and on water, shall name all subcontractors and contractors when applicable, as additional insureds, and shall provide for such coverage in the limit set forth below. The policy shall include coverage for completed operations (for two (2) years after the expiration or earlier termination of this Agreement), gradual and sudden and accidental pollution coverage, with a time element of no less than seven (7) days notice and thirty (30) days reporting. All the aforesaid liability policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority thereunder as an additional insured. In addition, all the aforesaid liability policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Port Authority thereunder with respect to any claim or action against the Port Authority by the Lessee shall be the same as the protections afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third person as if the Port Authority were the named insured thereunder. The said liability policy or policies of insurance, where applicable, shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Lessee under Paragraph (a) hereof.

	<u>Minimum Limits</u>
Commercial General Liability Combined single limit per occurrence for death, bodily injury and property damage liability:	\$25,000,000
Commercial Automobile Liability Combined single limit per occurrence for death, bodily injury and property damage liability:	\$25,000,000
Cargo Liability Combined single limit per occurrence for death, bodily injury and property damage liability:	\$2,000,000
Professional Liability Single occurrence occurrence for death and bodily injury: and in the aggregate:	\$2,000,000 \$4,000,000

provided, however, with respect to Cargo Liability and Professional Liability insurance, the Lessee shall procure such endorsements or policies, as applicable, no less than thirty (30) days prior to the commencement of Lessee's operations at the Premises and continuing through and including the date of expiration or earlier termination of this Agreement. Without limiting the provisions hereof, in the event the Lessee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority of New York and New Jersey and the City Insureds shall be included therein as additional insureds to the full extent of all such insurance in accordance with all the terms and provisions hereof.

(2) *Port Authority Approval.* The insurance covered by this Section shall be written by companies approved by the Port Authority. All insurance coverages and policies required under this Section may be reviewed by the Port Authority for adequacy of terms, conditions and limits of coverage at any time and from time to time during the term this Agreement remains in effect. The Port Authority may, at any such time, require an increase in the minimum limits, or additions, deletions, amendments to or modifications of the above-scheduled insurance requirements and may require such other and additional insurance, in such amounts, against such other insurable risks and hazards, as the Port Authority may deem advisable and the Lessee shall promptly comply therewith. The Lessee represents that the Lessee does not own or operate aircraft or conduct cargo operations on the Premises and the Lessee hereto agrees that, as long as all Permitted Cargo Handlers who own and operate aircraft or conduct cargo operations at the Premises name Lessee and the Port Authority of New York and New Jersey as additional insureds under such Permitted Cargo Handlers' liability policies covering property damage caused by aircraft in the care, custody and control of such Permitted Cargo Handlers and the risks covered by the insurance policies whose limits are set forth in Subsection (1) immediately above, Lessee shall not be separately required to maintain such insurance coverage.

(3) *Certificates.* As to all insurance required under this Agreement, a certified copy of each policy or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within thirty (30) days after the execution of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall be specifically endorsed to state that the policy may not be cancelled, terminated, changed or modified, without giving thirty (30) days' written notice thereof to the Port Authority. Evidence of a renewal policy shall be delivered to the Port Authority at least thirty (30) days prior to the expiration date of each expiring policy. Each such copy or certificate shall contain an additional endorsement providing that the insurance carrier shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to the form or substance or if any of the carriers issuing such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new and satisfactory

policy in replacement. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

(4) *Construction Work Insurance.* The policies or certificates representing insurance covered by this Section shall be delivered by the Lessee to the Port Authority upon execution of this Agreement by the Lessee and the policies or certificates representing the insurance covered by Paragraph (i) of the Section of this Agreement entitled "*Construction by the Lessee*" shall be delivered by the Lessee to the Port Authority prior to the commencement of the Construction Work and each policy or certificate delivered shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon and also contain a valid provision obligating the insurance company to furnish the Port Authority and the City thirty (30) days' advance notice of the cancellation, termination, change or modification of the insurance evidenced by said policy or certificate. Any renewal policies or certificates shall be delivered to the Port Authority at least thirty (30) days before the expiration of the insurance, which such policies are to renew.

Section 16. Signs

(a) **Exterior Signs.** Except with the prior written approval of the Port Authority, the Lessee 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 or on any other portion of the Airport outside the Premises. Without in any way limiting the foregoing, each of the Lessee and any sublessee will be permitted to erect an exterior sign on the Premises after the Lessee has received the prior written approval of the Port Authority to do so. Interior signs affecting public safety and security shall be in accordance with established Port Authority standards.

(b) **Removal of Signs.** Upon the expiration or termination of the letting, the Lessee shall remove, obliterate or paint out, as the Port Authority may direct, any and all signs and advertising on the Premises or elsewhere on the Airport and in connection therewith shall restore the portion of the Premises and 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 Lessee so to remove, obliterate or paint out each and every such sign or advertising and so to restore the Premises and the Airport, the Port Authority may perform the necessary work and the Lessee shall pay the cost thereof to the Port Authority on demand.

Section 17. Obstruction Lights

The Lessee shall install, maintain and operate at its own expense such obstruction lights on the Premises as the Federal Aviation Administration may direct or as the General Manager of the Airport may 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.

Section 18. Additional Rent and Charges

(a) If the Port Authority is required or elects to pay any sum or sums or incurs any obligations or expense by reason of the failure, neglect or refusal of the Lessee to perform or fulfill any one or more of the conditions, covenants or agreements contained in this Agreement or as a result of an act or omission of the Lessee contrary to the said conditions, covenants and agreements, the Lessee agrees to pay the sum or sums so paid or the expense so incurred, including all interest, costs, damages and penalties, and the same may be added to any installment of rent thereafter due hereunder, and each and every part of the same shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rent as set forth in the Section of this Agreement entitled "*Rental and Abatement*"; provided, however, if the Port Authority elected to pay such sum(s), then such sum(s) or expenses incurred shall not include any interest, costs, damages or penalties if the Lessee has paid such sum(s) and the amount of such expenses incurred, in full and on an unconditional basis to the Port Authority within thirty (30) days after receipt of notice from the Port Authority of such failure to pay; provided, that, if three (3) or more such failures occur within a twelve (12) month period, then the Port Authority may terminate this Agreement upon five (5) days' notice and the same shall be deemed a termination for cause.

(b) For all purposes under this Section and in any suit, action or proceeding of any kind between the parties hereto, any receipt showing any payment of a sum or sums by the Port Authority for any work done or material furnished shall be *prima facie* evidence against the Lessee that the amount of such payment was necessary and reasonable. Should the Port Authority elect to use its operating and maintenance staff in performing any work and to charge the Lessee with the cost of same, any time report of any employee of the Port Authority showing hours of labor or work allocated to such work, or any stock requisition of the Port Authority showing the issuance of materials actually used in the performance thereof, shall likewise be prima facie evidence against the Lessee that the amount of such charge was necessary and reasonable.

Section 19. Rights of Entry Reserved

(a) **Inspection and Performance of Obligations.** Subject to federal law regarding quarantine areas (excluding during the occurrence of an emergency), the Port Authority, by its officers, employees, agents, representatives and contractors shall have the right at all times to enter upon the Premises for the purpose of inspecting the same, for observing the performance by the Lessee of its obligations under this Agreement, and for the doing of any act or thing which the Port Authority may be obligated or have the right to do under this Agreement or pursuant to law.

(b) **Utility Maintenance.**

(1) Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, agents, representatives and contractors, and furnishers of utilities and other services, shall have the right, for its own benefit, for the benefit of the Lessee, or for the benefit of persons other than the Lessee at the Facility, to maintain existing and future sewerage,

utility, mechanical, electrical and other systems or portions thereof on the Premises, including but not limited to, systems for the supply of heat, water, gas, fuel, electricity and for the furnishing of fire-alarm, fire-protection, sprinkler, sewerage, drainage, telegraph, telephone, fiber optic cable, wireless communications and/or other communications service, including all lines, pipes, mains, wires, conduits and equipment connected with or appurtenant to such systems, and to enter upon the Premises at all times to make such repairs, replacements or alterations as may, in the opinion of the Port Authority, be deemed necessary or advisable and, from time to time, to construct or install over, in or under the Premises new systems or parts thereof, and to use the Premises for access to other parts of the Facility otherwise not conveniently accessible.

(2) In the event that any property of the Lessee or of a Core Sublessee shall obstruct the access of the Port Authority, its employees, agents or contractors to any of the existing or future utility, mechanical, electrical and other systems and thus shall interfere with the inspection, maintenance or repair of any such system, the Lessee shall move such property, as directed by the Port Authority, within forty-eight (48) hours in order that access may be had to the system or part thereof for its inspection, maintenance or repair, and, if the Lessee shall fail to so move such property after direction from the Port Authority to do so, the Port Authority may move it and the Lessee hereby agrees to pay the cost of such moving upon demand.

(c) **No Liability.** Nothing in this Section shall or shall be construed to impose upon the Port Authority any obligations so to construct or maintain or to make repairs, replacements, alterations or additions, or shall create any liability for any failure so to do. The Lessee is and shall be in exclusive control and possession of the Premises during the letting and the Port Authority shall not in any event be liable for any injury or damage to any property or to any person happening on or about the Premises nor for any injury or damage to the Premises nor to any property of the Lessee or of any other person located in or thereon (other than those occasioned by the sole affirmative, willful acts of the Port Authority, its employees, agents and representatives);

(d) **Other Port Authority Entry**

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

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

(e) **No Eviction.** The exercise of any or all of the foregoing rights by the Port Authority or others shall not be or be construed to be an eviction of the Lessee nor be made the grounds for any abatement of rental nor any claim or demand for damages, consequential or otherwise.

Section 20. Other Construction by the Lessee

Except as expressly provided in the Section of this Agreement entitled "*Construction by the Lessee*", the Lessee shall not erect any structures, make any improvements or do any construction on the Premises or alter, modify, or make additions or improvements or repairs to or replacements of any structure now existing or built at any time during the letting, or install any fixture (other than trade fixtures, removable without material damage to the freehold, any such damage to be immediately repaired by the Lessee) without the prior written approval of the Port Authority and in the event any construction, improvement, alteration, modification, repair, replacement or addition, is made without such approval then, upon notice so to do, the Lessee will remove the same or, at the option of the Port Authority, cause the same to be changed to the satisfaction of the Port Authority. In case of any failure on the part of the Lessee to comply with such notice, the Port Authority may effect the removal or change and the Lessee shall pay the cost thereof to the Port Authority. No provision hereof or elsewhere in this Agreement shall be deemed to grant any right whatsoever to any party other than the Lessee 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 Lessee) without the prior written approval by the Port Authority of a Construction Application to be submitted by the Lessee to the Port Authority.

Section 21. Assignment and Sublease

(a) **No Assignment, Transfer or Sublease without Consent.** Subject to the right of the Lessee to assign rents from sublessees to a Leasehold Mortgagee pursuant to and in compliance with Paragraph (b) of the Section of this Agreement entitled "*Leasehold Mortgage – Foreclosure Rights*", the Lessee shall not effect or permit any Assignment, Transfer or sublease without the prior written consent of the Port Authority.

(b) **Approved Assignment or Sublease.** Notwithstanding Paragraph (a) above, the Lessee shall have the right to sublease or assign this Agreement upon written consent and approval of the Port Authority.

(c) **Unauthorized Transactions Null and Void.** Any sublease, Assignment or Transfer including, without limitation, the subleasing of Area C to a Permitted Cargo Handler or 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 Lessee 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) **Management and Other Agreements.** The Lessee further covenants and agrees not to enter into any management agreement, service agreement or any other similar type of agreement for the Premises without the prior written consent of the Port Authority.

(e) **Port Authority's Right to Collect Rent.** Subject to the rights of a Leasehold Mortgagee under paragraph (a) of the Section of this Agreement entitled "*Leasehold Mortgage – Foreclosure Rights*", if without the prior written consent of the Port Authority, the Lessee effects any Assignment, Transfer or sublease, or if the Premises are occupied by anybody other than the Lessee, the Port Authority may collect rent from any assignee, sublessee (including, without limitation, any Core 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 Paragraph (a) of this Section or an acceptance by the Port Authority of any such assignee, sublessee (including, without limitation, any Core Sublessee), claimant or occupant as Lessee, nor a release of the Lessee by the Port Authority from the further performance by the Lessee of the covenants contained herein.

(f) **Continuing Application of Consent Requirement.** Any consent granted by the Port Authority to any Assignment, Transfer or sublease (including, without limitation, any Core Sublessee Sublease) pursuant to the provisions hereof shall not be construed or deemed to release, relieve or discharge the Lessee 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 in the event it wishes to sell, convey, transfer, mortgage, pledge, sublet or assign this Agreement or any part thereof, or any rights created thereby or the letting hereunder or any part thereof; and such assignee, successor or transferee or other person claiming any right, title or interest in this Agreement shall not sell, convey, transfer, mortgage, pledge, sublet or assign this Agreement or any part thereof, or any rights created thereby or the letting thereunder or any part thereof without such prior written consent of the Port Authority.

(g) **Use of Premises.** The Approved Sublessee 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 "*Use of Premises*". Except as provided in this Agreement or otherwise permitted in writing by the Port Authority, the Lessee shall not permit the Premises to be used or occupied by any person other than its own officers and employees.

(h) **Sublessee Obligations.** Throughout the term of the letting under this Agreement, the Port Authority shall have the right to enforce directly against any sublessee (including, without limitation, any Core Sublessee) the obligations of such sublessee under its sublease from the Lessee with respect to any part of the Premises if, in the opinion of the Port Authority, after ten (10) days' written notice is given to the Lessee, the Lessee fails to or inadequately proceeds to do so, all of the Port Authority's costs of such enforcement including, without limitation, the reasonable cost of providing its own legal counsel and/or of outside legal counsel, shall be reimbursed to the Port Authority by the Lessee as additional rent hereunder upon demand.

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 Lessee of all covenants, agreements, terms and provisions contained herein or required by law to be observed or performed by the Lessee, permit the restoration of the Premises so as to enable the Lessee to operate, manage, maintain and develop the Premises in accordance with the requirements of this Agreement, including, without limitation, the Section hereof entitled **“Use of Premises”**, and to continue to carry on its normal operations at the Facility 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 to that of the Port Authority.

(b) Permanent Taking of All or a Portion of the Premises.

(1) If a Taking is permanent and covers the whole Airport or “substantially all of a Municipal Air Terminal” (as defined in subsection 23.1.2 of the Basic Lease), then this Agreement shall, as of the Date of Taking, cease and terminate in the same manner and with the same effect as if such date were the original date of expiration hereof. The portion of any award, awards, damages or compensation paid for the Taking of the Premises shall be apportioned as follows:

(i) First, the City Insureds shall be paid an amount equal to the amount to be paid to the City Insureds pursuant to and in compliance with subsection 23.1.3 of the Basic Lease;

(ii) Second, the Lessee shall be paid an amount equal to its unamortized capital investment in the improvements on the Premises; provided, however, the Leasehold Mortgagee shall be paid such amounts or a portion thereof that would otherwise be paid to the Lessee under this subparagraph (ii) as required to be paid to the Leasehold Mortgagee with respect to the Taking under the Leasehold Mortgage; provided, that the Lessee has instructed the Port Authority in writing (x) to pay all or a portion of such award to the Leasehold Mortgagee, (y) if only a portion of such award is to be distributed to the Leasehold Mortgagee, the amounts to be distributed to each party and (z) the address(es) to where such award or portions thereof should be sent.;

(iii) Third, the Port Authority shall be paid an amount equal to the amount to be paid to the Port Authority pursuant to and in compliance with subsection 23.1.3 of the Basic Lease; and

(iv) Fourth, any remainder shall be paid to the City Insureds.

(2) If a Taking is permanent and covers the entire Premises but covers less than the whole Airport or less than "substantially all of a Municipal Air Terminal", then this Agreement shall, as of the Date of Taking, cease and terminate in the same manner and with the same effect as if such date were the original date of expiration hereof. Any award, awards, damages or compensation shall be retained by the Port Authority.

(3) If a Taking is permanent but covers less than all of the Premises,

(i) then, as to the portion of the Premises taken, as of the Date of Taking, the letting hereunder for such portion shall cease and terminate in the same manner and with the same effect as if the term of the letting had on that date expired and any award, awards, damages or compensation shall be retained by the Port Authority.

(ii) and if such Taking covers a Material Part of the Premises, then the Lessee 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 and such termination shall be effective as if the Date of Taking were the original date of expiration hereof.

(iii) and if such Taking covers (a) less than a Material Part of the Premises or (b) a Material Part of the Premises, but the letting of the portion of the Premises not taken is not terminated pursuant to Paragraph (b)(3)(ii) of this Section, then the Lessee 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 Lessee for that purpose. The Port Authority shall retain any excess of such award over the costs of the restoration.

(iv) and if the letting of the entire Premises is not terminated, then the rentals for the portions not so taken shall be abated in accordance with the Section hereof entitled "*Rental and Abatement*" after the date of surrender of possession of the portion of the Premises taken.

(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 Lessee shall give prompt notice thereof to the Port Authority, (x) the term shall not be reduced or

affected in any way and (y) the Lessee shall continue to pay in full all rentals payable by the Lessee 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 Lessee 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 Paragraph (D) of the Section hereof entitled "*Rental and Abatement*".

(d) **Lessee's Cooperation.** The Lessee shall execute any and all documents that may be required in order to facilitate collection by the appropriate party of awards or payments covered by this Section.

(e) **Condemnation Claims by the Lessee.** To the extent a condemnation claim by the Lessee 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 Lessee may file a claim in a condemnation proceeding.

(f) **Unamortized Capital Investment.**

(1) The phrase "unamortized capital investment" shall mean, for purposes of this Agreement, the amount of the Lessee's investment in the Premises (excluding any personal property whatsoever) arising out of the performance by the Lessee of the Construction Work pursuant to and as set forth in the Section of this Agreement entitled "*Construction by the Lessee*" after deduction therefrom of an amount equivalent to an allowance for depreciation and amortization. Such allowance will be computed on a straight-line basis over a period of twenty-five (25) years commencing on the earlier of the AB Completion Date and the C Completion Date; provided, however, if the Lessee has accelerated such amortization on its books or otherwise under the provisions of Section 168(a) of Title 26 USCA or similar legislation hereafter enacted, then the allowance for depreciation and amortization shall be computed on the same accelerated basis.

(2) For purposes of this paragraph (f), the Lessee's investment in the Premises shall be equal to the sum of: (1) the amounts paid by the Lessee to independent contractors for work actually performed and labor and materials actually furnished in connection with the Construction Work; and (2) the payments made and expenses incurred by the Lessee, in connection with the Construction Work, for engineering, architectural, professional and consulting services, the supervision of construction, and other customary and reasonable fees and expenses associated with the financing hereunder; provided, however, that such payments and expenses pursuant to this item (2) shall not exceed 15% of the total amount of the Lessee's investment in the Premises (excluding any personal property whatsoever) arising out of the performance by the Lessee of the Construction Work pursuant to and as set forth in the Section of this Agreement entitled "*Construction by the Lessee*"; in each case, as the above-mentioned amounts, payments and expenses are evidenced, from time to time, by certificates of a

responsible fiscal officer of the Lessee, sworn to before a Notary Public and delivered to the Port Authority, which certificates shall (a) set forth, in reasonable detail, the amounts paid to specified independent contractors, the payments made to other specified persons and other expenses incurred by the Lessee, which have not previously been reported in certificates delivered to the Port Authority, (b) have attached thereto reproduction copies or duplicate originals of the invoices of such independent contractors and other persons acknowledging the receipt by them of such amounts and payments, and (c) certify that the amounts, payments and expenses therein set forth constitute portions of the Lessee's investment in the Premises for the purposes of this Agreement.

(3) In the event of the taking of all of the Premises and if the Lessee has no unamortized capital investment in the Premises upon the Date of Taking, then the aforesaid agreement to make such payment to the Lessee shall be null and void; and in that event, the Lessee (except with respect to its personal property) shall not have any claim or right to claim or be entitled to any portion of the amount which may be awarded as damages or paid as a result of such taking, and all rights to damages, if any, of the Lessee (except for damages to its personal property) by reason thereof are hereby assigned to the Port Authority.

Section 23. Termination by the Port Authority

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

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

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

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

(4) The Lessee shall voluntarily abandon, desert or vacate the Premises or discontinue its operations at the Airport, or, after exhausting or abandoning any right of

further appeal, the Lessee shall be prevented for a period of thirty (30) days by action of any governmental agency other than the Port Authority having jurisdiction thereof, from conducting its operations at the Airport, regardless of the fault of the Lessee; or

(5) Any lien is filed against the Premises because of any act or omission of the Lessee and shall not be discharged of record, or by bonding through an insurance company duly authorized to write such bonds in New York State, within thirty (30) days after the Lessee has received notice thereof; or

(6) Except as expressly permitted in the Section of this Agreement entitled "*Assignment and Sublease*", the letting hereunder or the interest or estate of the Lessee under this Agreement shall be transferred directly by the Lessee or shall pass to or devolve upon, by operation of law or otherwise, any other person, firm or corporation; or

(7) A petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute shall be filed against the Lessee and shall not be dismissed within sixty (60) days after the filing thereof; or

(8) Except as otherwise provided in the Section of this Agreement entitled "*Assignment and Sublease*", the Lessee shall, without the prior written approval of the Port Authority, become a possessor or merged corporation in a merger, a constituent corporation in a consolidation, or a corporation in dissolution; or

(9) The Lessee shall fail duly and punctually to pay the rentals or to make any other payment required hereunder when due to the Port Authority and shall continue in its failure for a period of ten (10) business days; or

(10) The Lessee, its employees or any other person operating on the Premises shall fail to maintain in full force and effect continuously throughout the term of this Agreement all applicable accreditations (veterinary), licenses, certificates, permits or other authorizations, which are initially obtained by the Lessee for operations at the Premises and/or which are thereafter necessary to be obtained for the performance of any permitted or required activity under this Agreement, or provision of any permitted goods or services hereunder, at the Premises, or for the operation of the Animal Handling Facility generally and shall continue in its failure for a period of ten (10) business days; or

(11) The Lessee, its employees or any other person operating on the Premises with the Lessee's actual or constructive knowledge, (a) (i) has been or shall be convicted of a misdemeanor or a felony for the commission of an animal-related crime or (ii) has pled guilty to a charge other than an animal-related charge in satisfaction of such animal-related charge; and/or (b) in the instance of Veterinarians, veterinary nurses or other technicians, and any other person or entity providing animal-related services, (i) have his, her or its relevant license or relevant permit suspended, or revoked or not renewed after license expiration, or (ii) be determined to have violated any law, rule, regulation or treaty applicable to persons who engage in the relevant animal-related activity to which the violation relates, or applicable to persons who provide the relevant animal-related service to which the violation relates; and/or (c) assist in, cooperate with or consent to the engagement by any third person or entity in animal-

related activity which is prohibited under City or State of New York (e.g., Agricultural and Markets Law and New York Education Law (including, without limitation, the Practice Guidelines applicable to Veterinary Medicine), or Federal law, or international law binding on the United States (e.g., the CITES treaty); and such occurrence or action has not been cured within thirty (30) 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 either the Lessee or the Core Sublessee shall have commenced to perform whatever may be required for fulfillment within thirty (30) days after receipt of notice and continues such performance without interruption except for causes beyond its control); provided, that, if three (3) or more such events of default occur within a twelve (12) month period, then the Port Authority may terminate this Agreement upon five (5) days' notice; or

(12) An Expressly Prohibited Activity occurs in or at the Premises; or

(13) The Lessee shall fail to (a) immediately report to Government Authorities (e.g., law enforcement law and regulatory agencies with jurisdiction, or both, as applicable), persons and occurrences where the Lessee knows or has reason to know that there is a violation or intent to violate an animal-related City, New York state, Federal and/or international law, rule, regulation, order, treaty (binding on the United States), or the like including, without limitation, instances of animal cruelty, animal abuse, animal neglect and illegal trafficking or commercial trade in animals or animal parts involving endangered species and (b) to cooperate with Government Authorities concerning all aspects of any investigation or proceeding concerning violations of the above-described nature; or

(14) Professional misconduct shall be committed on the Premises; or

(15) The Lessee shall fail to generate and maintain the Veterinary Records pursuant to Paragraph (b) of the Section of this Agreement entitled "*Obligations in Connection with the Conduct of the Lessee's Business*"; or

(16) A Mandatory Service is not provided or conducted, as applicable, on a continuous and uninterrupted basis under this Agreement on the Premises or at the Airport; or

(17) The Lessee shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Agreement on its part to be kept, performed, or observed, and such event of default has not been cured within thirty (30) 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 either the Lessee or the Core Sublessee shall have commenced to perform whatever may be required for fulfillment within thirty (30) days after receipt of notice and continues such performance without interruption except for causes beyond its control); provided, that, if three (3) or more such events of default occur within a twelve (12) month period, then the Port Authority may terminate this Agreement upon five (5) days' notice;

then upon the occurrence of any such event or at any time there-after during the continuance thereof, the Port Authority may upon twenty (20) days' notice to the Lessee and any Leasehold Mortgagee, and subject to a Leasehold Mortgagee's rights provided in the section of this

Agreement entitled "Leasehold Mortgage – Foreclosure Rights", terminate the rights of the Lessee hereunder and the letting; provided, however, if such event is cured by the Lessee or the Leasehold Mortgagee within such twenty (20) day period, then the rights of the Lessee hereunder shall not be so terminated. Such termination shall 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.

In the event the Port Authority exercises its right to terminate this Agreement for any reason, the Lessee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses incurred by the Port Authority in connection with such termination, including, without limitation, any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the cleaning, repair or restoration of any space which may be used and occupied under this Agreement (on failure of the Lessee to have it cleaned, repaired or restored), the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing the space and putting the space in order (such as but not limited to repairing, cleaning and restoring the same). Unless sooner terminated, the term of the letting hereunder shall expire in any event upon the Expiration Date. Termination shall not relieve the Lessee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of termination.

(b) No Waiver.

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

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

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

Section 24. Right of Re-entry

The Port Authority shall, as an additional remedy upon the giving of a notice of termination as provided in the Section of this Agreement entitled "*Termination by the Port Authority*", have the right to re-enter the Premises and every part thereof upon the effective date of termination without further notice of any kind, and may regain and resume possession either with or without the institution of summary or any other legal proceedings or otherwise. Such re-entry, or regaining or resumption of possession, however, shall not in any manner affect, alter or

diminish any of the obligations of the Lessee under this Agreement, and shall in no event constitute an acceptance of surrender.

Section 25. Waiver of Redemption

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

Section 26. Survival of the Obligations of the Lessee

(a) **Survival of Rent and Damages.** In the event that the letting shall have been terminated in accordance with a notice of termination as provided in the Section of this Agreement entitled "*Termination by the Port Authority*", or the interest of the Lessee canceled pursuant thereto, or in the event that the Port Authority has re-entered, regained or resumed possession of the Premises in accordance with the provisions of the Section of this Agreement entitled "*Right of Re-entry*", all the rental obligations of the Lessee under this Agreement shall survive such termination or cancellation, or re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of the letting under this Agreement, and the amount or amounts of damages or deficiency shall become due and payable to the Port Authority to the same extent, at the same time or times and in the same manner as if no termination, cancellation, re-entry, regaining or resumption of possession had taken place. The Port Authority may maintain separate actions, periodically, including, without limitation, 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) **Calculation of Damages.** The amount of damages for the period of time subsequent to termination or cancellation (or re-entry, regaining or resumption of possession) on account of the Lessee's rental obligations, shall be the sum of the following:

(1) The amount of the total of all 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 all expenses incurred by the Port Authority in connection with regaining possession and restoring and reletting the Premises, for legal expenses, putting the Premises in order, including but not limited to, cleaning, decorating and restoring (on failure of the Lessee to restore), maintenance and brokerage fees.

(3) The amount of any additional rent due and owing to the Port Authority pursuant to the Section of this Agreement entitled "*Additional Rent and Charges*".

Section 27. Reletting by the Port Authority

The Port Authority upon termination or cancellation pursuant to the Section of this Agreement entitled "*Termination by the Port Authority*", or upon any re-entry, regaining or resumption of possession pursuant to the Section of this Agreement 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 terms and conditions the same as or different from those set forth in this Agreement. The Port Authority shall also, upon termination or cancellation pursuant to the said Section of this Agreement entitled "*Termination by the Port Authority*" Section of this Agreement entitled "*Right of Re-entry*", or upon its re-entry, regaining or resumption of possession pursuant to the Section of this Agreement entitled "*Right of Re-entry*", have the right to repair or to make structural or other changes in the Premises, including changes which alter the character of the Premises and the suitability thereof for the purpose of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder. In the event either of any reletting or of any actual use and occupancy by the Port Authority (the mere right of the Port Authority to use and occupy not being sufficient however) there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the said Premises or portion thereof during the balance of the letting as the same is originally stated in this 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 (except to the extent the same have been paid or reimbursed by the Lessee pursuant to Subparagraph (b) (2) of the Section of this Agreement entitled "*Survival of the Obligations of the Lessee*"). No such reletting shall be or be construed to be an acceptance of a surrender.

Section 28. Remedies to be Non-Exclusive

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

Section 29. Surrender

The Lessee covenants and agrees to yield and deliver peaceably to the Port Authority possession of the Premises on the date of cessation of the letting, whether such cessation be by termination, expiration or otherwise, promptly and in good condition, except for reasonable wear arising from the permitted use of the Premises by the Lessee which does not cause or tend to cause deterioration of the Premises or adversely affect the efficient or proper utilization thereof, and all of the Premises shall be free and clear of all liens, encumbrances, and

security interests and of any rights of any sublessees (including, without limitation, Core Sublessees) or other occupants of the Premises.

Section 30. Acceptance of Surrender of Lease

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

Section 31. Effect of Basic Lease

(a) **Rights of Lessee.** The Lessee acknowledges that it has received, and is familiar with the contents of, a copy of the Basic Lease. The rights of the Port Authority in the Premises are those granted to it by the Basic Lease, and no greater rights are granted or intended to be granted to the Lessee than the Port Authority has power thereunder to grant.

(b) **Basic Lease Requirements.** In accordance with the provisions of the Basic Lease, the Port Authority and the Lessee hereby agree as follows:

(1) This Agreement is subject and subordinate to the terms, covenants, conditions and provisions of the Basic Lease and to any interest superior to that of the Port Authority;

(2) The Lessee 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 Lessee on the termination of the Basic Lease will, at the option of the City, attorn to, or enter into a direct lease on identical terms with, the City;

(4) The Lessee shall indemnify the City Insureds, as third party beneficiary hereunder, with respect to all matters described in Section 31 of the Basic Lease that arise out of the Lessee's operations at the Airport, or arise out of the acts or omissions of the Lessee's officers, employees, agents, representatives, contractors, customers, business visitors and guests at the Airport with the Lessee's consent;

(5) The Lessee shall not use the Premises hereunder for any use other than as permitted under the Basic Lease;

(6) The Lessee shall use, operate, manage 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 Lessee to comply with the foregoing provisions shall be an event of default under this Agreement, which, after the giving of 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 Insureds shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Lessee pursuant to this Agreement.

Section 32. Removal of Property

The Lessee shall have the right at any time during the letting to remove its equipment, inventories, trade fixtures and other fixtures removable without material damage to the Premises, and other personal property from the Premises. If the Lessee shall fail to remove its property on or before the termination or expiration of the letting, the Port Authority may remove such property to a public warehouse for deposit or retain the same in its own possession, and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, second to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority upon demand. The Lessee shall promptly repair any damage to the Premises caused by the removal of such equipment, inventories, trade fixtures, fixtures and personal property. The rights and obligations of the Lessee hereunder shall apply to all Core Sublessees.

Section 33. Brokerage

The Lessee represents and warrants to the Port Authority that no broker has been concerned on its behalf 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 the Port Authority harmless of and from any claim for commission or brokerage made by any and all persons, firms or corporations whatsoever for services rendered to the Lessee in connection with the negotiation and execution of this Agreement.

Section 34. Limitation of Rights and Privileges Granted

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

(b) The Premises are let to the Lessee and the Lessee takes the same subject to all the following: (i) easements, restrictions, reservations, covenants and agreements, if any, to which the Premises may now be subject, and rights of the public in and to any public street; (ii) rights, if any, of any enterprise, public or private, which is engaged in furnishing heating, light, power, telegraph, telephone, steam, or transportation services and of the City 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 35. Notices

Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by certified or registered mail. The Lessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Port Authority hereby designates its Executive Director and the Lessee designates its representative named on the first page of this Agreement 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 Lessee designates its office as provided on the first page of this Agreement. If mailed, the notices herein required to be served shall be deemed effective and served as of the date three (3) days after the certified or registered mailing thereof.

Section 36. Non-Discrimination

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

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

(c) **Non-Compliance.** The Lessee's non-compliance with the provisions of this Section shall constitute a material breach of this Agreement. In the event of the breach by the Lessee of any, of the above non-discrimination provisions the Port Authority may take

appropriate action to enforce compliance; or in the event such non-compliance shall continue for a period of twenty (20) days after receipt of written notice from the Port Authority, the Port Authority shall have the right to terminate this Agreement and the letting hereunder with the same force and effect as a termination under the Section of this Agreement providing for termination for default by the Lessee in the performance or observance of any other term or provision of this Agreement, or may pursue such other remedies as may be provided by law; and as to any or all the foregoing, the Port Authority may take such action as the United States may direct.

(d) **Indemnification.** The Lessee 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 Lessee's non-compliance with any of the provisions of this Section and the Lessee shall reimburse the Port Authority for any loss or expense incurred by reason of such noncompliance.

(e) **No Additional Rights.** Nothing contained in this Section shall grant or shall be deemed to grant to the Lessee 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 the Premises.

Section 37. Affirmative Action

(a) **Affirmative Action Program.** The Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Lessee 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 Lessee assures that it will require that its covered suborganizations provide assurances to the Lessee 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) **Federal Requirements.** The Lessee specifically acknowledges and agrees that the Federal requirements set forth in Schedules E and F may be revised or updated from time to time and that, accordingly, the Port Authority may from time to time, by notice to the Lessee, provide to the Lessee revised or updated forms of Schedules E and/or F to replace the Schedules E and/or F, as applicable, currently attached to and forming a part of this Agreement. Such replacement Schedules E and F shall, from the effective date of such notice, be deemed to constitute an integral part of this Agreement. The Lessee further specifically acknowledges that the same revision or updating of Federal requirements may occur from time to time with respect to the regulations set forth in 49 CFR Part 23 of the Department of Transportation Office of the Secretary.

(c) **Non-Discrimination.** The Lessee shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and shall undertake or continue existing programs of affirmative action to ensure

that minority group persons and women are afforded equal employment opportunity without discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selections for training or retraining, including apprenticeships and on-the-job training;

(d) **Construction Affirmative Action Program.** In addition to and without limiting the foregoing, and without limiting the provisions of Paragraphs (m) and (n) of the Section of this Agreement entitled "*Construction by the Lessee*" and Schedule E hereof, it is hereby agreed that the Lessee, in connection with its continuing operation, management, maintenance and repair of the Premises, or any portion thereof, and in connection with every award or agreement for concessions or consumer services at the Facility, shall throughout the term of the letting hereunder commit itself to and use good faith efforts to implement an extensive program of affirmative action, including specific affirmative action steps to be taken by the Lessee, to ensure maximum opportunities for employment and contracting by minorities and women. In meeting the said commitment the Lessee agrees to submit to the Port Authority for its review and approval its said extensive affirmative action program, including the specific affirmative action steps to be taken by the Lessee to meet its aforesaid commitment, within sixty (60) days after the execution of this Agreement and the delivery thereof by the Lessee to the Port Authority. The Lessee shall incorporate in its said program such revisions and changes which the Port Authority initially or from time to time may require. The Lessee throughout the term of the letting hereunder shall document its efforts in implementing the said program, shall keep the Port Authority fully advised of the Lessee's progress in implementing the said program and shall supply to the Port Authority such information, data and documentation with respect thereto as the Port Authority may from time to time and at any time request, including but not limited to, annual reports.

(e) **Minority.** "Minority" as used herein shall be as defined in Paragraph II(c) of Part I of Schedule E.

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

(g) **Compliance Standards.** 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.

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

Section 38. Place of Payments

All payments required of the Lessee by this Agreement shall be sent to the following address:

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY
P.O. Box 95000-1517
PHILADELPHIA, PENNSYLVANIA 19195-1517

or via the following wire transfer instructions:

Bank: TD Bank
Bank ABA Number: 031201360
Account No.: [for Ground Area AB, Ground Area C
and Building Rent)
Account No.: (for Percentage Rent)

or to such other address as may be substituted therefor by notice by the Port Authority to the Lessee from time to time.

Section 39. Construction and Application of Terms

(a) **Headings.** The Section and Paragraph or subparagraph 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) **Exhibits.** The terms, provisions and obligations contained in the Exhibit(s) and Schedule(s) attached hereto, whether they are 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) **Certain Rules of Construction.**

(i) Time is of the essence in the Lessee's performance of this Agreement. Notwithstanding the fact that certain references elsewhere in this Agreement to acts required to be performed by the Lessee hereunder, or to breaches or defaults of this Agreement by the Lessee, omit to state that such acts shall be performed at the Lessee's sole cost and expense, or omit to state that such breaches or defaults by the Lessee are material, unless the context clearly implies to the contrary, each and every act to be performed or obligation to be fulfilled by the Lessee pursuant hereto shall be performed or fulfilled at the Lessee's sole cost and expense, and all breaches or defaults by the Lessee hereunder shall be deemed material.

(ii) The Lessee shall be fully responsible and liable for the observance and compliance by sublessees (and licensees and permittees, (including, without limitation, Core Sublessees)) of the Lessee and with all the terms and conditions of this Agreement, which terms and conditions shall be applicable to sublessees (and licensees and permittees, (including, without limitation, Core Sublessees)) as fully as if they were the Lessee hereunder; and failure by

a sublessee (or licensee or permittee, (including, without limitation, Core Sublessees)) fully to observe and comply with the terms and conditions of this Agreement shall constitute a default by the Lessee. Nothing contained in the preceding sentence shall constitute consent by the Port Authority to any sublease (including, without limitation, any Core Sublessee Sublease) or other arrangement.

(iii) Although the printed provisions of this Agreement were drawn by the Port Authority, the parties agree that this circumstance alone shall not create any presumption, canon of construction or implication favoring the position of either the Port Authority or the Lessee and 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.

(iv) 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.

(v) The fact that certain of the terms and provisions hereunder are expressly stated to survive the expiration or termination of the letting hereunder does not mean nor shall be construed to mean that those provisions hereunder which are not expressly stated to survive shall terminate or expire on the expiration or termination of the letting hereunder and do not survive such termination or expiration.

(vi) The Port Authority shall not act in an arbitrary or capricious manner when exercising its discretion pursuant to the provisions of this Agreement.

Section 40. Non-liability of Individuals

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

Section 41. Services to the Lessee

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

(b) **Services Provided.**

(1) *Electricity.* The Port Authority shall sell, furnish and supply to the Lessee in reasonable quantities and to the extent of the capability of existing facilities for use on the Premises and the Lessee 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 in the vicinity, through existing wires, conduits and outlets, if any, at the same charge which would be made by such public utility for the same quantity used under the same conditions and in the same service classification but in no event less than an amount that would reimburse the Port Authority for its cost of obtaining and supplying electricity to the Lessee hereunder; charges shall be payable by the Lessee when billed 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 not discontinue the supply of electricity except upon fifteen (15) days' notice to the Lessee and unless a supply of electricity of the same voltage, phase and cycle shall be available from another supplier and upon any such discontinuance the Lessee 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) *Cold Water.* The Port Authority agrees to sell, furnish and supply to the Lessee for use on the Premises cold water (of the character furnished by the City) in reasonable quantities through pipes, mains and fittings and the Lessee agrees to take such water from the Port Authority and to pay the Port Authority therefor an amount equal to that which would be charged by the municipality or other supplier of the same (whether or not representing a charge for water or other services measured by water consumption) for the same quantity, used under the same conditions and in the same service classification plus the cost to the Port Authority of supplying such water which shall not be less than ten percent (10%) nor in excess of fifty percent (50%) of the amount charged but in no event less than an amount which would reimburse the Port Authority for its costs of obtaining and supplying cold water to the Lessee hereunder. The charge therefor shall be payable by the Lessee when billed and the quantity of water consumed shall be measured by the meter or meters installed for the purpose; provided, however, that if for any reason, any meters or meters fail to record the consumption of water, the consumption during the period such meter or meters are out of service will be considered to be the same as the consumption for a like period immediately before or after the interruption, as elected by the Port Authority.

(3) *Sewerage.* The Lessee shall pay to the Port Authority such of the existing and future charges for sewerage services furnished by the City as are presently or may hereafter be imposed or assessed against the Port Authority in respect of the Lessee's 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 Lessee in its use of the Premises, and shall hereafter impose charges or increase existing charges for such services, the Lessee agrees to pay to the Port Authority such of the charges or the increase in

charges as may be imposed or assessed against the Port Authority in respect of the Lessee's Premises or its use and occupancy thereof.

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

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

(e) **Restricted Supply of Services.** The Port Authority shall be under no obligation to supply services if and to the extent and during any period that the supplying of any such service or the use of any component necessary therefor shall be prohibited or rationed by any federal, state or municipal law, rule, regulation, requirement, order or direction and if the Port Authority deems it in the public interest to comply therewith, even though such law, rule, regulation, requirement, order or direction may not be mandatory on the Port Authority as a public agency. The Port Authority shall not be obligated to perform or furnish any service whatsoever in connection with the Premises at any time while the Lessee shall be in default hereunder or has breached any of the provisions hereof after the period, if any, herein granted to cure such default shall have expired. The Port Authority shall give the Lessee five (5) days' notice prior to terminating any service.

(f) **Extermination Services.** In the event the Port Authority shall provide extermination service for the enclosed areas of the Premises, the Lessee agrees to utilize the same and to pay the cost thereof, upon demand. This Paragraph does not impose any obligation on the Port Authority to furnish such service.

Section 42. Automobile Parking

Except as provided in the Section of this Agreement entitled "*Use of Premises*", the Lessee shall prevent all persons from parking vehicles on the Premises, except that vehicles may be permitted to be on the Premises for a reasonable period of time for the purpose of discharging or picking up cargo and for official and special purposes.

Section 43. Late Charges

If the Lessee should fail to pay any amount required under this Agreement when due to the Port Authority, including but not limited to, any payment of fixed rental, percentage rent or any payment of utility or other charges, 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 herein below described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. 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 "*Rental 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 the Section of this Agreement entitled "*Remedies to be Non-Exclusive*" or (ii) any obligations of the Lessee under this Agreement. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charges then, in such event, each such late charge payable under this Agreement shall be payable instead at such legal maximum.

Section 44. Obligations in Connection with the Conduct of the Lessee's Business

(a) Operating Records.

(1) The Lessee shall

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

(ii) not divert or cause or allow to be diverted, any business from the Facility;

(iii) in connection with the Lessee's Records,

(x) Maintain, in English and in accordance with accepted accounting practice, during the term of the letting hereunder, for seven (7) years after the expiration or termination thereof, and for such further period until the Lessee shall receive written permission from the Port Authority to do otherwise, records and books of account recording all transactions of the Lessee at, through, or in any way connected with the Facility and all revenues received by the Lessee from a Core Sublessee, whether in the form of rental

payments or otherwise (which records and books of account are hereinafter called the "*Lessee's Records*"). The Lessee's Records shall be kept at all times within the Port of New York District.

(y) The Lessee shall cause any Affiliate, if any such Affiliate performs services similar to those performed by the Lessee, to maintain in English and in accordance with accepted accounting practice full and complete records and books of account for at least seven (7) years after the expiration or termination of this Agreement, which records and books of account shall include without limitation, all agreements and source documents such as but not limited to, original invoices, invoice listings, timekeeping records, work schedules and the general ledger (including its chart of accounts) and shall record all transactions of each Affiliate, through or in any way connected with the Facility, which records and books of account shall be kept at all times within the Port of New York District and shall separately state and identify each activity performed at the Facility and off the Facility if the order therefor is received at the Facility.

(iv) permit in ordinary business hours during the effective term of the letting, for one year thereafter, and during such further period as is mentioned in the preceding subdivision (3), the examination and audit by the officers, employees and representatives of the Port Authority of (x) the records and books of account of the Lessee and (y) also any records and books of account of any Affiliate. The Lessee shall make available to the Port Authority within the Port of New York District for examination and audit by the Port Authority pursuant to this Paragraph (4) those records and books of account described in (x) which are not required by Paragraph (3) above to be kept at all times in the Port of New York District and those records and books of account described in (y) above (all of the foregoing being hereinafter called the "*Other Relevant Records*" and the Lessee's Records and the Other Relevant Records being hereinafter collectively referred to as the "*Records*").

(v) permit the inspection by the officers, employees and representatives of the Port Authority of any equipment used by the Lessee;

(vi) furnish on or before the twentieth (20th) day of each month following the effective date of this Agreement a sworn statement of gross receipts arising out of operations of the Lessee hereunder for the preceding month;

(vii) furnish on or before the twentieth (20th) day of January of each calendar year following the effective date of this Agreement a statement of all gross receipts arising out of operations of the Lessee hereunder for the preceding calendar year certified, at the Lessee's expense, by a certified public accountant;

(2) Without implying any limitation on the right of the Port Authority to terminate this Agreement for cause for the breach of any term or condition thereof, the Lessee understands that compliance by the Lessee with the provisions of Paragraphs (iii) and (iv), above, are of the utmost importance to the Port Authority in having entered into the percentage rent arrangement under this Agreement and in the event of the failure of the Lessee to maintain, keep within the Port District or make available for examination and audit the Lessee's Records in

the manner and at the times or location as provided in this Section then, in addition to all and without limiting any other rights and remedies of the Port Authority, the Port Authority may:

(i) Estimate the gross receipts of the Lessee on any basis that the Port Authority, in its sole discretion, shall deem appropriate, such estimation to be final and binding on the Lessee and the Lessee's fees based thereon to be payable to the Port Authority when billed; or

(ii) If any such Records have been maintained outside of the Port District, but within the Continental United States then the Port Authority in its sole discretion may (x) require such Records to be produced within the Port District or (y) examine such Records at the location at which they have been maintained and in such event the Lessee shall pay to the Port Authority when billed all travel costs and related expenses, as determined by the Port Authority for Port Authority auditors and other representatives, employees and officers in connection with such examination and audit, or

(iii) If any such Records have been maintained outside the continental United States then, in addition to the costs specified in Paragraph (b)(ii) above, the Lessee shall pay to the Port Authority when billed all other costs of the examination and audit of such Records including, without limitation, salaries, benefits, travel costs and related expenses, overhead costs and fees and charges of third party auditors retained by the Port Authority for the purpose of conducting such audit and examination.

(3) The foregoing auditing costs, expenses and amounts set forth in Subparagraphs (ii) and (iii) of Paragraph (2), above, shall be deemed additional rental under this Agreement payable to the Port Authority with the same force and effect as all other rentals payable hereunder.

(4) In the event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority by the Lessee, the Lessee 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 Lessee under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Section with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (ii) any obligations of the Lessee under this Agreement.

(b) **Veterinary Medical Records.**

(1) Without limiting the generality of subparagraph (a), above, the Lessee shall:

(i) generate and maintain legible or computerized, true and accurate veterinary medical records for all animals ("*Veterinary Records*") pursuant to and in accordance with the Practice Guidelines of the New York Education Law; and

(ii) take all appropriate measures to protect the Veterinary Records from tampering so that in the event of a law enforcement or other legal investigation, the Lessee is able to certify that such records are true and accurate.

(2) In addition to any other instance where Veterinary Records may or must properly be disclosed, Veterinary Records shall be disclosed (i) upon the written request of the owner of the animal whose records are being requested and a fee may be charged in connection therewith, (2) when a veterinarian suspects and is reporting animal cruelty, abuse or neglect in good faith, and/or (3) when a veterinarian reasonably believes disclosure is necessary to protect the health or welfare of the animal, a person, or the public.

Section 45. Federal Airport Aid

(a) **Non-Discrimination.** The Lessee shall:

(1) furnish good, prompt and efficient service hereunder, adequate to meet all demands therefor;

(2) furnish said service on a fair, equal and non-discriminatory basis to all users thereof; and

(3) charge fair, reasonable and non-discriminatory prices for each unit of sale or service.

(b) **Service.** As used in Paragraph (a) above, "service" shall include furnishing parts, materials and supplies (including sale thereof).

(c) **Grants.** 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 and may hereafter be amended and supplemented or superseded by similar federal legislation, and under prior federal statutes which said Act superseded and the Port Authority may in the future apply for and receive further such grants. In connection therewith, the Port Authority has undertaken and may in the future undertake certain obligations respecting its operation of the Airport and the activities of its contractors, lessees and permittees thereon. The performance by the Lessee of the covenants, promises and obligations contained in this Section entitled "*Federal Airport Aid*" and in the Section of this Agreement entitled "*Non-Discrimination*", is therefore a special consideration and inducement to the execution of this Agreement by the Port Authority, and the Lessee further

covenants and 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 the Federal Airport Aid, shall make any orders, recommendations or suggestions respecting the performance by the Lessee of such covenants, promises and obligations, the Lessee will promptly comply therewith, at the time or times when and to the extent that the Port Authority may direct.

Section 46. Method of Operation

(a) **Operation Standards.** Consistent with the provisions of the Section of this Agreement entitled "*Use of Premises*", the Lessee hereby warrants and agrees that it shall (i) conduct, or cause the conduction of, a state-of-the-art operation, whose operations for all animals, at a minimum, meet the American Animal Hospital Association's standards for accreditation, if applicable, and if not applicable, then other standards of the animal handling or animal care industry that are acceptable to the Port Authority, as applicable, and (ii) furnish all necessary or proper fixtures, equipment, personnel (including licensed personnel as necessary), supplies, materials and facilities, and that it will furnish the foregoing 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, however, that reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions may be made to volume purchasers.

(b) **Services.** As used hereunder, "services" shall include the furnishing of parts, materials and supplies (including the sale thereof) and professional services.

(c) **Open for Business.** The Lessee shall be open for and provide services at the Premises on a 24-hour, seven-days-per-week basis.

(d) **Competition.** The Lessee covenants and agrees that it will not enter into any agreement or understanding, express or implied, binding or non-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 services, products, or articles furnished or sold by the Lessee.

(e) **Management and Operations.**

(1) The Lessee shall at all times during the letting hereunder cause to be maintained a full, adequate, experienced and proficient management and operations staff (inclusive of all employees of the Lessee) which shall be reputable and of good character. No individual thereof shall be employed, retained or otherwise permitted to perform or cause to be performed veterinary services or any other animal-related services requiring licensure under New York or Federal law, by or on behalf of the Lessee or otherwise, if such person (1) has been convicted of a misdemeanor or a felony; and/or (2) in the instance of veterinarians, veterinary nurses or other technicians, and any other person or entity providing animal-related services, (x) has had his, her or its relevant license or relevant permit suspended, or revoked or not renewed after license expiration, or (y) has been determined to have violated any law, rule, regulation or treaty applicable to persons who engage in the relevant animal-related activity to which the

violation relates, or applicable to persons who provide the relevant animal-related service to which the violation relates; and/or (3) assisted, cooperated with or consented to any third person or entity to engage in animal-related activity which is prohibited under City, New York State (e.g., Agricultural and Markets Law and New York Education Law (including, without limitation, the Practice Guidelines applicable to Veterinary Medicine), or Federal law, or international law or treaty binding on the United States (e.g., the CITES treaty). For purposes of this Section and the Section entitled "*Compliance with Governmental Requirements*", the term "animal-related", "animal-related service" or "animal-related activity" shall be interpreted in the broadest and most general way such that, by way of example only, a prohibited animal-related activity shall include prohibitions relating to animal parts, animal paraphernalia, import or export of animals or animal parts, trafficking in animals or animal parts.

(f) **Services.** The Lessee shall furnish services for the health, life and safety of all animals on the Premises on a twenty-four (24) hour, seven (7) day per week basis.

Section 47. Relationship of the Parties

Notwithstanding any other term or provision hereof, this Agreement does not constitute the Lessee as the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is hereby created.

Section 48. Lessee's Rights Non-Exclusive

Except as expressly provided in the Section hereof entitled "*Exclusive Use*", neither the execution of this Agreement by the Port Authority nor anything contained herein shall grant or be deemed to grant to the Lessee any exclusive rights or privileges.

Section 49. 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 by the Port Authority*", "*Effect of Termination*", "*Right of Re-entry*" and "*Survival of the Obligations of the Lessee*", unless otherwise notified by the Port Authority in writing, in the event the Lessee remains in possession of the Premises after the expiration or termination of the term of the letting under this Agreement, as it may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Lessee shall pay to the Port Authority a rental for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Lessee shall surrender and completely vacate the Premises at an annual rate equal to twice the sum of (i) the annual rate of rental in effect on the date of such expiration or termination, plus (ii) all items of additional rent and other periodic charges, if any, payable with respect to the Premises by the Lessee at the annual rate in effect during the three-hundred-sixty-five (365) day period immediately preceding such date. The acceptance of money by the Port Authority from the Lessee after the expiration or termination of the letting under this Agreement will not reinstate, continue, renew or extend the term of this Agreement. Nothing herein contained shall give, or be deemed to give, the Lessee any right to remain in possession of the Premises after the expiration or termination of the letting under this Agreement. Unless a written

agreement executed by both parties provides otherwise, after the expiration or termination of the letting hereunder, the Lessee's continued occupation of the Premises will not reinstate, continue, renew or extend the term of this Agreement. The Lessee acknowledges that the failure of the Lessee to surrender, vacate and yield up the Premises to the Port Authority on the effective date of such expiration or termination will or may cause the Port Authority injury, damage or loss. The Lessee hereby assumes the risk of such injury, damage or loss and hereby agrees that it shall be responsible for the same and shall pay the Port Authority for the same whether such are foreseen or unforeseen, special, direct, consequential or otherwise and the Lessee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

Section 50. Waiver of Trial by Jury

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

Section 51. Force Majeure

(a) If the performance by the Port Authority or the Lessee 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 within the control of the Port Authority or the Lessee, as the case may be, to remedy, the Port Authority or the Lessee, 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 Lessee, 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 Lessee to pay the rentals specified hereunder or any other fees, charges or money payments due by the Lessee hereunder. Notwithstanding the foregoing, in no event shall the inadequacy of financial resources required in any circumstances constitute Force Majeure or causes or conditions beyond the control of either party hereunder.

(b) No abatement, diminution or reduction of the rental, fees or other charges payable by the Lessee shall be claimed by or allowed to the Lessee for any inconvenience, interruption, cessation or loss of business or other loss caused, directly or indirectly, by any present or future laws, rules, requirements, orders, directions, ordinances or regulations of the United States of America, or of the state, county or city governments, or of any other municipal, governmental or lawful authority whatsoever, or by priorities, rationing or curtailment of labor or materials, or by war or 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 52. Quiet Enjoyment

The Port Authority covenants and agrees that as long as it remains the lessee of the Facility, the Lessee, upon paying all rentals hereunder and performing all the covenants, conditions and provisions of this Agreement on its part to be performed, shall and may 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 53. Security Deposit

(a) **Required Security Amount.** The amount required as security (the "**Required Security**") hereunder is Nine Hundred Thousand Dollars and No Cents (\$900,000.00) (the "**Required Security Amount**"). Upon the execution of this Agreement by the Lessee and delivery thereof to the Port Authority, the Lessee shall deliver to the Port Authority, as security for the full, faithful and prompt performance of and compliance with, on the part of the Lessee, all of the terms, provisions, covenants and conditions of this Agreement on its part to be fulfilled, kept, performed or observed, a letter of credit pursuant to and in compliance with Paragraph (b) of this Section.

(b) **Letter of Credit**

(1) **Irrevocable Letter of Credit.** The letter of credit to be provided to the Port Authority hereunder must be a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York District, in favor of the Port Authority in the amount of the Required Security.

(2) **Form and Terms.** The form and terms of such letter of credit, 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 effective term granted under this Agreement and for a period of not less than six (6) months thereafter; such continuance may be by provision for automatic renewal or by substitution of a subsequent satisfactory letter.

(3) **Cancellation; Drawdowns.** Upon notice of cancellation of a letter of credit, the Lessee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Security Amount 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 the foregoing Paragraph (a). If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Lessee on demand of the Port Authority and within two (2) days thereafter shall bring the letter of credit back up to its full amount.

(4) *Failure to Provide Letter of Credit.* Any failure to provide a letter of credit at any time during the effective term granted under this 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, and such failure has not been cured within thirty (30) days after receipt of notice of such failure from the Port Authority, shall be deemed to be a breach of this Agreement on the part of the Lessee .

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

(c) **Adjustment of Required Security Amount.** The Lessee acknowledges and agrees that the Port Authority reserves the right, in its sole discretion at any time and from time to time upon sixty (60) days' notice to the Lessee, to adjust the Required Security Amount. Not later than the effective date set forth in said notice by the Port Authority, the Lessee shall furnish an amendment to, or a replacement of, the letter of credit providing for such adjusted Required Security Amount, as the case may be, and such replaced letter of credit shall thereafter constitute the Required Security required under this Section.

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

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

Section 54. Condition of Premises

(a) **As-Is.** The Lessee hereby acknowledges that it has not relied upon any representation or statement of the Port Authority or its Commissioners, officers, employees or agents as to the condition of the Premises or the suitability thereof for the operations permitted on the Premises by this Agreement. The Lessee, prior to the execution of this Agreement, has thoroughly examined the Premises and determined them to be suitable for the Lessee's

operations hereunder and the Lessee hereby agrees to take the Premises in the condition they are in as of the earlier of the date that the Lessee (x) commences occupancy of the Premises or any part thereof and (y) the Commencement Date, and to assume all responsibility for any and all risks, cost and expenses of any kind whatsoever caused by, arising out of or in connection with, the condition of the said areas whether any aspect of such condition existed prior to, on or after the effective date of the letting of the Premises hereunder, including, without limitation, all Environmental Requirements and Environmental Damages, and to indemnify and hold harmless the Port Authority for all such risks, requirements, costs and expenses. Without limiting any obligation of the Lessee to commence operations hereunder at the time and in the manner stated elsewhere in this Agreement, the Lessee agrees that no portion of the Premises will be used initially or at any time during the letting which is in a condition unsafe or improper for the conduct of the Lessee's operations hereunder so that there is possibility of injury or damage to life or property. 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 date of this Agreement, and as to the improvements made and the alteration work performed during the term of this Agreement in the condition existing after the completion of the same.

(b) **Survival.** All the obligations of the Lessee under this Section with respect to the aforesaid responsibilities, risks, costs and expenses assumed by the Lessee shall survive the expiration or termination of this Agreement.

Section 55. Compliance with Basic Lease

The Lessee hereby acknowledges that the terms and provisions of the Basic Lease require or may require certain modifications to this Agreement, specifically those relating to condemnation, indemnity and insurance. The Lessee covenants and agrees that upon delivery to it by the Port Authority of an amendment to this Agreement which sets forth said modifications which the Port Authority deems are appropriate or necessary for full compliance with the Basic Lease, the Lessee shall immediately execute said amendment and return same to the Port Authority. A failure by the Lessee to so execute and return said amendment shall constitute a material breach of this Agreement.

Section 56. Joint Periodic Condition Survey

(a) **Definitions.** As used herein the following terms shall have the following meanings:

"Condition Survey" shall mean an inspection by the Condition Survey Contractor of the Premises including, without limitation, the then current state of cleaning, maintenance and repairs, janitorial services, painting, structural and nonstructural conditions, surface and subsurface conditions, environmental conditions, lighting of building areas, ramp and apron areas, and the condition of utilities and utility systems, fire-fighting and fire protection equipment and systems, communications and communications systems, anti-pollution systems and devices, fuel facilities and systems, and the Lessee's fixtures, equipment and personal property.

“Condition Survey Contract” shall mean a contract awarded to a Condition Survey Contractor, or entered into between the Port Authority and a Condition Survey Contractor, for the performance by such Condition Survey Contractor of a Condition Survey at any of the applicable times specified in Paragraph (b) hereof;

“Condition Survey Contractor” shall mean the reputable engineering firm, licensed or authorized to do business in the State of New York, to whom the Condition Survey Contract is awarded pursuant to Paragraph (b) hereof.

“Condition Survey Costs” shall mean and include with respect to each Condition Survey all amounts paid and expenses incurred by the Port Authority, including all interest, costs, damages and penalties, in accordance with the provisions of the Section hereof entitled *“Additional Rent and Charges”* for, relating to or in connection with Condition Survey work to be performed under the Condition Survey Contract.

“Condition Survey Report” shall mean the report prepared by the Condition Survey Contractor after its completion of the Condition Survey including, without limitation, any and all recommendations for repair, maintenance, rebuilding and cleaning of all items or areas covered by the Condition Survey.

“Report Date” shall mean the date of the Port Authority’s written notice to the Lessee by which the Port Authority delivers to the Lessee the Condition Survey Report.

(b) **Condition Survey.** In addition to any inspection of the Premises which may be made under any other Section of this Agreement or otherwise, a Condition Survey of the Premises shall be conducted by the Condition Survey Contractor within the time period, and subject to and in accordance with the terms and conditions, provided below.

(c) **Time Period and Notice Procedure.** From time to time at the discretion of the Port Authority and, in addition, at the end of the lease term but no earlier than twelve (12) months prior to the Expiration Date, the Port Authority may advise the Lessee of a proposed Condition Survey (which may include all or particular portions of the items enumerated above in the definition of “Condition Survey”) and including the name of the proposed Condition Survey Contractor who will perform the Condition Survey and the proposed scope and fee structure of the proposed Condition Survey Contract. Within thirty (30) days after the Port Authority’s notice to the Lessee, the Lessee shall advise the Port Authority in writing of its concurrence or objection to the proposed Condition Survey Contract. In the event the Lessee fails to respond during the said time period, said non-response shall be deemed a concurrence and the Port Authority shall proceed with the said Condition Survey Contract. In the event the Lessee notifies the Port Authority of its objections to the proposed Condition Survey Contract or Condition Survey Contractor, the parties shall consult with each other in good faith to resolve such dispute. If such resolution is not reached within thirty (30) days, then the Port Authority, if it so elects, shall make a determination as to the issue or issues in dispute. The parties hereby agree that the Port Authority’s determination of said issues, including the Condition Survey Contract and the Condition Survey Contractor, shall be final.

(d) **Port Authority Policies and Practices.** It is hereby expressly understood and agreed that the selection of each Condition Survey Contractor and the award of any Condition Survey Contract shall be subject to and consistent with the Port Authority's policies and practices for the selection and award of similar contracts and the Port Authority shall have as full a right to require the use of competitive bidding and award, or other basis of award, for any such Condition Survey Contract as if the work on such contract were being performed solely for the Port Authority; and further that the Condition Survey Contract shall contain terms and conditions which are standard to Port Authority contracts or consistent with such standard provisions.

(e) **Costs.** With respect to each Condition Survey, all Condition Survey Costs shall be shared equally between the Port Authority and the Lessee. Accordingly, the Lessee hereby agrees to pay to the Port Authority fifty percent (50%) of the Condition Survey Costs with respect to each Condition Survey as follows:

(1) The Lessee shall pay to or reimburse the Port Authority for the Condition Survey Costs as follows: The Port Authority shall after the completion of the Condition Survey under a Condition Survey Contract and, if it elects, also from time to time during the course of the performance of such Condition Survey, submit to the Lessee a certificate or certificates setting forth the Condition Survey Costs at the date of each such certificate. Within thirty (30) days after the delivery of each such certificate, the Lessee shall pay to the Port Authority an amount representing fifty percent (50%) of the amount of the Condition Survey Costs set forth in such certificate. Upon its final determination of the Condition Survey Costs, the Port Authority shall submit to the Lessee a certificate marked "Final", setting forth the final determination of the Condition Survey Costs with respect to each Condition Survey Contract as reduced by any previous payment with respect to such Condition Survey Contract, and the Lessee shall and hereby agrees to pay to the Port Authority within thirty (30) days of the date of such certificate an amount representing fifty percent (50%) of the amount of the Condition Survey Costs set forth in such certificate; provided, however, that neither the foregoing nor any certificate delivered by the Port Authority, nor any payment made by the Lessee shall waive or impair any right of the Port Authority of review and audit with respect to the Condition Survey Costs with respect to each Condition Survey Contract; and provided, further, that in the event any such review or audit by the Port Authority requires an adjustment of the Condition Survey Costs, the Lessee promptly shall be credited with, or shall pay, as the case may be, all amounts required by such adjustment.

(2) Without limiting any of the terms and provisions of the Section hereof entitled "*Additional Rent and Charges*", any and all amounts required to be paid by the Lessee hereunder may be added to any installment of rental 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 part of the rental as set forth in the Section hereof entitled "*Rental and Abatement*".

(f) **Required and Recommended Actions.** Within ninety (90) days after the Report Date, the Lessee shall commence all required or recommended items and actions contained each Condition Survey Report that are necessary or required to meet the Lessee's

maintenance, repair or other obligations, duties or responsibilities under this Agreement, unless the Port Authority expressly advises the Lessee to the contrary as to any particular item(s), and the Lessee shall diligently continue the same to completion; provided, however, that the Lessee shall promptly commence any and all items, action or work related to or affecting or involving fire safety, health, structural integrity, life safety, security and other emergency response.

(g) **Rights of Entry.** The Condition Survey Contractor shall have all rights of entry to the Premises during all times as appropriate or required to perform or complete the Condition Survey and the Condition Survey Report under the Condition Survey Contract.

(h) **No Waiver, etc.** Neither the provisions of this Section, including, without limitation, the right of the Port Authority to have the Lessee perform and complete the work recommended or required by the Condition Survey Report, the obligation of the Lessee so to perform and complete such work, nor any such performance thereof by the Lessee, any failure of the parties to select a Condition Survey Contractor, any failure of any Condition Survey Contractor to perform and complete a Condition Survey Contract, nor any failure by the Lessee or the Port Authority to pay the Condition Survey Costs with respect to any Condition Survey Contract or any portion thereof, shall be deemed to release, waive, diminish, limit or impair any of the obligations, duties, responsibilities or liabilities of the Lessee under any term, provision, covenant or condition of this Agreement or to limit, waive, affect, restrict or impair any right or remedy of the Port Authority including, without limitation, any right of the Port Authority to terminate the letting hereunder, whether before or after the Report Date. Without limiting the foregoing, it is expressly understood and agreed that the Lessee shall not postpone or delay any action, maintenance, rebuilding or repair or other item or thing required to be taken by the Lessee under any other section of this Agreement.

Section 57. Storage Tanks

(a) **Tanks.** All aboveground storage tanks and underground storage tanks installed in the Premises during the term of the letting subsequent to the Commencement 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 Lessee hereby agrees that title and ownership of the Tanks shall be and remain in the Lessee and that all registrations shall be in the name of the Lessee as both owner and operator, notwithstanding anything to the contrary in any construction or Construction 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 Commencement Date shall be installed pursuant to the terms and conditions of this Agreement including, without limitation, the Section hereof entitled "*Other Construction by the Lessee*" and nothing in this Section shall or shall be deemed to be permission or authorization to install any Tanks.

(b) **Maintenance and Repair.** Without limiting the generality of any of the provisions of this Agreement, the Lessee agrees that it shall be solely responsible for maintaining, testing and repairing the Tanks. The Lessee shall not perform any servicing, repairs or non-routine maintenance to the Tanks without the prior written approval of the Port Authority.

(c) **Title.** It is hereby agreed that title to and ownership of the Tanks shall remain in the Lessee until the earlier to occur of (1) receipt by the Lessee of notice from the Port Authority that title to the Tanks shall vest in the Port Authority or in the City; or (2) receipt by the Lessee of notice from the Port Authority that the Port Authority waives its right to require the Lessee 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, if at all, in accordance with the foregoing item (1) shall in no event relieve the Lessee from the obligation to remove the Tanks from and restore the Premises in accordance with Paragraph (i), below.

(d) **Environmental Compliance.** Without limiting the generality of any other term or provision of this Agreement, the Lessee 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 Lessee 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 Lessee, 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 Lessee or shall be grounds for non-compliance therewith by the Lessee.

(e) **Indemnity.** Without limiting the terms and provisions of the Section hereof entitled “*Indemnity and Liability Insurance*”, the Lessee 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 (including fees of in-house counsel in the Port Authority Law Department), investigation and laboratory fees, clean-up and remediation costs, court costs and litigation expenses), all claims and demands, just or unjust, of third persons 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 Lessee 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 Lessee or of customers or contractors of the

Lessee or of third persons or out of the acts of God or the public enemy or otherwise including claims by the City 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 Lessee 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) **Survival.** The Lessee's obligations under this Section shall survive the expiration or earlier termination of this Agreement.

(g) **Testing.** 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 Lessee to direct the Lessee, at the Lessee's sole cost and expense: (i) to perform such 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 a Construction Application prepared by the Lessee and submitted to the Port Authority for the Port Authority's approval.

(h) **Protection Against Spills.** In the Lessee's use and operation of the Tanks, the Lessee shall not permit any Hazardous Substance from entering the ground including, without limitation, subject to the Section hereof entitled "*Construction by the Lessee*", 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) **Removal of Tanks.**

(1) The Lessee 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 Construction Application prepared by the Lessee and submitted to the Port Authority for the Port Authority's approval and, in connection with such removal, the Lessee 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 Remediate contamination disclosed by said testing. In the event the Lessee 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 Lessee hereby agrees to pay all costs and expenses of the Port Authority arising out of such removal, disposal, restoration and Remediation.

Section 58. Environmental Compliance and Related Matters

(a) No Release of Hazardous Substances.

(1) The Lessee covenants and agrees that, subject to compliance with the provisions of Paragraph (f), below concerning disposal of hazardous medical waste, it shall not cause or permit any Hazardous Substance to be generated, placed, held, stored, used, located, disposed of, released or discharged on, at or under the Premises or into any ditch, conduit, stream, storm sewer, or sanitary sewer connected thereto or located at the Facility. Any Hazardous Substance disposed of, released or discharged by the Lessee (or permitted by the Lessee to be disposed of, released or discharged) on the Premises or at the Facility, shall upon notice by the Port Authority to the Lessee and subject to the provisions of all Environmental Requirements be completely removed and/or Remediated by the Lessee.

(2) Promptly upon receipt of the Port Authority's request, the Lessee shall submit to the Port Authority true and correct copies of any notices, reports, manifests, records or any other document (i) submitted and/or filed by the Lessee with any Governmental Authority and (ii) required to be maintained and/or filed by the Lessee with any Governmental Authority pursuant to any Environmental Requirements. The Lessee also agrees to cooperate with the Port Authority and to provide access by the Port Authority and the Port Authority's representatives to any of the Lessee's records with respect to the Premises relating to any assessment of the environmental condition of the Premises and the generation, placement, storage, use, treatment or disposal of Hazardous Substances on or about the Premises.

(3) The Lessee shall, within two (2) days of filing or receipt from a Governmental Authority, provide to the Port Authority Manager of Physical Plant and JFK Redevelopment a copy of all regulatory or operating permits, regulatory filings, risk management plans, amendments or notices of non-compliance or violations. (Industrial connection or treatment permits).

(b) Compliance with Environmental Requirements. Without limiting the Lessee's obligations elsewhere under this Agreement to comply with all laws, ordinances, governmental rules, regulations and orders which were or at any time are in effect during the term, the Lessee understands and agrees that, except as provided in Paragraph (d) of this Section, it shall be obligated, at its cost and expense, to comply with, and relieve the Port Authority from compliance with, all Environmental Requirements which are applicable to or which affect (i) the Premises, (ii) the operations of, or work performed by, the Lessee or others with the consent of the Lessee at the Premises or the Lessee's operations at the Facility, (iii) the occupancy and use

of the Premises by the Lessee or by others with its consent or (iv) any Hazardous Substance which has migrated from the Premises. Nothing in the foregoing shall be construed as a submission by the Port Authority to the application to itself of any Environmental Requirements; provided, however, that no immunity or exemption of the Port Authority from any Environmental Requirements shall excuse compliance or be grounds for noncompliance on the part of the Lessee. Without limiting the generality of the foregoing and as part of the Lessee's fulfillment of the foregoing obligations, the Lessee shall be responsible, at its sole cost and expense and subject to the direction of the Port Authority, for:

(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 or any other documentation or information;

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

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

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

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

(e) **Asbestos Abatement And Removal.** If any asbestos or asbestos-containing materials requires Remediation pursuant to any Environmental Requirement is or becomes located in any structures (whether above-grade or below-grade) on the Premises, the Lessee shall conduct the complete abatement and removal of all of such asbestos and asbestos-containing materials located in all structures (whether above-grade or below-grade) and the handling, transporting and off-Facility disposal thereof (including, if required, disposal of asbestos in an off-Facility long-term asbestos disposal facility), all of the foregoing to be performed and completed in accordance with Environmental Requirements.

(f) **Disposal of Medical Waste.** Without limiting the generality of any of the foregoing provisions of this Section, the Lessee may generate, place, hold, store, use, locate or dispose of Hazardous Substances commonly and legally used or stored as a consequence of using the Premises as an Animal Handling Facility, but only so long as the quantities thereof do not pose a threat to public health or to the environment and the Lessee strictly complies, or causes compliance with, all applicable Environmental Requirements that apply to hazardous medical waste. With respect to the foregoing, the Lessee shall obtain the Port Authority's prior written approval as to the method and manner in which the Lessee disposes of hazardous medical wastes, and the Lessee shall conform to any requirements imposed by the Port Authority in connection with the removal and disposal of hazardous medical wastes from the Facility.

(g) **Internal Environment-Building Systems.**

(1) Lessee shall install and maintain in good condition noise reduction materials and systems to address animal sensitivity and response to noise, an appropriate acoustic environment essential for the health, safety and welfare of all animals in and at the Premises and use best efforts to (x) materially eliminate, inside the Premises, exposure of animals to the aircraft engine and other unnatural noises anticipated to be generated at or near the Premises and at the Airport generally and (y) minimize itinerant noise within the Lessee's Facility, whether such noise is generated by animals, persons, equipment or otherwise;

(2) Lessee shall install and maintain in good condition ventilation system(s) that are not limited to re-circulated air but allow for the introduction of outside air, so as to prevent air conditions (e.g., humidity) that would or could increase health risks to animals located in or at the Premises;

(3) Lessee shall install and maintain in good condition temperature control systems that, to the maximum extent, will assure the health, safety and welfare of all animals located in or at the Premises;

(4) Lessee shall install and maintain in good condition building materials including without limitation flooring and wall tiling, that will minimize the transmission of pathogens;

(5) Lessee shall install and maintain in good condition lights and lighting systems in animal areas designed to support the health and welfare of animals including, without limitation, the provision of natural light and periods of light and darkness that support the natural rhythms of wakefulness and sleep;

(6) Lessee shall install and maintain in good condition appropriate collection and treatment system for storm-water management as appropriate and consistent with the Port Authority Sustainability Design Guidelines, New York State Pollution Discharge Elimination System General Permit (SPDES), and JFKIA SPDES Permit Best Management Practices Plan as amended and renewed, for areas utilized for animal holding and business operations;

(7) Lessee shall install and maintain in good condition any and all other building systems and materials on an as-needed basis to assure, to the maximum extent, the health, safety and quality of life for all animals located in or at the Premises; and

(8) If the Port Authority determines that by virtue of compliance with this paragraph (g), a violation of a federal, state or local law would occur, then the provisions of this paragraph (g) shall not apply to the extent necessary to avoid such violation. For the avoidance of doubt, where a law provides a minimum standard to which the Lessee must conform and this Agreement requires a stricter or higher standard, the same shall not constitute a violation of law for purposes of the preceding sentence.

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

(1) except as provided in Paragraph (d) of this Section, completely Remediate all Hazardous Substances (x) in, on and under the Premises and (y) at the Facility resulting from, arising out of or in connection with the use and occupancy of the Premises by the Lessee or which have been or permitted by the Lessee to be disposed of, released, discharged or otherwise placed in, on or under the Facility by the Lessee or which have been disposed of, released, discharged or otherwise placed in, on or under the Premises during the term of the letting of the Premises under this Agreement or during the term of any previous agreement between the Lessee and the Port Authority covering the Lessee's use and/or occupancy of the Premises or any portion thereof including, without limitation, the ROE;

(2) except as provided in Paragraph (d) 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 (d) 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.

The foregoing obligations of the Lessee shall include without limitation, the investigation of the environmental condition of the area to be Remediated, the presentation of feasibility studies, reports and remedial plans and the performance of any cleanup, Remediation, containment, operation, maintenance, monitoring or restoration work. Any actions of the Lessee under the foregoing shall be performed in a good, safe and workmanlike manner and shall minimize any impact on activities off the Premises. The Lessee shall promptly provide to the Port Authority all copies of test results and reports generated in connection with such actions. Promptly upon completion of such investigation and Remediation, the Lessee shall seal or cap all monitoring wells and test holes, remove all associated equipment and restore the remediated property.

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

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

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

(l) **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 Lessee agrees that the standard or standards to be applied in connection with any obligation it may have under this Agreement with respect to such Environmental Requirement shall be that which requires or permits the lowest level of a Hazardous Substance; provided, however, that in the event such lowest level of a Hazardous Substance (x) requires or allows the imposition of any restriction of any nature whatsoever upon the use or occupancy of the Premises or any other portion of the Facility or upon any operations or activities conducted or to be conducted on the Premises or the Facility or upon the transfer of the Premises or the Facility or (y) is not in compliance with the Basic Lease, then the Lessee shall Remediate to such a level so that there is no such restriction placed upon the use and occupancy of the Premises or the Facility or upon any operations or activities conducted or to be conducted on the Premises or the Facility and at all times in a manner the Port Authority deems in compliance with the terms of the Basic Lease.

(2) The Lessee further agrees that, notwithstanding the terms and conditions of Subparagraph (m)(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 the Lessee or otherwise to do so, to designate any level or levels or standard or standards of Remediation permitted or required under any Environmental Requirement, and such designation shall be binding upon the Lessee with respect to its obligations under this Agreement with respect to Environmental Requirements.

(m) **Burden of Proof.** The Lessee agrees that in any legal action or proceeding in which the Port Authority and the Lessee are opposing parties the Lessee shall have the burden of proof (as hereinafter defined) as to any and all issues of fact with respect to: (1) whether the presence of any Hazardous Substance on, about or under the Premises occurred prior or subsequent to the date the Lessee first occupied the Premises; (2) whether any Hazardous Substance disposed of or released from the Premises or which migrated from the Premises came to be present on, about or under the Premises prior or subsequent to the date the Lessee first occupied the Premises; and (3) whether the Lessee exacerbated any pre-existing environmental condition so as to cause a Hazardous Substance to first become regulated during the term of this Agreement. For purposes of this Agreement, "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.

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

Section 59. Environmental Baselines

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

(1) “*Analyzed Item*” and “*Analyzed Items*”, “*Analyzed Item*” shall mean with respect to the groundwater each of, and “*Analyzed Items*” shall mean with respect to the groundwater all of, the constituents for which the groundwater described in Initial Environmental Report were tested and “*Analyzed Item*” shall mean with respect to soil each of, and “*Analyzed Items*” shall mean with respect to soil all of, the constituents for which the soil samples described in the Initial Environmental Report were tested.

(2) “*Condition Exceptions*” shall mean the following:

(i) The remediation or removal of Hazardous Substances in the soil or groundwater in, on or under the Premises caused by the sole negligence or willful misconduct of the Port Authority on or after the Commencement Date; and

(ii) The remediation or removal of Migrated Hazardous Substances.

(3) “*Existing Condition*” shall mean the levels of Analyzed Items in the soil and groundwater for all portions of the Premises set forth in the Initial Environmental Report.

(4) “*Initial Environmental Report*” shall mean the environmental report written in connection with the Initial Baseline (copy of which is attached hereto and hereby made a part hereof, and marked “Exhibit E”) as the same may be supplemented and amended pursuant to paragraph (h) of the Section of this Agreement entitled “*Environmental Compliance and Related Matters*” by test results set forth in a Remediation Completion Report for soil and water samples taken prior to the Commencement Date; provided, however, the Initial Environmental Report shall not contain any test results on samples taken from locations which are not located on the Premises.

(5) “*Lessee’s Act*” shall mean any act or omission of the Lessee or by any Affiliate or of any of its or their officers, agents, employees, invitees, representatives, contractors or subcontractors, or others on the Premises with the consent of the Lessee or any Affiliate, as the case may be, or over whom the Lessee or such affiliate has control.

(6) “*Migrated Hazardous Substances*” shall mean (i) any Hazardous Substance that has migrated onto the Premises from outside the Premises and (ii) any Hazardous Substance constituting a part of the Existing Condition that has migrated within or from the Premises; provided, however, in each case, Migrated Hazardous Substances shall in no event include any Hazardous Substances that have migrated as a result of or in connection with any Lessee’s Act.

(b) **Initial Baseline.** Prior to the Commencement Date, the Port Authority shall sample and test the soil and groundwater in, on and under the Premises (such sampling and testing of the soil and groundwater is hereinafter referred to as the “*Initial Baseline*”). Without limiting the terms and conditions of the Section of this Agreement entitled “*Construction of the Lessee*”, all such sampling, testing and the preparation of any associated report shall be performed by a New York State approved independent consultant and laboratory (the

"*Environmental Consultant*"), said sampling and testing shall produce a fair and representative sampling of the Premises.

(c) **Environmental Condition Due to Lessee's Use of Premises.**

Notwithstanding any other term or provision of this Agreement, the Existing Condition shall in no event include, and the Condition Exceptions shall not apply to, any Hazardous Substance whose presence in, on or under the Premises was caused by or resulted from the use and occupancy of the Premises by the Lessee or by any Affiliate, or the performance of any work by any of them, or the acts or omissions of the Lessee, its officers, agents or employees, or the acts or omissions of any Affiliate or of any sublessees or others who occupied the Premises with the permission of the Lessee or with the permission of an Affiliate or their officers, agents or employees, whether prior to, as of or after the Commencement Date.

(d) **Remediation Completion Report.** After any person performs any remediation on the Premises, such person, may but shall not be obligated to, sample and test the soil and/or aquifer of the Premises or portions thereof and set forth the results of such samplings and tests in a report. Any such report and test results shall be referred to for purposes of this Agreement as a "*Remediation Completion Report*". Upon delivery of a Remediation Completion Report to the Lessee and the Port Authority, such Remediation Completion Report shall (A) supersede and replace the existing Initial Environmental Report or the applicable portions thereof to the extent such test or tests results and report are of samples of Analyzed Items taken from the same well or boring or a new well or boring which is immediately adjacent to such well or boring and shall (B) supplement the existing Initial Environmental Report, or the applicable portions thereof as aforesaid; provided, however, that said samples and testing shall produce a fair and representative sampling of the Premises, shall be analyzed by an Environmental Consultant, and that said sampling and testing were performed in accordance with a methodology approved by the Port Authority; provided, further, however, and notwithstanding the foregoing, no level of any Analyzed Item in any Existing Condition shall be above the level for such Analyzed Item as set forth in any previous Existing Condition or the lowest level to which such Analyzed Item has been remediated and no test results and report covering Analyzed Items for which the Lessee is responsible pursuant to and in accordance with this Agreement shall become a part of or supplement the Initial Environmental Report.

(e) **No Port Authority Remediation Obligation.** Notwithstanding any other term or condition of this Agreement, it is hereby understood and agreed that the Lessee's obligations under this Agreement for remediation and removal of Hazardous Substances shall not be nor be deemed to be affected in any way whatsoever if the Existing Condition or any portion thereof, is or will be remediated or removed by the Lessee in whole or in part in the fulfillment of any of the Lessee's obligations under this Agreement, whether due to the fact the Lessee cannot remediate or remove one or more Hazardous Substances for which it is responsible to remediate, or remove without remediating or removing one or more Analyzed Items for which it is not responsible for remediating or removing, or due to cost or expedience or for any other reason, and in no event shall the Port Authority have any responsibility for such remediation or removal, including without limitation, any obligation to share in the cost of such remediation or removal.

(f) **Port Authority Right to Enter for Investigations.** Without limiting the foregoing, the Port Authority and its designees, shall have the right but not the obligation to enter upon the Premises upon forty-eight (48) hours' notice to the Lessee to 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, and including but not limited to conducting pumping operations from said wells.

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

(h) **Analyzed Item Increases.** Upon the cessation of the letting hereunder or any portion thereof, whether such cessation be by termination, expiration or otherwise, no level of any Analyzed Item shall exceed the level of such Analyzed Item as set forth in the Existing Condition (the amount of the increase, if any, of each and every Analyzed Item above the Existing Condition being hereinafter collectively called "**Analyzed Item Increases**") except to the extent such increase is solely the result of a Migrated Hazardous Substance or caused by the sole acts or omissions of the Port Authority on or after the Commencement Date. In addition to and without limiting any other term or condition of this Section, the Lessee covenants and agrees on or before the cessation of the letting or any portion thereof and subject to the provisions of the Section of this Agreement entitled "**Construction of the Lessee**", to remove and/or remediate all Analyzed Item Increases down to the Existing Condition.

(i) **Exit Baseline.**

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

(2) **Testing and Sampling.**

(i) Within one (1) year prior to the Expiration Date or, in the case of an earlier termination of the letting hereunder, within three months after the effective date of such termination, the Port Authority shall sample and test the soil and groundwater in, on and under the Premises (such sampling and testing of the soil and groundwater is hereinafter referred to as the "**Exit Baseline**"). Notwithstanding the foregoing, the Lessee may conduct its own sampling and testing of the soil and groundwater in, on and under the Premises simultaneously with the Port Authority's sampling and testing at its sole cost and expense (such sampling and testing of the soil and groundwater is hereinafter referred to as the "**Alternative Exit Baseline**"). Without limiting the terms and conditions of the Section of this Agreement entitled

"Construction of the Lessee", all such sampling, testing and the preparation of any associated report shall be performed by an Environmental Consultant (as defined in paragraph (b) of this Section), and said sampling and testing shall produce a fair and representative sampling of the Premises.

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

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

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

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

Section 60. 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 Lessee 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 Lessee after receipt of any such check or payment or to pursue any other remedy provided herein or by law.

Section 61. Exclusive Use.

(a) Subject to the terms and conditions of this Section, as of the date that the Animal Handling Facility is open and operating for business on the Premises, except in the event of an emergency, the Port Authority shall not lease or permit any part of the Facility (other than

that of the Premises) to be used for the provision of the same or substantially similar services as granted in subparagraphs (a)(1)(i) through (vi) of the Section of this Agreement entitled "*Use of Premises*" (the "*Exclusive Services*") so long as the Lessee is (1) not in breach of or default under this Agreement with respect to its obligations that may relate in any way to the Lessee's operations described in the Section of this Agreement entitled "*Use of Premises*", (2) not in breach of or default of its payment obligations hereunder and (3) open and managing the operation of the Premises as an Animal Handling Facility.

(b) If at any time an Exclusive Service ceases to be provided at the Animal Handling Facility (i) for more than thirty (30) days or (ii) if such cessation is due to construction work approved by the Port Authority pursuant to a Construction Application, for more than thirty (30) days after such construction work has been substantially completed, then such service will no longer be an Exclusive Service and the Port Authority may lease and permit any part of the Facility, excluding the Premises, for the provision of such former Exclusive Service.

(c) If any Exclusive Service is provided at the Facility by a Person other than the Lessee as of the date that the Animal Handling Facility is open and operating for business on the Premises, then such provision of the Exclusive Service may continue until the earlier of the date that (1) there are no animals under the care of the provider of such Exclusive Service and (2) sixty (60) days from the date the Animal Handling Facility is open and operating for business; provided; however:

(1) if the provider of such Exclusive Service refuses to cease its provision of such Exclusive Service, and the Port Authority is using reasonable efforts to cause such cessation; or

(2) if an agreement exists for the provision of an Exclusive Service(s) between a third party operating or occupying space at the Airport including, without limitation, Civil Aircraft Operators, and another third party; or

(3) if the Port Authority does not have actual knowledge that a Person other than the Lessee is providing an Exclusive Service,

then the continued provision of such Exclusive Service(s) shall not be a violation or breach of this Agreement.

(d) On the tenth (10th) anniversary of the AB Completion Date, any Civil Aircraft Operator operating at the Airport shall also have the right to provide the services under subparagraph (a)(1)(iii) of the Section of this Agreement entitled "*Use of Premises*" for animals traveling with ticketed passengers in connection with the flight(s) for which such passengers are ticketed.

(e) Notwithstanding the foregoing paragraphs (a) and (b) of this Section, the prohibition in paragraph (a) of this Section regarding the provision of Exclusive Services shall not apply to:

(1) services that are provided by or to the Port Authority or any other Governmental Agency operating at the Facility for animals used in connection with Airport operations and/or security purposes including, without limitation, animals used for law enforcement generally (e.g., United States customs laws, drug laws and criminal laws) and services provided by or to the United States armed forces; and

(2) relief areas at the Airport; and

(3) agreements between a third party and the Port Authority at the Facility in existence as of the date hereof that (A) permit (expressly or otherwise) the provision of an Exclusive Service as of the date hereof, (B) do not require the Port Authority's consent (or if such consent is required, the Port Authority has provided such consent as of the date hereof); and (C) do not provide the Port Authority with any reasonable means to prevent the provision of an Exclusive Service(s) by such third parties.

(f) For the avoidance of doubt, nothing in this Section shall require the Port Authority to take any action that may, or may be reasonably expected to, incur liability for the Port Authority (e.g. interference of contract between third parties) or cause it to be in non-compliance with any applicable law, rule, regulation, contract, grant assurance or the like.

Section 62. OFAC Compliance

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

(b) **Lessee's Covenant.** The Lessee covenants that during the term of this Agreement it shall not become a Blocked Person and shall not engage in any dealings or transactions or be otherwise associated with Blocked Persons in violation of any Blocked Persons Laws. In the event of any breach of the aforesaid covenant, the same shall constitute an event of default and, accordingly, a basis for termination of this Agreement by the Port Authority, in addition to any and all other remedies provided under this Agreement or at law or

in equity, which does not constitute an acknowledgement by the Port Authority that such breach is capable of being cured. In the event of any such termination by the Port Authority, the Lessee 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.

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

Section 63. Labor Disturbances

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

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

Section 64. Additional Provisions Concerning the Cargo Handling Facility

(a) The Port Authority shall have no responsibility or obligation to a Permitted Cargo Handler.

(b) The Lessee shall enter into, obtain, procure and maintain any and all agreements, permissions, approvals or other authority necessary for the operation of the Cargo Handling Facility and shall upon request from the Port Authority furnish to the Port Authority a copy of any and all such agreements, permissions and approvals as requested by the Port Authority.

(c) The Lessee agrees to assume all financial risks associated with the subleasing of the Cargo Handling Facility and such subleasing to a third party shall not excuse or relieve the Lessee from the performance or observance by it of its obligations under this Agreement or be the basis for any claim or action against the Port Authority under this Agreement or otherwise that it is so excused or relieved from such obligations.

(d) (i) It is hereby agreed and understood that the Lessee shall operate or shall cause to be operated the Cargo Handling Facility pursuant to a sublease with a cargo handler operator that has been theretofore issued a permit (hereinafter called the "*Cargo Permit*") by the Port Authority to operate as a cargo handler at the Airport (being hereinafter called a "*Permitted Cargo Handler*"), which sublease the Lessee shall submit to the Port Authority for its prior written consent pursuant to and in compliance with the Section of this Agreement entitled "*Assignment and Sublease*" (such sublease being hereinafter called a

“Permitted Cargo Handler Sublease”), which consent will be substantially in the form of “Exhibit F” attached hereto and hereby made a part hereof. The Port Authority shall not withhold its consent if the Port Authority, in its sole discretion, determines:

(1) the Permitted Cargo Handler Sublease satisfies all of the requirements of this Section entitled *“Additional Provisions Concerning the Cargo Handling Facility”* and all the requirements of the Section entitled *“Assignment and Sublease”*;

(2) the Permitted Cargo Handler satisfies all of the requirements of this Section entitled *“Additional Provisions Concerning the Cargo Handling Facility”*;

(3) the Permitted Cargo Handler and any Affiliate thereof has as a good reputation for integrity and financial responsibility and has not been convicted of or under current indictment for any crime and is not currently involved in any civil anti-trust or fraud litigation (other than as a plaintiff);

(4) the Port Authority has not had any “Unfavorable Experience” (as such term is defined in subparagraph (o)(vi) of the Section of this Agreement entitled *“Leasehold Mortgage – Foreclosure Rights”*) with the Permitted Cargo Handler or any of its Affiliates; and

(5) neither the Permitted Cargo Handler nor any of its Affiliates is in conflict of interest, as defined under the laws of the States of New York and/or New Jersey or Port Authority policy, with any Commissioner of the Port Authority;

provided, however, the Port Authority may withhold its consent if it determines the same is advisable in order to satisfy any governmental requirements or comply with any rule, regulation or policy of the Port Authority, to satisfy its objectives as a bi-state agency, or for reasons of safety, health, preservation of property, noise, sanitation, good order, or for the economic or efficient operation of the Airport or for the proper utilization of the Airport.

(ii) Each Permitted Cargo Handler shall pay to the Port Authority the required fees then in effect pursuant to the aforementioned Cargo Permit. In the event the Port Authority revokes or terminates the Permitted Cargo Handler’s permission granted under its Cargo Permit, or the Cargo Permit expires by its terms, the consent by the Port Authority to the Permitted Cargo Handler Sublease shall also be, and be deemed, automatically and simultaneously revoked, without any further action or writing being required to be generated or delivered by the Port Authority.

(iii) All other entities desiring to have air cargo handled by a Permitted Cargo Handler shall enter into a handling agreement with such Permitted Cargo Handler and such Permitted Cargo Handler shall pay the required fees on its gross receipts from such entities to the Port Authority pursuant to the relevant Cargo Permit.

(iv) Notwithstanding any provision set forth in the aforesaid Permitted Cargo Handler Sublease, Cargo Permits, or handling agreements, it is hereby specifically

understood and agreed that all acts and omissions of Permitted Cargo Handlers and others using the Premises with the consent of the Lessee shall be deemed to be the acts and omissions of the Lessee and the Lessee shall be jointly and severally liable therefor. Nothing herein shall limit or alter in any way the Port Authority's right to revoke the permission granted under any Cargo Permit. In the event any Cargo Permit expires or is revoked or terminated, the Lessee may make arrangements for another air cargo handling entity to become a Permitted Cargo Handler, which entity shall be bound by the terms and conditions hereof.

(e) The Lessee shall cause each Permitted Cargo Handler Sublease during the term of the letting hereunder to provide, among other things, as follows:

(i) The Permitted Cargo Handler shall be prohibited without the prior written consent of the Port Authority from (x) Assigning or sub-subletting, the sublease or other subordinate agreements, or any right, title or interest therein, in whole or in part, or (y) Transferring ownership or control (as such term is defined herein within the definition of the term "Affiliate") of such Permitted Cargo Handler; any such Assignment, sub-sublease or Transfer shall be null and void *ab initio* and of no force or effect;

(ii) The Permitted Cargo Handler, and the Lessee shall ensure, that no portion of the Lessee's Facility shall be used, and that there shall be no involvement of any personnel employed or retained by the Permitted Cargo Handler, or any contractors in the provision of services at or to the Lessee's Facility, for the transport, conduit, import, export, sale or otherwise of animals for animal fighting, animal hunting, rites or rituals that are harmful to animals, or animals used for entertainment purposes to the extent that such uses are prohibited under the City or State of New York (e.g., Agricultural and Markets Law and New York Education Law (including, without limitation, the Practice Guidelines applicable to Veterinary Medicine), or Federal law, or international law binding on the United States (e.g., the CITES treaty));

(iii) The Permitted Cargo Handler is in compliance with the International Air Transport Association Live Animals Regulations, as the same may be amended from time to time or other nationally or internationally recognized industry standard that is acceptable to the Port Authority;

(iv) The Permitted Cargo Handler Sublease is and shall be subject and subordinate to the terms, covenants, conditions and provisions of this Agreement, as the same may be amended, supplemented or extended and in the event of a conflict or ambiguity between the terms and conditions of the Permitted Cargo Handler Sublease and this Agreement then this Agreement shall govern and control;

(v) The Permitted Cargo Handler Sublease shall not take effect without the prior written consent of the Port Authority thereto to be embodied in a writing to be signed by the Port Authority, the Lessee and the applicable Permitted Cargo Handler, which writing shall be in substantially the form of "Exhibit F" hereto, obtained in accordance with the procedures provided in subsection (d) above;

(vi) The Port Authority shall have the right to enforce the Permitted Cargo Handler Sublease directly against the Permitted Cargo Handler;

(vii) Any amendment, supplement or extension of the Permitted Cargo Handler Sublease which does not have the express written approval of the Port Authority shall be void *ab initio* and of no effect whatsoever;

(viii) The Permitted Cargo Handler, in its operations under and in connection with the Permitted Cargo Handler Sublease and its use and/or occupancy of the subleased premises, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of this Agreement;

(ix) The Permitted Cargo Handler complies at all times with the terms and conditions of this Agreement including, without limitation, the Section of this Agreement entitled "*OFAC Compliance*", as this Agreement may be amended, supplemented or extended; and

(x) If this Agreement is terminated on any account prior to the expiration of the term of the Permitted Cargo Handler Sublease, then the Permitted Cargo Handler Sublease shall terminate simultaneously with such termination of this Agreement unless the Port Authority shall notify the Permitted Cargo Handler and the Lessee at or prior to such effective date of termination of this Agreement that the Port Authority shall and does assume the rights and obligations of the Lessee (sublessor) thereunder from the date of such notice and in the event the Port Authority gives such notice to the Permitted Cargo Handler and the Lessee, the Lessee shall deliver to the Port Authority all amounts and items then held as security deposits under the Permitted Cargo Handler Sublease and the rights and obligations and liabilities of the Lessee under said Permitted Cargo Handler Sublease from the date of such notice (but not as to (x) any prior acts of breach or default of the Lessee under the Permitted Cargo Handler Sublease (which shall not be the subject of any claim of whatever kind by the Permitted Cargo Handler against the Port Authority or any amounts then or thereafter owed by it under the Permitted Cargo Handler Sublease or to be relieved of any of its obligations under the Permitted Cargo Handler Sublease and the Permitted Cargo Handler shall have the recourse solely against the Lessee with respect thereto), (y) the applications or return of security deposits not actually received in hand by the Port Authority or (z) any prepayment of rent by the Permitted Cargo Handler) shall be deemed to have been assigned to and assumed by the Port Authority and said Permitted Cargo Handler shall be deemed to have fully attorned to the Port Authority on the foregoing basis for the balance of the term of the subletting under the Permitted Cargo Handler Sublease and to have agreed that the Port Authority, by notice thereof to said Permitted Cargo Handler, may assign its rights, title and interest under the Permitted Cargo Handler Sublease to any third party of the Port Authority's choice and as of the effective date of such assignment to such third party the Port Authority shall no longer have any obligation or liability under said Permitted Cargo Handler Sublease.

(f) The term of the letting under a Permitted Cargo Handler Sublease shall expire no later than one day prior to the expiration of the term hereunder.

(g) The Lessee hereby acknowledges and agrees that the terms and provisions of this Section are of the essence of this Agreement and are a special consideration to the Port Authority in entering into this Agreement.

Section 65. Additional Provisions Concerning Mandatory Operating Subleases

(a) The Lessee shall enter into subleases for the occupancy and operation of a Veterinary Medical clinic and a grooming and kenneling facility (each such sublease, a "*Mandatory Operating Sublease*" and each sublessee under a Mandatory Operating Sublease, a "*Mandatory Operating Sublessee*").

(b) The Lessee shall enter into, obtain, procure and maintain any and all agreements, permissions, approvals or other authority necessary for the operation of a Veterinary Medical clinic and a grooming and kenneling facility and shall upon request from the Port Authority furnish to the Port Authority a copy of any and all such agreements, permissions and approvals as requested by the Port Authority.

(c) The Mandatory Operating Sublease for the Veterinary Medical clinic shall include a sublessee obligation to operate quarantine facilities appropriate for animals serviced at a Veterinary Medical clinic;

(d) Each Mandatory Operating Sublessee:

(i) for the Veterinarian Medical clinic or hospital, shall have a licensed veterinarian operating or managing, or assisting in the operation significantly or management significantly of, such clinic or hospital, which veterinarian shall have [a] an established record and reputation for the provision of high quality veterinary services, [b] five (5) or more years experience in the operation or management, or in the assistance in the operation or management, of a Veterinary Medical clinic or hospital, which operation or management of such clinic or hospital shall have occurred within the prior two (2) years and [c] never had his or her license suspended or revoked in any State or committed any other veterinary-related legal violation or crime;

(ii) for the animal grooming and kenneling facility, shall have at least one person operating or managing, or assisting in the operation significantly or management significantly of, such facility with [a] an established record and reputation for the provision of high quality animal grooming and kenneling services, [b] three (3) or more years experience in the operation or management of an animal grooming and kenneling facility, which operations or management shall have occurred within the prior two (2) years and [c] never operated or managed or assisted in the operation or management of a facility in an animal related industry that had its operating permit or license suspended or revoked or committed any other animal related legal violation;

(iii) shall have adequate and experienced staff and management personnel to give full time attention to its operations at the Airport;

(iv) shall provide services of a state-of-the-art quality that are of the same or greater standard as provided at all of such Mandatory Operating Sublessee's other facilities;

(v) shall be open and operating its business in the Animal Handling Facility within ten (10) days from the AB Completion Date; provided that, neither Mandatory Operating Sublessee shall open or operate its business prior to the AB Rent Commencement Date, which prohibition shall not prevent either Mandatory Operating Sublessee from occupying its portion of the Premises for the purposes of constructing tenant improvements in compliance with the Section of this Agreement entitled "*Construction by the Lessee*", installing equipment, moving furniture and performing other activities in connection with the preparation of its subleased premises for its operations; and

(vi) shall have a financial standing (by which is meant that its ratio of fixed assets to fixed liabilities, its ratio of current assets to current liabilities, the amount of its working capital, and its tangible net worth) sufficient to assure the operation of the Veterinary Medical clinic or hospital, or animal grooming and kenneling facility, as applicable, in accordance with the standards and requirements of this Agreement as of the effective date of the Mandatory Operating Sublease. As used herein, "tangible net worth" shall mean the difference between the Mandatory Operating Sublessee's total assets and the sum of (i) the Mandatory Operating Sublessee's intangible assets set forth on its current financial statement and (ii) the Mandatory Operating Sublessee's total liabilities.

(e) Notwithstanding any provision set forth in the aforesaid Mandatory Operating Sublease, it is hereby specifically understood and agreed that all acts and omissions of Mandatory Operating Sublessees and others using the Premises with the consent of the Lessee shall be deemed to be the acts and omissions of the Lessee and the Lessee shall be jointly and severally liable therefor.

(f) The Port Authority shall have no responsibility or obligation to any Mandatory Operating Sublessee.

(g) The term of the letting under each Mandatory Operating Sublease shall expire no later than one day prior to the expiration of the term hereunder.

(h) The Lessee agrees to assume all financial risks associated with the subleasing of the Veterinary Medical clinic and grooming and kenneling facility and such subleasing to a third party shall not excuse or relieve the Lessee from the performance or observance by it of its obligations under this Agreement or be the basis for any claim or action against the Port Authority under this Agreement or otherwise that it is so excused or relieved from such obligations.

(i) The Lessee shall cause each Mandatory Operating Sublessee during the term of the letting hereunder to provide, among other things, as follows:

(i) The Mandatory Operating Sublessee shall be prohibited without the prior written consent of the Port Authority from Assigning or sub-subletting, the sublease or

other subordinate agreements, or any right, title or interest therein, in whole or in part, or Transferring ownership or control (as such term is defined herein within the definition of the term "Affiliate") of such Mandatory Operating Sublessee; any such Assignment, sub-sublease or Transfer shall be null and void *ab initio* and of no force or effect;

(ii) The Mandatory Operating Sublessee, and the Lessee shall ensure, that no portion of the Lessee's Facility shall be used, and that there shall be no involvement of any personnel employed or retained by the Mandatory Operating Sublessee, or any contractors in the provision of services at or to the Lessee's Facility, for services involving animal fighting, animal hunting, rites or rituals that are harmful to animals, or animals used for entertainment purposes to the extent that such uses are prohibited under the City or State of New York (e.g., Agricultural and Markets Law and New York Education Law (including, without limitation, the Practice Guidelines applicable to Veterinary Medicine), or Federal law, or international law binding on the United States (e.g., the CITES treaty);

(iii) The Mandatory Operating Sublease is and shall be subject and subordinate to the terms, covenants, conditions and provisions of this Agreement, as the same may be amended, supplemented or extended and in the event of a conflict or ambiguity between the terms and conditions of the Mandatory Operating Sublease and this Agreement then this Agreement shall govern and control;

(iv) The Mandatory Operating Sublease shall not take effect without the prior written consent of the Port Authority thereto to be embodied in a writing to be signed by the Port Authority, the Lessee and the applicable Mandatory Operating Sublessee; which consent shall not be withheld if the Port Authority in its sole discretion determines:

(1) the Mandatory Operating Sublease satisfies all of the requirements of this Section entitled "*Additional Provisions Concerning Mandatory Operating Sublessees*" and all the requirements of the Section entitled "*Assignment and Sublease*";

(2) the Mandatory Operating Sublessee satisfies all of the requirements of this Section entitled "*Additional Provisions Concerning Mandatory Operating Sublessees*";

(3) the Mandatory Operating Sublessee and any Affiliate has as a good reputation for integrity and financial responsibility and has not been convicted of or under current indictment for any crime and is not currently involved in any civil anti-trust or fraud litigation (other than as a plaintiff);

(4) the Port Authority has not had any "Unfavorable Experience" (as such term is defined in subparagraph (o)(vi) of the Section of this Agreement entitled "*Leasehold Mortgage – Foreclosure Rights*") with the Mandatory Operating Sublessee or any of its Affiliates; and

(5) neither the Mandatory Operating Sublessee nor any of its Affiliates is in conflict of interest, as defined under the laws of the States of New York

and/or New Jersey or Port Authority policy, with any Commissioner of the Port Authority;

provided, however, the Port Authority may withhold its consent if it determines the same is advisable in order to satisfy any governmental requirements or comply with any rule, regulation or policy of the Port Authority, to satisfy its objectives as a bi-state agency, or for reasons of safety, health, preservation of property, noise, sanitation, good order, or for the economic or efficient operation of the Airport or for the proper utilization of the Airport.

(v) The Port Authority shall have the right to enforce the Mandatory Operating Sublease directly against the Mandatory Operating Sublessee;

(vi) Any amendment, supplement or extension of the Mandatory Operating Sublease which does not have the express written approval of the Port Authority shall be void *ab initio* and of no effect whatsoever;

(vii) The Mandatory Operating Sublessee, in its operations under and in connection with the Mandatory Operating Sublease and its use and/or occupancy of the subleased premises, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of this Agreement;

(viii) The Mandatory Operating Sublessee complies at all times with the terms and conditions of this Agreement including, without limitation, the Section of this Agreement entitled "*OFAC Compliance*", as this Agreement may be amended, supplemented or extended; and

(ix) If this Agreement is terminated on any account prior to the expiration of the term of the Mandatory Operating Sublease, then the Mandatory Operating Sublease shall terminate one day prior to the date of the termination of this Agreement unless the Port Authority shall notify the Mandatory Operating Sublessee and the Lessee at or prior to such effective date of termination of this Agreement that the Port Authority shall and does assume the rights and obligations of the Lessee (sublessor) thereunder from the date of such notice and in the event the Port Authority gives such notice to the Mandatory Operating Sublessee and the Lessee, the Lessee shall deliver to the Port Authority all amounts and items then held as security deposits under the Mandatory Operating Sublease and the rights and obligations and liabilities of the Lessee under said Mandatory Operating Sublease from the date of such notice (but not as to (x) any prior acts of breach or default of the Lessee under the Mandatory Operating Sublease (which shall not be the subject of any claim of whatever kind by the Mandatory Operating Sublessee against the Port Authority or any amounts then or thereafter owed by it under the Mandatory Operating Sublease or to be relieved of any of its obligations under the Mandatory Operating Sublease and the Mandatory Operating Sublessee shall have the recourse solely against the Lessee with respect thereto), (y) the applications or return of security deposits not actually received in hand by the Port Authority or (z) any prepayment of rent by the Mandatory Operating Sublessee) shall be deemed to have been assigned to and assumed by the Port Authority and said Mandatory Operating Sublessee shall be deemed to have fully attorned to the Port Authority on the foregoing basis for the balance of the term of the subletting under the Mandatory Operating

Sublease and to have agreed that the Port Authority, by notice thereof to said Mandatory Operating Sublessee, may assign its rights, title and interest under the Mandatory Operating Sublease to any third party of the Port Authority's choice and as of the effective date of such assignment to such third party the Port Authority shall no longer have any obligation or liability under said Mandatory Operating Sublease.

(j) The Lessee hereby acknowledges and agrees that the terms and provisions of this Section are of the essence of this Agreement and are a special consideration to the Port Authority in entering into this Agreement.

Section 66. Additional Right of Termination – Change in Control

(a) The Lessee represents, knowing that the Port Authority is relying on the accuracy of such representation, that (i) it is a single purpose limited liability company organized and existing under the laws of the State of Delaware and (ii) Racebrook Capital Partners LLC (“RCP”), a Delaware limited liability company, owns a majority interest in the Lessee.

(b) The Lessee further represents, knowing that the Port Authority is relying on the accuracy of such representation, that RCP directly or indirectly controls the Lessee. The Lessee further represents that, other than RCP, no other person or entity has direct or indirect control of the Lessee.

(c) The Lessee recognizes the fact that a transfer of control in the Lessee by whatever means, is for practical purposes a transfer or disposition of the rights obtained by the Lessee through this Agreement. The Lessee further recognizes that because of the nature of the obligations of the Lessee hereunder and the qualifications and reputation of RCP, RCP is of particular concern to the Port Authority. The Lessee also recognizes that it is because of such qualifications and identity that the Port Authority is entering into this Agreement and, in doing so, is willing to accept and rely on the Lessee for the faithful performance of all obligations and covenants hereunder. Therefore, the Lessee represents and agrees for itself and RCP, and any successor in interest of itself and RCP, respectively, that without the prior written approval of the Port Authority, RCP may not transfer its controlling interest of the Lessee to any other person or entity; nor shall RCP nor Lessee suffer any transfer to be made that shall result in a change in control; nor shall there be or be suffered to be any transfer by the Lessee or RCP or by any owner of membership interests therein that results in a change in control, nor suffer any other change in the control of the Lessee by any other method or means. The Lessee and RCP further represent and agree that throughout the term of this Agreement, the Lessee, or its successor, shall have at least one licensed veterinarian actively assisting in the daily management or operation of the Lessee with [a] an established record and reputation for the provision of high quality veterinary services, [b] ten (10) or more years experience in the operation or management of a Veterinary Medical clinic or hospital, which operation or management of such clinic or hospital shall have occurred within the prior two (2) years of the Commencement Date, or upon any transfer of RCP's interests in or control of the Lessee, within the prior two (2) years of the date that RCP's interests or control are so transferred and [c] never had his or her license suspended or revoked in any State or committed any other veterinary-related legal violation or crime. With respect to this provision, the Lessee and the parties signing this Agreement on behalf of the Lessee represent

that they have the authority to agree to this provision on the behalf of RCP and to bind it and its successors, executors, legal representatives and assignees with respect thereto.

(d) The Lessee agrees that it shall, at such times as the Port Authority may request, furnish a complete statement, subscribed and sworn to by an officer of RCP, setting forth all of the direct and indirect holders of the membership interests of the Lessee and the nature and extent of their respective holdings.

(e) The Lessee acknowledges the Lessee's assurance of faithful performance of these provisions is a special inducement for the Port Authority to enter into this Agreement. Noncompliance on the part of the Lessee of these provisions contained in this Section shall be and be deemed an event of default under the Section of this Agreement entitled "*Termination by the Port Authority*", and the Port Authority, shall have the right to terminate this Agreement and the letting hereunder pursuant to the provisions of said Section entitled "*Termination by the Port Authority*" hereof.

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

Section 67. Option to Extend

(a) The Lessee shall have the right to extend the term of the letting under this Agreement, as to the entire Premises only, for a single five (5)-year period to commence on the day after the Expiration Date, and expiring on the day prior to the fifth anniversary of such extension period commencement date (such five-year period being hereinafter called the "*Extension Period*"); provided, however, that the Lessee shall give written notice to the Port Authority of its desire to do so not later than three hundred sixty (360) days prior to the Expiration Date. No notice by the Lessee purporting to extend the term of the letting of the Premises as provided in this Section shall be effective if on the date of the giving of said notice or on the effective date of the extension the Lessee is in default beyond any applicable grace or cure period under any of the terms or provisions of this Agreement, or if on either of such dates the Lessee has been served with a notice of termination of this Agreement by the Port Authority, or if this Agreement is not in full force and effect on either of such dates.

(b) The letting of the Premises during the Extension Period shall be on the same terms and conditions as set forth in this Agreement and in effect on the day immediately preceding the Extension Period, except that all rentals during such five-year period shall be as set forth in the Section hereof entitled "*Rental and Abatement*".

Section 68. Lessee and Sublessee Operations

All Lessee operations hereunder shall include the operations of its sublessees. The Lessee may fulfill its operating obligations hereunder by causing its sublessee(s) to comply with such operating obligations. All acts and omissions of a sublessee shall be deemed to be acts and

omissions of the Lessee under this Agreement and, as between the Lessee and the Port Authority, the Lessee shall also be severally responsible for said acts and omissions.

Section 69. Leasehold Mortgage – Foreclosure Rights

(a) Definitions:

(1) “*Institutional Lender*”, shall mean any of the following entities having at least \$500,000,000 in gross assets:

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

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

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

(iv) pension, retirement or profit sharing plans, trusts or systems whose investments are regulated by (1) the laws of the United States of America or (2) the laws of any State of the United States of America or (3) any public agency of any State of the United States or (4) any public agency of the United States;

(v) a corporation or real estate investment trust whose shares are traded on a national stock exchange;

(vi) a bond trustee which meets the requirements of this subparagraph (1) or

(vii) a bond trustee together with or as assignee of a conduit bond issuer, which meets the requirements of this subparagraph (1).

(2) It is recognized by the parties that the Lessee presently intends to obtain construction and permanent financing. The Lessee intends to pledge its leasehold interest in the Lease through a Leasehold Mortgage to an Institutional Lender in connection with a construction loan. The Lessee also intends to obtain permanent financing (the “*Permanent Financing*”), which will refinance the construction loan in full, may finance costs incurred with

effecting the Permanent Financing and reserves established as required by and pursuant to the Leasehold Mortgage granted in connection with the Permanent Financing and may reimburse the Lessee for reasonable capital expenditures, costs, fees and expenses previously expended by or on behalf of the Lessee in connection with the Lessee's operations at, management of, and construction of the Lessee's Facility, which may consist of loan proceeds from bonds (the "**Bonds**") issued by Build NYC Resource Corporation, a local development corporation incorporated under the New York Not-for-Profit Corporation Law ("**Build NYC**"). The Lessee represents that it anticipates a bond trustee will be assigned the right to repayment of the Permanent Financing. The Lessee agrees that any leasehold mortgage granted by the Lessee to the lender of the construction loan must be fully satisfied or assigned to an Institutional Lender that is providing the Permanent Financing prior to or simultaneously with the execution and delivery of the Permanent Financing documents. The Lessee then intends to pledge its leasehold interest in the Lease through the assignment and amendment and restatement of the Leasehold Mortgage securing the construction loan, the amendment and restatement of the Leasehold Mortgage securing the construction loan or the granting of a new Leasehold Mortgage in connection with the issuance of the Bonds, and the parties acknowledge that any bond trustee appointed in connection therewith shall be an approved Leasehold Mortgagee and, subject to compliance with all the terms and conditions hereof, a mortgage or indenture delivered in connection therewith shall be an approved Leasehold Mortgage. The parties also acknowledge that Build NYC may assign its interest in the Leasehold Mortgage to the bond trustee that co-issues the Bonds.

(3) "**Mortgage Amount**" shall mean an amount not in excess of the lesser of (i) Thirty-five Million Dollars and No cents (\$35,000,000.00); or (ii) the amount authorized with respect to leasehold mortgaging by Institutional Lenders under the applicable laws and regulations of the Banking Department or the Insurance Department of the State of New Jersey or of the State of New York or of the appropriate agency or department of the United States of America and, if the Institutional Lender is of the type described in item (ii) of subparagraph (a)(1) hereof or subitems (iv)(2) or (iv)(3) of subparagraph (a) (1), then the amount authorized for purposes of this subparagraph shall mean that amount which would be authorized with respect to leasehold mortgaging by the Banking Department or the Insurance Department of the State of New York as if such Institutional Lender were subject to the supervision and control of either of said Departments. In the event that there is more than one Institutional Lender participating in the Leasehold Mortgage, then for purposes of this subparagraph the authorized amount shall be the aggregate amount which may be advanced by all of such Institutional Lenders as determined in accordance with this subparagraph. The "**Mortgage Amount**" may be adjusted for subsequent Refinancing as provided in subparagraph (1) of paragraph (i) of this Section.

(4) "**Leasehold Mortgage**" shall mean a mortgage based upon the Lessee's leasehold interest hereunder, which is subject and subordinate to the terms, covenants, conditions and provisions of this Agreement, securing a loan or loans in an original principal amount not to exceed, in the aggregate, the Mortgage Amount and which is granted by the Lessee to an Institutional Lender either to finance the construction of the Lessee's Facility to be constructed by the Lessee on the Premises pursuant to this Agreement or in connection with the Permanent Financing thereof or other Refinancing of the Leasehold Mortgage, or as is obtained

in accordance with the provisions of paragraph (j) hereof and which, other than in the case of a loan or loans obtained to finance the construction of the Lessee's Facility, is to be repaid in installments such as shall discharge a debt equal to the Mortgage Amount plus interest thereon at a rate, whether fixed or floating, to be approved by the Port Authority in advance (which approval shall not be withheld if such rate is commercially reasonable); provided, however, that in no event, other than as may be contemplated under subparagraph (2) hereof, shall there be any mortgage hereunder other than a first mortgage.

(5) "*Leasehold Mortgagee*" shall mean an Institutional Lender which in accordance with the applicable provisions of this Agreement shall become the holder of the Leasehold Mortgage.

(6) (i) "*Refinancing of the Leasehold Mortgage*" shall mean:

(a) the delivery and recording of a mortgage on the Lessee's leasehold interest in the Premises under this Agreement from an Institutional Lender, all or a portion of the proceeds of which are used to satisfy in full any prior Leasehold Mortgage which may be outstanding with respect to such interest at the time of such refinancing; or

(b) the advancing of additional monies under a Leasehold Mortgage; or

(c) the entering into a new Leasehold Mortgage by the Lessee with respect to the Premises hereunder subsequent to the expiration or termination of a previously existing Leasehold Mortgage with respect thereto.

(ii) Notwithstanding the foregoing provisions of this subparagraph, and without limiting the generality thereof, none of the following events shall be deemed a refinancing of the Leasehold Mortgage:

(a) the issuance of a purchase money mortgage or the issuance of a new Leasehold Mortgage pursuant to paragraph (i) hereof; or

(b) monies advanced by the Leasehold Mortgagee for interest, taxes, insurance premiums and other amounts owing by reason of a default under the Leasehold Mortgage.

(b) Notwithstanding the provisions of the Section of this Agreement entitled "*Assignment and Sublease*" and without otherwise limiting the generality thereof, the Lessee shall have the right, subject to the Port Authority's prior written consent, which consent shall not be withheld if all of the terms, conditions and requirements set forth in subclauses (1) – (7) of this paragraph (b) are satisfied as determined by the Port Authority in its sole discretion, (i) to make one or more mortgages of the Lessee's leasehold interest in the Premises under this Agreement in an aggregate amount not in excess of the Mortgage Amount under one or more Leasehold Mortgages (but the limitation contained herein shall not prevent the mortgage lien arising in connection with such Leasehold Mortgages from securing accruals of interest, taxes, insurance premiums and other amounts owing by reason of a default under the Leasehold

Mortgage) and (ii) to assign rents from sublessees to a Leasehold Mortgagee pursuant to an assignment of rents to an Institutional Lender (which approval of the Institutional Lender is required by the Port Authority in advance pursuant to paragraph (c) of this Section):

(1) the proposed Institutional Lender, any of its Affiliates and each officer and director thereof, has as of the date of the proposed financing a good reputation for integrity and financial responsibility and has not been convicted of or under current indictment for any crime and is not currently involved in civil antitrust, or fraud litigation, or any proceedings indicative of a lack of business integrity;

(2) the proposed Institutional Lender, any of its Affiliates or any officer or director thereof, shall not be in conflict of interest as defined under the laws of the State of New York as of the date of the proposed financing with any Commissioner of the Port Authority and/or the Port Authority;

(3) the proposed Institutional Lender, any of its Affiliates or any officer or director thereof shall be in compliance with the Port Authority's Code of Ethics and Financial Disclosure;

(4) the proposed Institutional Lender, any of its Affiliates and each officer and director thereof shall be in compliance with the Section of this Agreement entitled "*OFAC Compliance*";

(5) there are no liens of any kind on any portion of the Premises, whether or not such portion is subject to a Leasehold Mortgage, except as expressly permitted under this Agreement;

(6) the Leasehold Mortgage (A) shall not cover any property of, or secure any debt issued or guaranteed by, any Person other than the Lessee (or a financial institution providing a financial guaranty or similar credit enhancement in respect of any debt of the Lessee); (B) shall only secure the obligations of the loan of the Lessee under the Leasehold Mortgage and its associated documents and shall not secure any other indebtedness; and (C) shall not be cross-defaulted with any other agreement or document made by the Lessee and/or the Leasehold Mortgagee in connection with any indebtedness other than the Leasehold Mortgage;

(7) (A) the Lessee shall not be in default for non-payment of rent or other moneys or additional rent due to the Port Authority hereunder or under notice of default as to which the applicable period to cure, if any, as provided for in this Agreement, has passed, (B) and this Agreement shall be in full force and effect and (C) the Port Authority shall not have served a notice of termination to the Lessee pursuant to the Section of this Agreement entitled "*Termination by the Port Authority*";

provided, that such Institutional Lender agrees to apply any and all rents received by the Institutional Lender in connection with an assignment of rents first to the payment of the Basic Ground Rental, the Building Rental, the Percentage Rent, Ground C Deferred Rent, Building Deferred Rent, additional rent and any other amounts payable to the Port Authority when due

prior to disbursing, applying, paying or otherwise distributing such amounts or any portion thereof to itself, any other Person or for any other purpose.

(c) The Lessee, at least sixty (60) days prior to the proposed effective date of a proposed Leasehold Mortgage, shall notify the Port Authority of the identity of the proposed Institutional Lender, and shall also submit to the Port Authority for its approval a copy of the form of the proposed Leasehold Mortgage, the note or bond which the Leasehold Mortgage was given to secure and any other financing related documents requested by the Port Authority, each in its substantially final form. The Lessee shall promptly notify the Port Authority of any changes to such form of mortgage, note or bond or other financing related document requested by the Port Authority prior to the execution thereof. The Port Authority will thereafter advise the Lessee within forty-five (45) days in writing after receipt of such notification and submission whether or not the Port Authority will consent to such proposed Institutional Lender, unless the same has been pre-approved as provided herein, and such proposed Leasehold Mortgage, note or bond and any other financing related document requested by the Port Authority. On the date of its execution, or within five (5) days thereafter, the Lessee shall deliver to the Port Authority a conformed copy of the executed Leasehold Mortgage and of the executed note or bond which the Leasehold Mortgage was given to secure, certified to be true copies thereof.

(d) The Leasehold Mortgagee approved by the Port Authority shall not assign or transfer the Leasehold Mortgage, in whole or in part, directly or indirectly, by operation of law or otherwise, to any Person other than one or more Institutional Lenders. The Lessee, at least thirty (30) days prior to the effective date of the proposed assignment of the Leasehold Mortgage, shall submit to the Port Authority for its approval, notwithstanding any other form of notice to it, actual or constructive, the name and address of the proposed assignee together with a copy of the proposed assignment in final form. The Port Authority will advise the Lessee in writing within twenty (20) days after such submission whether or not the proposed assignee meets the criteria set forth above for an Institutional Lender; provided, that all information requested by the Port Authority in connection with its review of the proposed Institutional Lender and the proposed assignment shall have been theretofore received by the Port Authority. On the effective date of such assignment or within five (5) days thereafter, the assignee shall deliver to the Port Authority a conformed copy of the executed assignment of the Leasehold Mortgage, certified to be a true copy thereof.

(e) Notwithstanding anything contained in the Leasehold Mortgage or any consent or approval of the Port Authority thereto, it is understood, agreed and shall be expressly provided in the Leasehold Mortgage, that the Leasehold Mortgage and the rights of the Leasehold Mortgagee, or its assignee or its successor-in-interest, as applicable, (i) shall in all respects be as specified in and shall be subject and subordinate to the terms, covenants, conditions and provisions set forth in this Agreement and (ii) shall be subject and subordinate to the terms, covenants, conditions, and provisions of the Basic Lease. The terms, covenants, conditions and provisions of this Agreement and the Basic Lease shall govern as between the Port Authority, the Lessee, and the Leasehold Mortgagee, and in the event of any inconsistency between the terms, covenants, conditions and provisions of this Agreement and the Basic Lease, as applicable, and the terms, covenants, conditions and provisions of the Leasehold Mortgage, the terms, covenants, conditions, and provisions of this Agreement and the Basic Lease, as

applicable, shall control. The Lessee agrees that the terms and requirements of the foregoing sentence shall be expressly provided in the Leasehold Mortgage. Notwithstanding any provisions of the Leasehold Mortgage to the contrary, the Lessee for all purposes shall be deemed to be the Lessee hereunder unless and until the Leasehold Mortgagee shall have acquired the Lessee's interest herein or a new lease has been executed between the Port Authority, as lessor, and the Leasehold Mortgagee, as lessee, pursuant to this Section, as the case may be, and the Lessee shall have as full and complete control of the operation and use of the Premises as if the Leasehold Mortgage had not been executed and delivered. Nothing set forth in the foregoing sentence, however, shall be deemed or construed to limit in any way any right of the Leasehold Mortgagee to exercise any or all of the remedies available at law or equity under the laws of the State of New York that are prohibited by law from being waived as a matter of public policy (including, without limitation, the right to appoint a receiver). The Leasehold Mortgage shall make reference to the provisions of this Agreement and shall provide that the Leasehold Mortgage and the rights of the Leasehold Mortgagee thereunder are and shall be in all respects subject hereto.

(f) It is understood and agreed that the Leasehold Mortgage granted by the Lessee hereunder will not prevent the Lessee from amending this Agreement; provided, however, that no actions or omissions of the Lessee and the Port Authority or either of them in effecting such amendment, pursuant to this paragraph shall have the effect of (i) reducing the term of this Agreement, (ii) adding a new right to terminate this Agreement without (x) preserving the Leasehold Mortgagee's cure and foreclosure rights provided in this Section or (y) granting the Leasehold Mortgagee cure and foreclosure rights that are no less protective of the Leasehold Mortgagee than those provided in this Section, (iii) increasing the amount of the Basic Ground Rentals, the Building Rental or the Percentage Rent payable by the Lessee hereunder, or (iv) effecting the voluntary surrender of this Agreement, unless in the case of any of (i), (ii), (iii) or (iv) above, the prior written approval of the Leasehold Mortgagee shall have been obtained thereto. In addition, any other amendment to this Agreement which shall, in the Port Authority's determination, materially and adversely affect the rights of the Leasehold Mortgagee shall not be enforceable against the Leasehold Mortgagee unless the approval of the Leasehold Mortgagee shall have been obtained with respect thereto, which approval shall not be unreasonably withheld, conditioned or delayed. The Lessee hereby agrees for the benefit of the Leasehold Mortgagee and the Port Authority to perform any obligations and to discharge any liabilities of the Lessee under this Agreement which may result from any such actions or omissions of the Lessee and of the Port Authority, or either of them, pursuant to this paragraph to the exoneration of the Leasehold Mortgagee therefrom.

(g) Any approval or consent by the Port Authority hereunder whether to the Leasehold Mortgage or to any assignment thereof shall apply only to the specific transaction thereby authorized and shall not relieve the Lessee or the Leasehold Mortgagee from the requirement of obtaining the prior approval or consent of the Port Authority to each and every further assignment of the Leasehold Mortgage in accordance with the terms of this Agreement.

(h) Except as expressly authorized in this Section, the Lessee shall not mortgage or otherwise encumber the Lessee's interest in this Agreement or the letting hereunder in whole or in part or any portion of the Premises. No Leasehold Mortgage or other instrument

purporting to mortgage, pledge, encumber or create a lien, charge or security interest on or against any or all of the Lessee's interest in this Agreement shall extend to or affect the Port Authority's leasehold interest in the Premises.

(i) Refinancing

(1) In addition, without limiting any provisions of subparagraph (a)(2) of this Section, the Lessee may effect the Refinancing of the Leasehold Mortgage and a collateral assignment of rents; provided, that the aggregate principal indebtedness to be secured by the said Refinancing does not exceed the Mortgage Amount as adjusted in the following sentence; and provided, further, that all of the terms, covenants, conditions and provisions of this Section are satisfied as if such Refinancing were the original financing hereunder including, without limitation, all Port Authority consent rights. The proceeds of such Refinancing shall be used only to (x) refinance the loan secured by the Leasehold Mortgage in full, together with all customary and normal costs, fees and expenses associated with such refinancing and (y) reimburse reasonable capital expenditures, costs and expenses previously incurred by or on behalf of the Lessee in connection with the Lessee's operations at, management of, and construction of the Lessee's Facility, which amount of such proceeds shall thereafter be and be deemed to be the "Mortgage Amount" under this Agreement. Any proposed Refinancing of the Leasehold Mortgage and collateral assignment of rents that does not satisfy all of the requirements of this paragraph (1) shall not be effective without the prior written consent of the Port Authority.

(2) The proposed Refinancing shall not:

(i) cause any change or series of changes in the obligations of the Lessee that would, or could be expected to, result in a increase in the Port Authority's liabilities, obligations or risks under this Agreement;

(ii) result, or could reasonably be expected to result, in a adverse effect on the ability of the Lessee to perform its obligations under this Agreement; and

(iii) result in any portion of the proceeds of the Refinancing being used to make distributions or to pay non-capital costs and expenses other than customary and normal costs, fees and expenses associated with such Refinancing; provided, however, a portion of the proceeds may be used to reimburse the Lessee for reasonable capital expenditures, costs, fees and expenses previously expended by or on behalf of the Lessee in connection with the Lessee's operations at, management of, and construction of the Lessee's Facility.

(j) A third party purchaser who in conformity with the provisions of this Agreement acquires the leasehold hereunder as a result of foreclosure of any Leasehold Mortgage authorized by this Agreement, either at foreclosure sale or by assignment in lieu of foreclosure, shall have the right in connection with the purchase at foreclosure of the original Leasehold Mortgage or the acquisition of the Lessee's interest under this Agreement by assignment in lieu of foreclosure to mortgage its leasehold interest to an Institutional Lender subject to all of the terms, covenants, conditions and provisions of this Section; provided, that the aggregate principal indebtedness to be secured by such leasehold mortgage does not exceed the

lessor of (i) the unpaid principal balance of the mortgage which was the subject of the foreclosure (plus accruals of interest, taxes, insurance premiums or other amounts owing under the foreclosed mortgage by reason of a default thereunder) or (ii) the purchase price paid by such third party purchaser and all reasonable amounts spent or to be spent by such third party purchaser for the purposes of curing all defaults then existing under this Agreement.

(k) If the Leasehold Mortgagee shall have given to the Port Authority a written notice specifying its name and address together with a conformed copy of the Leasehold Mortgage, notwithstanding the provisions of the Section of this Agreement entitled "*Notices*", the Port Authority shall send to the Leasehold Mortgagee a copy of each notice of default or termination given under this Agreement pursuant to the same terms and conditions of the Section of this Agreement entitled "*Notices*", such copy to be addressed to the Leasehold Mortgagee at the address last furnished by it to the Port Authority, and no notice of default or termination shall be deemed to have been given by the Port Authority unless and until a copy thereof shall have been given to the Leasehold Mortgagee. The Lessee irrevocably directs that the Port Authority accept, and the Port Authority agrees to accept, the curing of such default by the Leasehold Mortgagee as if and with the same force and effect as though cured by the Lessee. For the benefit of any Leasehold Mortgagee who shall have become entitled to notice as provided in this paragraph (k), the Port Authority agrees, subject, nevertheless, to all of the terms, covenants, conditions and provisions of this Agreement, (i) not to accept a voluntary surrender of this Agreement at any time during which the Leasehold Mortgage shall remain a lien without Leasehold Mortgagee consent in writing and (ii) not to convey or transfer any further interest in the Premises or any portion thereof to the Lessee so as to cause a termination of this Agreement by merger or otherwise so long as the Leasehold Mortgage shall remain a lien on any portion of the Premises to be so conveyed or transferred.

(l) Unless and until such time as it or its nominee becomes the Lessee hereunder, the Leasehold Mortgagee shall not have any right in or to the operation, management or use of the Premises or any building to be constructed thereon for the purposes set forth in this Agreement or for any other purpose whatsoever. The Leasehold Mortgagee shall not enter into or be entitled to enter into possession of the Premises under this Agreement except to the extent afforded to it or its nominee under this Agreement for the purpose of curing defaults by the Lessee. The foregoing provision of this paragraph (l) shall not, however, be deemed or construed to limit in any way the right of the Leasehold Mortgagee to exercise any or all of the remedies available at law or equity under the laws of the State of New York that are prohibited by law from being waived as a matter of public policy (including, without limitation, the right to appoint a receiver).

(m) If the Port Authority shall elect to terminate the letting under the Section of this Agreement entitled "*Termination by the Port Authority*", or otherwise by reason of the Lessee's default, then the Port Authority shall give notice of such termination to the Leasehold Mortgagee if it shall have become entitled to notice as provided in paragraph (k) hereof, which notice shall specify the event or events of default upon which the notice is predicated.

(i) If the event of default or breach specified in the aforesaid notice of termination is susceptible of being cured by an act which the Leasehold Mortgagee can

perform regardless of whether the Leasehold Mortgagee first obtains possession of the Premises, the Leasehold Mortgagee shall have the right to extend the effective date of such termination as specified in the notice for a period not to exceed sixty (60) days (except as such period may be extended as set forth below) in order to cure all such defaults or breaches as are specified in the notice; provided the Leasehold Mortgagee shall give notice of such extension to the Port Authority not later than twenty (20) business days after the date of service of the Port Authority's notice of termination on the Leasehold Mortgagee and shall simultaneously with the giving of its notice to the Port Authority pay to the Port Authority any and all arrears in the rentals and other amounts owed to the Port Authority including, without limitation, the Basic Ground Rental AB, Basic Ground Rental C, Building Rental, Percentage Rent, Ground C Deferred Rent, Building Deferred Rent, the Leasehold Mortgage Rental, late charges, subletting fees, electrical, water, sewerage and any other utility charges, extermination services and additional rental under the Section of this Agreement entitled "*Additional Rent and Charges*" payable under this Agreement, which arrears shall include any deferred rent even if the Ground C Deferral Period and/or Building Deferral Period has not yet expired (the "*Rentals*") as of the date of its notice to the Port Authority, as specified in the Port Authority's notice. During such sixty (60) day period the Leasehold Mortgagee shall assume the performance of all of the Lessee's obligations under this Agreement that are capable of being performed without the Leasehold Mortgagee first obtaining possession of the Premises, or physically obtaining access to the Premises by its agents or contractors, as though it were the Lessee hereunder and shall pay all Rentals due to the Port Authority in a timely manner. At the end of such period, the Port Authority's aforesaid notice of termination shall be effective unless within such time all such defaults or breaches as are specified in the Port Authority's notice shall have been cured, or the Leasehold Mortgagee, or its nominee or any purchaser shall have acquired the Lessee's interest under this Agreement by foreclosure of the Leasehold Mortgage or otherwise and shall have executed and delivered to the Port Authority an agreement in form and substance satisfactory to the Port Authority wherein the Leasehold Mortgagee, or its nominee or any purchaser agrees to assume performance and observance of each of the covenants and conditions herein contained on the Lessee's part to be performed as though it were the original Lessee under this Agreement. If the curing of such defaults or breaches requires activity over a period of time and the Leasehold Mortgagee shall have commenced the curing of such defaults within the said sixty (60) day period and shall diligently continue such performance without interruption, or if such foreclosure proceedings shall have been commenced and pursued with due diligence within the said sixty (60) day period, the said thirty (30) day period shall be extended for such further period of time as such performance requires, but in no event shall the effective date of termination set forth in the Port Authority's notice be extended for more than twelve (12) months, unless, in addition to all the foregoing conditions, the Lessee's Facility is and continues thereafter at all times to be fully maintained and operated in accordance with all the terms and conditions of this Agreement, in which case the effective date of termination shall be extended for so long as all such conditions continue to be met. If within the extension period all such defaults or breaches as are specified in the notice of termination shall be cured, the notice of termination predicated upon such defaults shall be null and void and of no further force or effect.

(ii) If the event of default or breach specified in the aforesaid notice of termination is not susceptible of being cured by an act which the Leasehold Mortgagee can perform without first obtaining possession of the Premises or is not susceptible of being

cured by an act which the Leasehold Mortgagee can perform regardless of whether the Leasehold Mortgagee obtains possession of the Premises, the Leasehold Mortgagee shall have the right by notice to the Port Authority given not later than twenty (20) business days after the date of service of the Port Authority's notice of termination on the Leasehold Mortgagee to extend the effective date of the Port Authority's notice of termination for a period not to exceed ninety (90) days (as such period may be extended as set forth above) and the Leasehold Mortgagee shall, with all due diligence and in good faith, initiate an action to foreclose the Leasehold Mortgage and diligently and expeditiously proceed and complete such proceedings and, upon Leasehold Mortgagee's possession of the Premises, diligently proceed to cure all such defaults or breaches as are specified in the notice of termination which are susceptible of being cured by an act which the Leasehold Mortgagee can perform; provided, however, that: (1) the Leasehold Mortgagee shall deliver to the Port Authority within thirty (30) days of its notice to the Port Authority a written instrument wherein the Leasehold Mortgagee unconditionally guarantees to the Port Authority that upon obtaining possession of the Premises the Leasehold Mortgagee will cure all such defaults or breaches as are specified in the notice of termination which are susceptible of being cured by an act which the Leasehold Mortgagee can perform upon obtaining possession of the Premises and that if the Port Authority cures any defaults or breaches (after giving written notice to the Leasehold Mortgagee that the Port Authority intends to cure the same; provided, however, with respect to the Animal Handling Facility only, no such notice is required in an emergency or to be or remain in compliance with the Basic Lease, governmental requirements or any agreement to which the Port Authority is a party), the Leasehold Mortgagee will pay to the Port Authority the cost of curing such defaults and all expenses incurred by the Port Authority to cure such defaults including, without limitation, personnel costs; and (2) the Leasehold Mortgagee, as of the date of its said notice to the Port Authority, shall pay to the Port Authority any arrears in the Rentals payable under this Agreement as said arrears are specified in the Port Authority's notice of termination; and (3) until (i) the date that the Leasehold Mortgagee, or its nominee or a purchaser at foreclosure acquires the Lessee's interest under this Agreement, or (ii) the date the notice of termination shall become null and void, as hereinafter provided, or (iii) the date the termination of the letting has been effected in accordance with the notice of termination, or (iv) the Leasehold Mortgagee notifies the Port Authority that it no longer wishes to extend the effective date of termination, whichever shall first occur (which period is hereinafter called the "*extension period*"), the Leasehold Mortgagee shall pay to the Port Authority, in addition to the payment of any Rental arrears, all of the Rentals when due and payable; (4) the Leasehold Mortgagee shall proceed with all due diligence and continuity and in good faith to institute foreclosure proceedings and, unless enjoined or stayed, diligently and expeditiously prosecute the same to completion (unless the Leasehold Mortgagee or its nominee shall otherwise acquire the Lessee's interest under this Agreement by assignment in lieu of the foreclosure); and (5) the Leasehold Mortgagee shall use commercially reasonable efforts to preserve the value of the Premises. Nothing to the contrary set forth above shall be deemed to require the Leasehold Mortgagee to continue such foreclosure proceedings after the default or defaults have been cured. If the same shall have been cured and the Leasehold Mortgagee shall discontinue such foreclosure proceedings, this Agreement shall continue in full force and effect as if the Lessee had not defaulted hereunder. In the event such foreclosure proceedings or the curing of such defaults or breaches requires activity over a period of time and the Leasehold Mortgagee shall have commenced such foreclosure proceedings or the curing of such defaults or breaches within the said ninety (90) day period and shall diligently continue such proceedings or activities

without interruption, the said ninety (90) day period shall be extended for such further period of time as such proceedings or activities require, but in no event shall the effective date of the Port Authority's notice of termination be extended for more than twelve (12) months, unless, in addition to all the foregoing conditions, if the Lessee or its sublessees have commenced operations at the Lessee's Facility or a portion thereof, the Lessee's Facility or a portion thereof, as applicable, is and continues thereafter at all times to be fully maintained and operated in accordance with all the terms and conditions of this Agreement, in which case the effective date of termination shall be extended for so long as all such conditions continue to be met. The Leasehold Mortgagee shall not be required to continue to prosecute foreclosure proceedings or to obtain possession of the Premises if prior to completion of such proceedings or to obtaining such possession the defaults or breaches specified in the Port Authority's notice of termination shall have been cured.

(iii) Without limiting the generality of the foregoing subparagraphs (m)(i) and (m)(ii), with respect to defaults or breaches which are not susceptible of being cured by an act which the Leasehold Mortgagee can perform regardless of whether the Leasehold Mortgagee first obtains possession of the Premises, the Leasehold Mortgagee shall not be required to comply with the condition set forth in item (1) above, and, so long as the conditions specified in items (2) and (3) above are fulfilled, and the Leasehold Mortgagee or its nominee or a purchaser at a foreclosure sale shall acquire the Lessee's interest under this Agreement and shall not itself be subject to any bankruptcy or other proceedings which would entitle the Port Authority to terminate this Agreement pursuant to items (1), (2), (3) or (7) of paragraph (a) of the Section of this Agreement entitled "*Termination by the Port Authority*", the existence of bankruptcy or the other events of default or breach which are not susceptible of being cured by an act which the Leasehold Mortgagee can perform regardless of whether the Leasehold Mortgagee obtains possession of the Premises, relating to the prior Lessee, shall no longer be events of default or breach under this Agreement. In the event the foregoing conditions shall have been fully and timely fulfilled and all defaults or breaches specified in the notice as are susceptible of being cured have been cured within the time allotted in this Agreement, the notice of termination shall be null and void and of no further force or effect and the default or breach of the prior Lessee as specified in the notice shall no longer be an event of default or breach under this Agreement. In the event, however, that the Leasehold Mortgagee shall fail to comply with the requirements and conditions of this paragraph, including but not limited to, curing all defaults or breaches specified in any such notice as are susceptible of being cured within the time allotted in this Agreement, the Port Authority's aforesaid notice of termination shall be and remain fully effective. If the Port Authority is not paid the Rentals due under this Agreement in any of the circumstances set forth in this paragraph, nothing in this paragraph shall limit in any way the Port Authority's right to terminate this Agreement.

(iv) Notwithstanding the foregoing paragraphs (i), (ii), and (iii), from the date that the Lessee has vacated or from the date which the Lessee has been evicted from the Animal Handling Facility, until the date the Leasehold Mortgagee, its nominee, a purchaser at foreclosure or an assignee approved by the Port Authority acquires the Lessee's interest in the Animal Handling Facility under this Agreement, the Port Authority may use or grant the use of the Animal Handling Facility or a portion thereof on a temporary basis (subject to a thirty (30) day right of revocation or termination by the Port Authority without cause) and

shall not impair or limit any of the obligations or liabilities of the Lessee or the Leasehold Mortgagee; any net amount received by the Port Authority with respect to the use of the Animal Handling Facility (after deducting all expenses, costs and disbursements incurred or paid by the Port Authority in connection therewith) shall be credited, as the Port Authority shall determine, either to the obligations of the Lessee to the Port Authority under this Agreement and/or the Rentals. No such use shall be or be construed to be an acceptance of a surrender or a waiver of any claims, rights or remedies of the Port Authority or to be a foreclosure by the Leasehold Mortgagee, or to limit any foreclosure rights of the Leasehold Mortgagee under this Section.

(h) Nothing contained within this Section shall preclude the Port Authority from exercising any of its other rights or remedies with respect to any event of default which shall occur during the period the effective date of any notice of termination has been extended, subject nevertheless to the Leasehold Mortgagee's rights as hereinabove provided.

(o) No party other than an Institutional Lender described in paragraph (a) of this Section (or a corporation wholly owned and controlled by an Institutional Lender if the conditions set forth in subparagraph (a) (1) of this Section are fulfilled) shall be entitled to become the owner of or acquire any interest in this Agreement pursuant to a judgment of foreclosure and sale or as a result of an assignment in lieu of foreclosure or to become a lessee under a new lease covering the Premises hereunder except with the express written prior consent of the Port Authority which consent shall not be unreasonably withheld if the proposed purchaser or successor party to this Agreement shall meet the following requirements and conditions:

(i) the proposed transferee shall use and occupy the Premises only for the purposes set forth in the Section of this Agreement entitled "*Use of Premises*" and shall, in the sole opinion of the Port Authority, be eligible, suitable and qualified therefor, and shall use and occupy the Premises in accordance with all the terms and conditions of this Agreement and shall fulfill all of the Lessee's obligations under this Agreement throughout the balance of the term of the letting hereunder;

(ii) the financial standing of the proposed transferee as of the date of the acquisition of the leasehold is sufficient to assure the Port Authority that the proposed party is able to fulfill all of the Lessee's obligations under this Agreement throughout the balance of the term of the letting hereunder or the proposed party shall furnish to the Port Authority such security or guarantees as the Port Authority may deem necessary to attain such assurance;

(iii) the proposed transferee, any of its Affiliates and any officer or director thereof, has as of the date of the proposed acquisition a good reputation for integrity and financial responsibility and has not been convicted of or under current indictment for any crime and is not currently involved in civil, anti-trust or fraud litigation, or any proceedings indicative of a lack of business integrity;

(iv) neither the proposed transferee nor any of its Affiliates, nor any officer or director thereof, has filed a voluntary petition in bankruptcy or has been adjudicated a bankrupt within five (5) years prior to the date of transfer;

(v) the proposed transferee, any of its Affiliates or any officer or director thereof, shall not be in conflict of interest under the laws of the State of New York, with the Port Authority or with any Commissioner of the Port Authority as of the date of the proposed acquisition;

(vi) the proposed transferee, any of its Affiliates and any officer or director thereof, is, as of the date of the proposed acquisition, in compliance with (x) the Section of this Agreement entitled "*OFAC Compliance*" and (y) Section 721 of the Defense Production Act of 1950, as amended;

(vii) whether the Port Authority has had any "Unfavorable Experience" with the proposed transferee, any of its Affiliates or an officer or director thereof; "*Unfavorable Experience*" as used herein shall mean any one or more of the following: (A) a default by said proposed transferee, any of its Affiliates or any officer or director thereof of any obligation (monetary or non-monetary) to the Port Authority; (B) any assertion made by said proposed transferee, any of its Affiliates or any officer or director thereof against the Port Authority in any frivolous, false, malicious, or unsupportable claim, demand or allegation or suit or proceeding; (C) any act or omission of said proposed transferee, any of its Affiliates or any officer or director thereof causing or resulting in any loss, damage or injury to the Port Authority or the imposition or threatened imposition of any fine or penalty on the Port Authority or the commencement or threatened commencement of any action, suit or proceeding against the Port Authority; (D) any failure or refusal of said proposed transferee, any of its Affiliates or any officer or director thereof to comply with any law, governmental order, directive, ordinance or requirement, including without limitation, Environmental Requirements, at any Port Authority facility; (E) any failure to comply with, or breach of, the Port Authority's Code of Ethics and Financial Disclosure by said proposed transferee, any of its Affiliates or an officer or director thereof; or (F) any breach by said proposed transferee, any of its Affiliates or any officer or director thereof of any fiduciary obligation, trust, confidence or other duty to the Port Authority or of any confidentiality agreement with the Port Authority;

(viii) (A) the proposed transferee either shall be experienced in the management and operation of animal handling facilities of similar size and scope as the Animal Handling Facility and cargo handling facilities or (B) shall have entered into an operating agreement(s) with a Person(s) which is experienced in the management and operation of animal handling facilities of similar size and scope as the Animal Handling Facility and cargo handling facilities and the Person(s) that will manage and operate the Animal Handling Facility must be, or must be owned or managed in whole or in part by, or must have entered into an operating or management agreement with, (x) a licensed veterinarian who is able and has agreed to actively assist in the daily management or operation of Animal Handling Facility, in both the case of (A) and (B) with [a] an established record and reputation for the provision of high quality veterinary services, [b] ten (10) or more years experience in the operation or management of a Veterinary Medical clinic or hospital and [c] never had his or her license suspended or revoked in any State or committed any other veterinary-related violation or crime (such Person, an "*Experienced Veterinarian*"), and (y) a professional Pet Groomer certified by a pet grooming institution licensed in the State of New York who is able and has agreed to actively assist in the daily management or operation of the provision of kenneling, boarding and grooming services

with five (5) or more years experience in the operation or management of animal boarding, kenneling and grooming facilities (such Person, and "*Experienced Animal Groomer*");

provided, however, that such acquisition (sale or transfer) shall not be effective until an agreement of assignment and assumption in recordable form, and otherwise satisfactory to the Port Authority as to form and substance, wherein such proposed party agrees to assume all of the Lessee's obligations under this Agreement and to observe and perform all of the terms and provisions of this Agreement, has been executed by the Port Authority, the Lessee and the proposed party.

(p) The Port Authority hereby agrees that upon written submission to the Port Authority of all relevant materials necessary for the Port Authority to determine whether it shall give its consent to a proposed purchaser or successor party to this Agreement, the Port Authority shall provide to the Leasehold Mortgagee within thirty (30) business days after receipt of such submission a written response to such request for its consent to such proposed purchaser or successor party, which response may be a request for further information or documentation, and if such response is negative, shall explain such decision. If the Port Authority does not respond in writing within such thirty (30) business days, such request for its consent shall be deemed rejected.

(q) An Institutional Lender may become the owner of or acquire an interest in this Agreement pursuant to a judgment of foreclosure and sale or as a result of an assignment in lieu of foreclosure in the name of a nominee corporation, limited liability company or partnership that is wholly owned and controlled by such Institutional Lender; provided, that such Institutional Lender enters into an agreement with the Port Authority, in form and substance satisfactory to the Port Authority, pursuant to which such Institutional Lender agrees that during the period of such nominee's interest in this Agreement it will finance such nominee with sufficient funds as shall enable such nominee to comply with all of the obligations to be undertaken by the nominee pursuant to the provisions of this Section; provided, further that within sixty (60) days of the date that the transfer has been completed, such nominee shall enter into an operating agreement(s) with a Person(s) who is able and has agreed to actively assist in the daily management or operation of the Animal Handling Facility that (x) (i) meets the requirements of an Experienced Veterinarian and Experienced Animal Groomer and (ii) has sufficient experience as an animal handler, to operate the Animal Handling Facility and (y) has sufficient experience as a cargo handler to operate the Cargo Handling Facility.

(r) As used in this Section, "wholly owned and controlled" shall mean 100% legal and beneficial ownership of all the capital stock, membership interests or partnership interests and voting rights in connection with such capital stock, membership interests or partnership interests, as applicable, of the subsidiary corporation, limited liability company or partnership, as applicable, by the Institutional Lender and if this relationship shall not continue for the entire term of the letting that the said subsidiary corporation, limited liability company or partnership, as applicable, is the Lessee hereunder then the Lessee shall be considered in default hereunder and the Port Authority shall have the right to terminate this Agreement and the letting hereunder pursuant to paragraph (a)(17) of the Section of this Agreement entitled "*Termination by the Port Authority*".

(s) Port Authority Right to Pay Off Loan

(i) Nothing herein shall be deemed to preclude the Port Authority from bidding for the Leasehold Mortgage at any sale, public or private, pursuant to a judgment of foreclosure or in lieu of foreclosure and thereby becoming the owner of the Leasehold Mortgage free from any claims, equities or rights of redemption of the Lessee.

(ii) At any time, upon the Port Authority's request, the Leasehold Mortgagee shall give the Port Authority a notice which shall state the principal amount of the loan or Bonds then outstanding, the amount of accrued and unpaid interest thereon, and the per diem interest which will accrue on the principal amount of the loan or Bonds then outstanding from and after the date of such notice.

(iii) The Port Authority shall have the right, after the occurrence of a default under the Leasehold Mortgage to tender to the Leasehold Mortgagee the total amount specified in such notice, including per diem interest through the date of such tender, and upon such tender the Leasehold Mortgage shall terminate and be of no further force and effect. Promptly following the Port Authority's tender of such amount specified in such notice, the Lessee shall cause to be executed, and the Leasehold Mortgagee shall execute, a satisfaction of the Leasehold Mortgage, cause the same to be filed in the Office of the City Register for Queens County and take all other and additional actions that are required in order to discharge the lien of the Leasehold Mortgage as of record. If the Lessee fails to so execute and file such satisfaction, the Port Authority is hereby appointed the Lessee's representative for the purpose of executing and filing such satisfaction on the Lessee's behalf.

(iv) Except if the Port Authority has exercised its option to tender payment as provided in subparagraph (m)(iii) above, the Port Authority shall have no liability whatsoever for payment of the principal sum secured by any Leasehold Mortgage, or any interest accrued thereon or any other sum secured thereby or accruing thereunder.

(t) If, in the event this Agreement is (i) terminated by reason of the occurrence of any event of default under this Agreement, the Port Authority, within forty-five (45) days after the effective date of such termination, receives notice from the Leasehold Mortgagee that the Leasehold Mortgagee, or its nominee or a purchaser at foreclosure sale requests a new lease for the balance of the original term of the letting set forth herein, the Port Authority; provided that the Leasehold Mortgagee is entitled to receive the notice described in paragraph (k) hereof, within forty-five (45) days following its receipt of such request or within twenty (20) days following the expiration of such longer period during which any decree or order of any Court having jurisdiction over the Lessee shall have the effect of preventing the Port Authority, as lessor, from executing or delivering such new lease shall prepare and deliver, or (ii) rejected or disaffirmed pursuant to any bankruptcy law or proceeding or other similar law or proceedings affecting creditors' rights generally with respect to a bankruptcy proceeding relating to the Lessee or otherwise, then the Port Authority agrees, if there are outstanding obligations to a Leasehold Mortgagee (subject to the receipt of all necessary governmental approvals) to enter into and deliver, to the Leasehold Mortgagee, or its nominee (provided the conditions set forth in paragraph (o) hereof are fulfilled) or such purchaser a new lease for the balance of what would

have been the remainder of the term of the letting under this Agreement, the terms of which shall be identical to the terms contained in this Agreement, except for any new provision required by the United States government and changes in names required by new parties; provided that such notice from the Leasehold Mortgagee, or its nominee or such purchaser shall not be effective unless accompanied by payment of a sum of money equal to any and all Rentals which had been due and payable by the Lessee as of the date of termination. In the event the Leasehold Mortgagee, or its nominee or such purchaser, as herein provided, shall not deliver a duly executed counterpart of such new lease to the Port Authority within thirty (30) days of the execution of such new lease together with a sum of money equal to all expenses, costs and fees, including reasonable attorney fees (including in-house counsel fees), as and when the same shall be incurred by the Port Authority in terminating this Agreement and in acquiring possession of the Premises together with a sum of money equal to all sums, fees and charges, including Rentals, which, but for such termination, would have become due and payable under this Agreement up to and including the date of the commencement of the term of such new lease, and all expenses, including reasonable attorney fees (including in-house counsel fees), incidental to the preparation, printing, execution, delivery and recording (if so recorded) of such new lease, the Leasehold Mortgagee, or its nominee or such purchaser, as herein provided, shall have no further rights or interest in or to the Premises and the new lease shall be deemed null and void and of no further force and effect except that the Leasehold Mortgagee, or its nominee or such purchaser shall on demand return all copies thereof to the Port Authority. Except to the extent required by law, such new lease shall not be recorded unless the Port Authority provides its prior written consent in such new lease to such recording. In the event of any dispute as to the amount to be paid to the Port Authority pursuant to this paragraph, all such payments due may be made under protest, but in any such event such payments shall be made. The granting of a new lease to the Leasehold Mortgagee, or its nominee or such purchaser shall not affect the survival of the Lessee's obligations hereunder as provided in the Section of this Agreement entitled "*Survival of the Obligations of the Lessee*". Any payment to be made or action to be taken by the Leasehold Mortgagee hereunder as a prerequisite to obtaining a new lease or keeping this Agreement in effect shall be deemed properly to have been made or taken by the Leasehold Mortgagee if such payment is made or action taken by its nominee; provided all of the conditions set forth in paragraph (q) hereof are fulfilled. Nothing contained in this paragraph (t) shall be deemed to limit or affect the Port Authority's interest in and to the Premises upon the expiration of the term of any new agreement. The provisions of this paragraph (t) shall survive the termination of this Agreement.

(u) In the event of termination of this Agreement and the execution and delivery of a new lease to the Leasehold Mortgagee, or its nominee or a purchaser at foreclosure as provided in paragraph (t) hereof, nothing herein contained shall be deemed to impose any obligation on the part of the Port Authority to deliver physical possession of the Premises to the Leasehold Mortgagee, or its nominee or such purchaser. The Port Authority agrees, however, that the Port Authority will, at the sole cost and expense of the Leasehold Mortgagee, or its nominee or such purchaser, cooperate in the prosecution of summary proceedings to evict the Lessee in the event of such termination.

(v) If the Leasehold Mortgagee or its nominee shall acquire the title to the Lessee's interest under this Agreement by foreclosure of the Leasehold Mortgage or by an

assignment in lieu of foreclosure, or under a new lease pursuant to this Section, or if a purchaser at a foreclosure sale shall acquire such title, the Leasehold Mortgagee, or its nominee or such purchaser shall not assign, sell or transfer this Agreement, directly or indirectly, or such lease replacing this Agreement, directly or indirectly, except to a person who shall qualify as an Institutional Lender under the provisions of paragraph (a) hereof or a successor in accordance with the provisions of paragraph (o) hereof. Nothing contained herein shall be construed to relieve the assignor under such assignment from any liability or obligation hereunder.

(w) No sale, transfer or assignment by the Lessee of its interest in this Agreement to the Port Authority shall create a merger between the estates of the Port Authority and the Lessee unless the Port Authority, the Lessee and the Leasehold Mortgagee shall specifically consent to such merger in writing, nor shall any such sale, transfer or assignment be deemed to affect or diminish the liabilities of the Lessee named in this Agreement, whether for survived damages or otherwise.

(x) Additional Rental Obligation:

In addition to all other Rentals payable by the Lessee under this Agreement including, but not limited to, the rentals set forth in the Section of this Agreement entitled "*Rentals and Abatement*", in the event and only in the event the Lessee shall grant a Leasehold Mortgage (which shall include the issuance of the Bonds in connection herewith) pledging its leasehold interest in this Agreement, for the period commencing on the effective date of the Leasehold Mortgage (hereinafter called the "*Financing Effective Date*") and ending on the date of the satisfaction of such Leasehold Mortgage or the maturity, retirement, redemption or refunding of all of the said Bonds, the Lessee agrees to pay the Additional Financing Rental (as hereinafter defined) to the Port Authority, as follows:

(1) The Lessee shall pay a rental (herein, together with the rental set forth in subparagraph [2] hereof, called the "*Additional Financing Rental*") in an amount equal to one and one-half percent (1½%), during the period from the Financing Effective Date to and including the day immediately preceding the first anniversary of the Financing Effective Date, of an amount which is sufficient, together with any other monies which may be available therefor, to pay the debt service on the aforesaid Leasehold Mortgage to the Leasehold Mortgagee or on the aforesaid Bonds to the bondholders. The Additional Financing Rental, as to the amount set forth hereinabove, shall be payable in installments, each of which shall be due and payable to the Port Authority at the same time as each debt service installment payment is due and payable. The percentage and time period set forth hereinabove shall change during the first three years following the Financing Effective Date as follows:

(i) during the period from the first anniversary of the Financing Effective Date to and including the day immediately preceding the second anniversary of the Financing Effective Date, the applicable percentage shall be two percent (2%) per annum; and

(ii) during the period from the second anniversary of the Financing Effective Date to and including the expiration or earlier termination of this Agreement, the applicable percentage shall be two and one-half percent (2½%) per annum.

(2) In the event this Agreement expires, or in the event this Agreement is terminated or cancelled by the Port Authority regardless of the reason therefor, or in the event of a final balloon payment, or in the event a Leasehold Mortgagee or bond trustee, as the case may be, shall declare the amount outstanding on the leasehold mortgage or all outstanding Bonds, as the case may be, to be immediately due and payable, none of the foregoing to include any refinancing permitted hereunder, then in any such event the total amount of debt service due on said leasehold mortgage or Bonds shall be determined (herein called the "*total debt service*") which shall be an amount in the aggregate sufficient, together with any other monies which may be available therefor, to retire all of the outstanding amounts due a mortgagee, bondholders, or other lenders, including accrued and unpaid interest and the premium or premiums, if any, and any other fees, charges, costs and expenses in connection with a leasehold mortgage or said Bonds then due and owing or incurred or paid or to be incurred or paid or to become due and owing as a result of the satisfaction or retirement thereof, as the case may be; provided, however, if the mortgagee's or Trustee's declaration of acceleration of the leasehold mortgage or the Bonds, as the case may be, shall be rescinded, the determination hereunder shall be deemed rescinded as well. Upon the occurrence of one or more of the events set forth in this paragraph (2) and the determination of the total debt service hereunder, instead of the Additional Financing Rental then being paid by the Lessee in accordance with the provisions of subparagraph (1) above, the Lessee shall pay an Additional Financing Rental in an amount equal to two and one-half percent (2½%) of said total debt service, which shall be payable in a lump sum at the same time as the total debt service is due and payable.

(3) Notwithstanding any other provision of this Agreement, or otherwise, the Additional Financing Rental hereunder shall not be subject to abatement, suspension, set-off or defense for any reason whatsoever.

(y) The Port Authority and the Lessee agree that the Leasehold Mortgagee shall have a right to participate in any arbitration or legal proceeding between the Port Authority and the Lessee that modifies the term of this Agreement, rentals due hereunder or Leasehold Mortgagee rights or obligations provided in this Section.

(z) The Port Authority shall accept performance by the Leasehold Mortgagee as satisfaction of the Lessee's obligations under this Agreement and the Lessee authorizes the Leasehold Mortgagee to take any action permitted hereunder at the Leasehold Mortgagee's option.

(aa) The Port Authority shall, from time to time after twenty (20) days' after the date of receipt by the Port Authority of a written request to do so, certify in writing to any Leasehold Mortgagee or proposed leasehold mortgagee or any proposed purchaser of a Leasehold Mortgage or the Lessee's interest in this Agreement, as to whether this Agreement is in full force and effect, whether any notice of default has been delivered to the Lessee, whether this Agreement has been amended from the date of original execution and the date to which

Basic Ground Rental and Building Rental have been paid. Any certifications so made shall be binding upon the Lessee.

(bb) Leasehold Mortgage Termination

Without limiting the Section of this Agreement entitled "*Assignment and Sublease*" or any other term or provision of this Agreement, the Leasehold Mortgage shall automatically terminate and end in any event upon the date which is the earliest to occur of the following:

- (1) the expiration, surrender or termination of the Basic Lease;
- (2) subject to the rights of the Leasehold Mortgagee provided herein, the expiration, surrender or termination of this Agreement; and
- (3) the date on which the loan secured by the Leasehold Mortgage shall no longer be outstanding.

(cc) No Waiver, etc.

(1) Nothing herein shall or shall be deemed to release or relieve the Lessee from any terms, provisions, covenants or conditions to be kept, performed or observed by the Lessee under this Agreement.

(2) Except as expressly provided herein to the contrary, and except for the rights expressly granted herein to the Leasehold Mortgagee, nothing herein shall constitute or be deemed to constitute any waiver by the Port Authority of any of its rights or remedies to evict the Lessee in the event the Port Authority terminates this Agreement pursuant to the Section of this Agreement entitled "*Termination by the Port Authority*", or otherwise.

(3) Except for the rights granted herein to the Leasehold Mortgagee, nothing herein shall constitute any waiver, impairment or limitation of any of claims, rights or remedies of the Port Authority based upon any event of default.

(dd) The Port Authority shall at any time (including before, during and at any time after any Refinancing) have rights of audit over any proposed financial analysis and related documentation used in connection with any Refinancing.

Section 70. No Third Party Beneficiary

There shall be no third-party beneficiaries of this Agreement. This Agreement shall be effective only as between the parties hereto (and their successors and assigns, if, as and to the extent permitted under this Agreement), and shall not be construed as creating or conferring upon any Person or entity any right, remedy or claim under or by reason of this Agreement. Notwithstanding the foregoing, nothing in this Section shall deprive the Leasehold Mortgagee of any of the rights granted to the Leasehold Mortgagee under the Section of this Agreement entitled "*Leasehold Mortgage – Foreclosure Rights*".

Section 71. Remedies under Bankruptcy and Insolvency Codes

If an order for relief is entered or if any stay of proceeding or other act becomes effective in favor of the Lessee or the Port Authority's interest in this Agreement in any proceeding commenced by or against the Lessee under the present or any future United States Bankruptcy Code or in a proceeding which is commenced by or against the Lessee seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any other present or future applicable federal, state or other bankruptcy or insolvency statute or law, the Port Authority shall be entitled to invoke any and all rights and remedies available to it under such bankruptcy or insolvency code, statute or law of this Agreement including such rights and remedies as may be necessary to adequately protect the Port Authority's right, title and interest in and to the Premises or any part thereof and adequately assure the complete and continuous future performance of the Lessee's obligations under this Agreement. Adequate protection of the Port Authority's right, title and interest in and to the Premises, and adequate assurance of the complete and continuous future performance of the Lessee's obligations under this Agreement, shall include all of the following requirements:

(a) that the Lessee shall comply with all of its obligations under this Agreement;

(b) that the Lessee shall continue to use the Premises only in the manner permitted by this Agreement; and

(c) that if the Lessee's trustee, the Lessee or the Lessee as debtor-in-possession assumes this Agreement and proposes to assign it (pursuant to Title 11 U.S.C. Section 365, as it may be amended) to any person who has made a bona fide offer there for, the notice of such proposed assignment, giving (i) the name and address of such person, (ii) all of the terms and conditions of such offer, and (iii) the adequate assurance to be provided the Port Authority to assure such person's future performance under this Agreement, including the assurances referred to in Title 11 U.S.C. Section 365[b](3), as it may be amended, and such other assurances as the Port Authority may reasonably require, shall be given to the Port Authority by the trustee, the Lessee or the Lessee as debtor-in-possession of such offer, not later than twenty (20) days before the date that the trustee, the Lessee or the Lessee as debtor-in-possession shall make application to a court of competent jurisdiction for authority and approval to enter into such assignment, and Port Authority shall thereupon have the prior right and option, to be exercised by notice to the trustee, the Lessee and the Lessee as debtor-in-possession, given at any time before the effective date of such proposed assignment, to accept an assignment of this Agreement upon the same terms and conditions and for the same consideration, if any, as the bona fide offer made by such person, less any brokerage fees, finder's fees, processing fees, or commissions, or any similar fees or commissions (collectively, "**Bankruptcy Brokerage Commissions**") which may be payable out of the consideration to be paid by such person for the assignment of this Agreement. The Port Authority shall have no obligation to pay such Bankruptcy Brokerage Commissions. If the Lessee attempts to arrange such an assignment of this Agreement, then as an element of the required adequate assurance to the Port Authority, and as a further condition to the Lessee's right to make such an assignment, the Lessee's agreement(s) with brokers shall, to the Port Authority's reasonable satisfaction, provide that the

Port Authority shall have no obligation to pay such Bankruptcy Brokerage Commission if the Port Authority exercises the Port Authority's rights under this Section.

Section 72. Port Authority Consent

Any approval or consent required by the Port Authority under this Agreement shall be in writing.

Section 73. Counterparts

This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 74. Governing Law

This Agreement and any claim, dispute or controversy arising out of, under or related to this Agreement, the relationship of the parties hereunder, and/or the interpretation and enforcement of the rights and obligation of the parties hereunder 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 75. Entire Agreement

This Agreement consists of the following: Sections 1 through 75, inclusive, Exhibits A, B, C, D and E and Schedules 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 Lessee. The Lessee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in this Agreement.

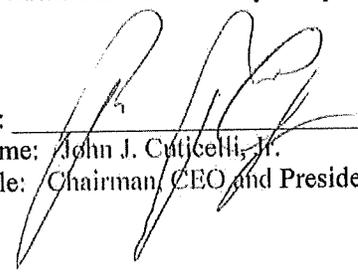
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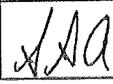
IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written.

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

By 
Print Name DAVID KAGAN
(Title) Assistant Director

ARK DEVELOPMENT LLC,
a Delaware limited liability company

By: 
Name: John J. Cuticelli, Jr.
Title: Chairman, CEO and President

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

SSA

(2)

Rocketeller Center Tel 212.484.2440
1230 Avenue of the Americas Tel 212.492.1472
Suite 1500
New York NY 10020
USA

Gensler

July 18, 2014

Mr. James Steven, PE
Program Director
JFK Redevelopment
The Port Authority of New York & New Jersey
John F. Kennedy International Airport Redevelopment
Building 14, Third Floor
Jamaica, NY 11430

RE: **JFK International Airport- Building 78**
 The Ark at JFK
 Basis of Design

Dear Mr. Steven:

By copy of this letter, along with the attached documentation, Gensler and The Ark at JFK, have enclosed 12 sets of the Basis of Design dated 7/18/14. This submission is a requirement of the lease being finalized. Upon your review, we are requesting, in writing, acknowledgment that we have met the condition of the lease requirement for submission.

Once received, Gensler shall commence design and submit the final design packages for TAA as needed.

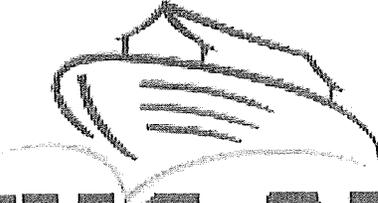
We appreciate your review and if any questions arise on this, please feel free to contact me.

Sincerely,



Cliff W. Bollmann, AIA
Senior Associate

cc: Enrico Socci/PANYNJ
 Aaron Perl/Ark



THE ARK
A WATER FRONT DEVELOPMENT AT JFK

BUILDING 78
BASIS OF DESIGN | APRIL 14, 2014
MAY 23, 2014 REVISED
July 18, 2014 REVISED

Basis of Design Narrative

CHAPTER 1 - General Information

- A. Project Introduction**
- B. Applicable Regulations and Codes**
- C. Program Summary**
- D. Area Calculations**

CHAPTER 2 - Project Elements

- A. Substructure**
 - A10 Foundations
- B. Shell**
 - B10 Superstructure
 - B20 Exterior Enclosure
 - B30 Roof System
 - B40 Exposed Structural Steel Paint Finish
 - B50 Mock-Ups
- C. Interiors**
 - C10 Interior Finishes
- D. Services**
 - D10 Conveying System
 - D20 Plumbing Systems
 - D30 Mechanical Systems
 - D40 Fire Protection Systems
 - D50 Electrical Systems
 - D60 Communications and Security
- E. Building Sitework**
 - E10 Site Preparation
 - E20 Site Pavement
 - E30 Site Utilities
 - E40 Site Stormwater
 - E50 Site Features

CHAPTER 1 - General Information

A. PROJECT INTRODUCTION

1. General:

The Basis of Design description is intended to outline the general scope, building systems and project standards and reference applicable codes to be used as the basis for developing the construction documents. The description indicates the general scope of the project in terms of architectural design, dimensions of the building, major architectural elements, and mechanical, plumbing, fire protection, and electrical systems.

2. Project Summary:

The proposed renovation of Building 78 entails the refitting of the north space to continue in operation as an air cargo facility, and the renovation of the south space as an animal quarantine and boarding facility. The building will accommodate subtenants that support the animal boarding facility. Primary access to the animal handling areas shall be from the landside with limited airside access. The Cargo operation shall have both landside and airside access.

The design of the new animal boarding facility will retain most of the exterior skin that is in place. Modifications to the exterior wall shall be limited to new entries and fenestrations. A new canopy structure for the cattle facility. The existing structure is steel. The interior is primarily on a single level with limited 2nd floor area. A new elevator and egress stairs shall be included in the scope of work. The exterior facade will be combination of metal panel, translucent panels, decorative CMU and glass windows. The roof will be white. Portions of the exterior shall be protected from precipitation by canopies.

The facility's administrative interior finishes will be similar to office type environments. Special considerations shall be given to the animal care areas utilizing durable and washable materials. Floor drains and hose bibs will also be included in certain areas.

At the Cargo side of the operation, dock levelers shall be repaired or replaced and new loading doors with dock seals, bumpers and pads shall be provided. The Cargo floor area shall remain relatively clear for their specific operation of shipping and receiving.

The ceiling will be exposed construction with all elements including structure and building systems painted. The floors will be a combination of exposed concrete and finished floor materials in office areas including carpeting, vct, and ceramic tile in restroom areas. The ceiling will be acoustical ceiling tile in office areas.

Exclusions:

No airside upgrades to the ramp are anticipated at this time.

Fire / Life Safety Code Analysis

Executive Summary

This summary outlines the key fire/life safety code requirements for the new ARK Animal and Cargo Holding Facility at John F. Kennedy Airport (JFK), New York.

Project Building Code

The new ARK Animal and Cargo Facility will be constructed in accordance with the 2014 New York City Building Code (BCNYC). As allowed in Section 28-101.4.3, certain aspects of the design will be in accordance with the 1968 Building Code of the City of New York (BCCNY). This will include the construction type, which will be maintained. On the air cargo portion of the facility, existing mechanical, electrical and plumbing systems will remain as allowed by the provisions of the 2014 codes.

The clause in the 2014 code states:

§28-101.4.3 Optional use of the 1968 building code work on prior code buildings. At the option of the owner, and subject to applicable provisions of this code, work on prior code buildings may be performed in accordance with the requirements and standards set forth in the 1968 building code, or where the 1968 code so authorizes, the code in effect prior to December 6, 1968.

Exceptions:

1. **Fuel gas, plumbing and mechanical work.** The installation of and work on all appliances, equipment, and systems regulated by the 2014 New York City fuel gas code, the 2014 New York City plumbing code and the 2014 New York City mechanical code shall be governed by applicable provisions of those codes relating to new and existing installations.
2. Fire protection systems. Alterations of buildings and changes of use or occupancy shall be governed by chapter 9 of the New York City Building Code, subject to special provisions for prior code buildings as set forth therein.
3. Elevators, conveyors, and amusement rides. The installation of and work on elevators, conveyors, and amusement rides shall be governed by Chapter 30, Appendix K of the New York City building code and the rules of the department subject to special provisions for prior code buildings as set forth therein.
4. Safety during construction operations. Safety of public and property during construction operations including demolition shall be governed by Chapter 33 of the New York City building code.
5. Accessibility. Alterations, including minor alterations, of buildings and changes of use or occupancy, shall be governed by chapter 11 of the New York city building code, subject to special provisions for prior code buildings as set forth therein.
6. **Encroachments into the public right of way.** Encroachments onto the public right of way shall be governed by Chapter 32 of the New York City building code.

7. **Administration and enforcement.** Except as otherwise limited by the commissioner, administration and enforcement of the 1968 building code shall be in accordance with this code, including but not limited to approval of construction documents, issuance of permits and certificates of occupancy, tests and inspections, penalties and enforcement.
8. **Special Inspections** Controlled inspections and semi-controlled inspections as referenced in the 1968 building code shall be deemed to be special inspections and shall be governed by the provisions of this code relating to special inspections.
9. **Materials.** Materials regulated in their use by the 1968 building code shall be subject to applicable provisions of this code.
10. Security grilles. The installation and replacement of security grilles shall comply with section 1008.1.4.5 of the New York city building code.
11. Energy efficiency. All work related to energy efficiency shall be regulated by the New York city energy conservation code.
12. Roof recovering and replacements.
 - 12.1 Installation and materials. Work involving the recovering or replacing of an existing roof covering shall be governed by sections 1510.1 through 1510.6 of the New York city building code;
 - 12.2 Cool roofs. [Alterations] Work involving the recovering or replacing of an existing roof covering shall comply with section [1504.8] 1504.9 of the New York city building code unless the area to be recovered or replaced is less than 50 percent of the roof area and less than 500 square feet.
 - 12.3 **Green roofs.** Notwithstanding the applicant's election to use the 1968 building code or prior code, work involving green roof systems and container gardens shall be permitted to be performed pursuant to Chapter 15 of the New York city building code.
13. Handrails. Where the alteration of a building includes the addition or replacement of stair enclosures, handrails shall comply with section 1009.12 and section 1012 of the New York city building code. Where the alteration of a building includes the addition or replacement of ramps, handrails shall comply with section 1010.8 and section 1012 of such code.
14. Guards. Where the alteration of a building involves the addition or replacement of guards, such guards shall comply with sections 1012 and 1607.7 of the New York city building code.
15. Areas of special flood hazard. Within areas of special flood hazard in accordance with section 28-104.9.4, all work for any activity regulated by Appendix G of the New York city building code shall be governed by such appendix.
16. Structural. The use of load resistance factor design (LRFD), calculation of live loads, and applicability of seismic and wind loads shall be governed by special provisions for prior code buildings as set forth in section 1601.2 of the New York city building code.
17. Emergency power systems. The installation of and work on emergency power systems shall comply with section 2702.1 of the New York city building code.
18. Parking garages and open parking lots. Where an alteration of a parking garage or an open parking lot includes an increase in the size of the electric service, such alteration shall include provisions for the installation of electric vehicle charging stations in accordance with section 406.2.11 or 406.7.11 of the New York City building code, as applicable

Introduction

Relevant Codes and Standards

The following Codes, Standards, and Regulations have been identified as providing some of the relative fire and life safety requirements for this project.

- The Building Code of New York City (2014 Edition).
- The New York City Fire Code 2014 (FCNYC).
- New York City Rules and Regulations.
- Port Authority Tenant Construction Review Manual (TCRM) – December 2008 Edition. General compliance with 2008 TCRM with exceptions for existing conditions and proposed variances.
- The New York City 2011 Electrical Code (2008 NEC with NYC Amendments).
- The New York City Plumbing Code (2014)
- The New York City Mechanical Code (2014)
- The Port Authority's Sustainability Guidelines

Construction and Occupancy Classification

Construction Classification

The construction type for the building is Type II-B as defined by the 2014 NYCBC. Section 507.4 allows two story unlimited area buildings that are provided with sprinklers and 60 foot side yards.

Per Table 601 of the BCNYC, this construction type requires the structural frame and bearing walls to be constructed of non-combustible, non-rated construction. Shafts and exit enclosures will require 1 hour fire rating except as allowed for in the code. Any incidental use rooms that require a fire separation will need to be supported by fire rated structure.

Occupancy Classification

The building has two primary occupancy classifications:

- B - business (Animal hospitals, kennels and pounds, BCNYC 304.1) and
- S-1 - moderate-hazard storage.

Compartmentation

The non-separated occupancy approach will be used where the building will be built in accordance with the most restrictive occupancy applied to all with regard to construction type and fire safety systems. The following incidental use separations are required in accordance with BCNYC Tables 508.2.

Room or area	Separation
Inclinator rooms	2 hours and sprinkler
IT rooms	1 hour
Flammable liquid storage	TBD based on amount

Tenant Separations

No rated tenant separation is needed for the ARK building as BCNYC 509.9 accepts non-residential spaces occupied by different tenants in a building sprinklered throughout from the 1-hr fire resistance rating requirement.

Corridors

Interior corridors in B and S occupancies serving 30 or more occupants do not need to be rated if the building is equipped with an automatic sprinkler system per BCNYC Table 1016.1.1.

Public corridors in B and S occupancies need a 1-hr fire resistance rating per BCNYC Table 1016.1.2

Vertical Shafts

Any vertical shaft such as an HVAC shaft, an elevator hoist way, or seismic joint opening areas are required to be protected by 1-hr rated walls (BCNYC, 707.4 and 713.1).

Opening Protection

Openings in walls that are required to have a fire-resistance rating will be protected by opening protectives such as fire shutters, fire doors, fire dampers, and glazing windows having the fire-resistance ratings listed below (BCNYC Table 715.3).

Table 1: Opening Protection

Fire-Resistance Rating of Fire Rated Wall in which Opening Occurs (hour)	Fire Protection Rating of Opening Protective
3	3 hr (two 1-1/2 hr doors are allowed in lieu of a 3 hr door)
2 or 1-1/2	1-1/2 hr

1	1 hr (shafts and exit enclosures) 3/4 hr (other fire barriers/partitions)
---	--

Opening Protection for Means of Egress Enclosures

Doors into stairs and exit passageways will have at least a 1 hr fire protection rating (BCNYC Table 715.3). Egress stairs from the second level can remain open as allowed by section 1019.1 exception 9 given at least two means of egress are provided, the building is fully sprinklered and only two stories are open to each other.

Exterior wall protection

The position of the aircraft and the ramp area are not changing and the area quantity of exterior opening will not be increased.

Interior Finish Materials

Flame Spread Requirements

Interior finish materials (materials that form the exposed interior surfaces of a building and are part of, or affixed to walls, ceilings and other structural elements) are governed by Chapter 8 of the BCNYC.

Interior finish classification is determined by ASTM E84: *The Standard Test Method for Surface Burning Characteristics of Building Materials*, (BCNYC 803.1). ASTM E84 groups materials (including composite finishes of two or more materials) into classes based on their flame spread characteristics (flame spread rating) determined from their performance under fire test conditions. The BCNYC requires that interior finishes and exposed structural materials have a flame spread rating not greater than the class prescribed for the given occupancy group. The interior finish requirements for the proposed occupancy types per BCNYC Table 803.5 are summarized below:

Table 2: Interior Finish Class Requirements from the BCNYC for Sprinklered Building

Occupancy Group Classification of the Space	Occupancy Group Designation	Vertical Exits and Exit Passageways	Exit Access Corridors and other Exitways	Rooms and Enclosed Spaces
Storage	S-1	B	C	C
Business	B	B	B	B
Factory (Mech/Elec)	F-2	B	C	C
Interior Finish Class			Flame Spread Rating (from ASTM E84)	
A			0 to 25	
B			26 to 75	
C			76 to 220	

Note: The above table assumes sprinkler protection. When a sprinkler system is not installed, interior finish material classifications would generally be one class higher (C would become B) with certain exceptions.

Smoke Production Requirements

Allowed interior finish materials are based on their smoke production, again based on ASTM E84 material testing. If the material smoke development rating is higher than that in Table 3, it cannot be used as an interior finish material (BCNYC 803.1.1) but in no case will exceed 450 in any location.

Table 3: Smoke Density Requirements for Interior Finish Materials

Location of Occupancy	Smoke Developed Rating
Exits, Corridors	25
Rooms in which the net floor area per occupant is ten square feet or less (e.g., assembly spaces)	25

Egress and Means of Escape

General

The determination of exit requirements for a building is primarily based upon the occupancy group classification of the building, the number of occupants, the floor area, the travel distance to an exit, and the capacity of the exits as required by the BCNYC. For this building, the exit requirements will be determined based on S-1 and B occupancies.

Occupant Loading

The ARK cargo and animal holding facility is used for storage (S-1) and business (B) operations. The occupant loads will be determined by the occupant load factors given in

Section 1004 of the BCNYC).

The occupant load will be determined based on the occupant load factors in Chapter 10 of the BCNYC for the following uses

Table 4: Occupancy Loading

Occupancy	Floor Area per Occupant (sq ft)
Business (animal holding and offices)	[REDACTED]
Assembly/waiting	[REDACTED]
Cargo/Storage/Mech/Elec rooms	[REDACTED]

Travel Distances

The maximum travel distance is defined by the most remote point in any room or space to the center of a door opening directly on an open exterior space, a vertical exit, an interior stair, an exit passageway or to a horizontal exit. If an area is provided with an automatic sprinkler system the distance is lengthened. Following is the maximum travel distance for the fully-sprinklered building in accordance with the Table 1015.1 of BCNYC and Table 1024.7 for the requirements:

Table 5: Travel Distances

Occupancy	Maximum Travel Distance
B (animal holding and offices)	[REDACTED]
S-1 (Cargo/Storage/Mech/Elec)	[REDACTED]

The common path of egress travel shall not exceed 100 ft (BCNYC 1013.3)

Exit Capacity

The minimum required width of exits shall not be less than the total occupant load served by the means of egress multiplied by the 0.3 in. per occupant for stairways and 0.2 in. per occupant for other exit components (Table 1005.1 of BCNYC).

Number of Exits

Egress from Rooms and Spaces

There will be at least two door openings, remote from each other and leading to exits, from every room or enclosed space in which the total occupant loads exceeds the number of persons listed in Table 1014.1 of BCNYC as below:

Table 6: Number of Exits

Occupancy	Maximum Occupant Load With One Door
B	[REDACTED]
S-1	[REDACTED]

Exits to the airside will need to be investigated and coordinated with security requirements.

Exits from Floors

There will be at least two independent exits, remote from each other. The building will be provided with exits with at least two meeting the required exit separation distance.

Dead-End Corridors

Dead ends in corridors will not exceed the length per BCNYC 1016.3 as below:

Table 7: Dead-End Corridors

Occupancy	Maximum Distance (feet)
S-1	[REDACTED]
B	[REDACTED]

Smoke Management

General Requirements

A smoke purge system is required by the BCNYC for this project. A smoke purge system is used primarily during fire-fighting operations to clear cool smoke from the building and is manually operated by fire department personnel.

Smoke Purge System

Section 912.1 of the BCNYC requires a post fire smoke purge system throughout the building as follows. A post fire smoke purge system is used primarily to aid fire-fighting operations.

Each fan is sized to exhaust 6 air changes of the entire volume of the respective space.

Suppression Systems

Sprinklers

BCNYC 903.2.8 requires an automatic sprinkler system throughout all buildings containing a group S-1 occupancy where

- The main use or dominant occupancy of a building greater than [REDACTED] is S-1,
- the S-1 fire area exceeds [REDACTED], or
- all S-1 areas combined exceed [REDACTED].

In areas that are not altered, the existing sprinkler system shall remain. In areas that are altered, the existing system shall be designed in compliance with NFPA 13.

- Occupancy Group S-1: Ordinary Hazard (Group 1) (specific occupancy classifications to be determined in accordance with NFPA 13).

Hydrants

The existing fire hydrant loop system shall be retained and be modified as needed

Standpipes

A Class III type system in accordance with BCNYC 905.3.1 shall be provided.

Detection and Alarm System

General Requirements

A closed circuit electrically supervised fire alarm signal system will be installed as required by BCNYC 907.2.14 (High-piled combustible storage areas).

- The design and installation of the fire detection and alarm system will be in accordance with BCNYC, TCRM, NFPA 72, National Electrical Code 2010 with NYC Amendments and other related code and standards.

Emergency Power

Emergency power will be provided for the following systems in accordance Sections 907.4, 1006.3, and 1011.5.3 of the BCNYC for the following:

- Elevators
- Alarm systems.
- Emergency lighting, if battery packs are not provided.
- Ventilating systems used for smoke purging or control.

Emergency Lighting and Exit Signage

General Requirements

Emergency lighting and exit signage to be provided in exits, exit discharges, and exit access components (e.g., corridors) per Sections 1006.1 and 1011.1 of BCNYC.

Emergency lighting facilities are to provide at least one foot candle (11 lux) of illumination at floor level (BCNYC 1006.2). Such lighting is to be on circuits that are separate from the general lighting and power circuits, either taken off ahead of the main switch or connected to a separate emergency lighting power source, and be arranged to operate automatically in the event of failure of the normal lighting system.

The location of every exit on every floor will be clearly indicated by exit signs. Such signs are to be placed at an angle with the exit opening if such placement is required for the signs to serve their purpose. In long corridors, in open floor areas, and in all other situations where the location of the exit might not be readily visible or understood, directional signs are to be provided to serve as guides from all portions of the corridor or floor. Exit sign placement shall be such that no point in an exit access corridor is more than 100 ft or the listed viewing distance of the sign, whichever is less, from the nearest visible exit sign (BCNYC 1011.1).

Miscellaneous Requirements

- Fire protection plans as described in BCNYC Section 106.9 must be filed along with other design documents.
- Electrical design is required to comply with the Electrical Code of New York City. Refer to Section 9 of the Tenant Construction Review Manual for specific requirements for electrical service.

C. PROGRAM SUMMARY:

A state-of-the-art animal handling facility, which shall include, among other things, the following: a business center; animal handling modules; a Veterinary Medicine clinic for small animals; Veterinary Medical laboratory; aviary (pet and exotic birds); equestrian areas; areas for companion animal boarding and grooming; animal exercise areas; mandatory quarantine area and Isolation Areas.

State-of-the-art cargo handling facility occupying approximately seven and nine tenths (7.9) acres of the Ground Area and approximately 93,900 square feet of the Building consisting of office and warehouse space for cargo operations permitted hereunder, including the design, construction and installation of appropriate fixtures, furnishings and equipment

D. SERVICES

The following narrative describes the Division 21 (Fire Protection), 22 (Plumbing) and 23 (HVAC) scope of work associated with the renovations to Hangar 78 at the JFK airport. Our assumption is that Code of Federal Regulations (CFR) Title 9 – Animals and Animal Products are applicable. Some of the design principles from Handbook of Facility Planning, Vol 2, and Laboratory Animal Facilities are utilized as good engineering practices for animal handling spaces. It assumed that the redundant systems or dedicated animal waste sanitary system are not required for this facility.

D10 Conveying Systems

The complete vertical circulation systems shall comply with the applicable local codes and sized to accommodate people.

The facility is equipped with stairs.. Handrails and risers/threads painted.

D20 Plumbing Systems

The plumbing system will consist of the following:

1. Domestic (Potable) Hot and Cold Water and animal drinking water system
 - a. Utility Service.
 - i. New domestic water service equipment including water meter and reduced pressure zone backflow preventer
 - ii. Sub meter will be included to meter the air cargo water consumption
 - iii. Separate water heaters will be provided for each tenant area
 - iv. Dedicated non-potable animal drinking water system for animal consumption
 - b. Air Cargo
 - i. Domestic hot and cold water for restrooms
 - ii. Domestic cold water to electric water coolers
 - iii. Domestic water to both interior hose bibbs and exterior non freeze wall hydrants located at exterior columns spaced approximately 100ft on center
 - c. Business Center
 - i. Domestic hot and cold water for restrooms
 - ii. Domestic cold water to electric water coolers
 - iii. Domestic water to both interior hose bibbs and exterior non freeze wall hydrants located at exterior columns spaced approximately 100ft on center
 - d. USDA Aviary Quarantine

- i. Domestic hot and cold water for restrooms
 - ii. Domestic cold water to electric water coolers
 - iii. Domestic hot and cold water to staff break room sink
 - iv. One automatic animal drinking water manifold per cubic
 - v. Domestic hot and cold water hose bibbs equipped with a detergent dispenser
 - e. Veterinary Clinic
 - i. Domestic hot and cold water for restrooms
 - ii. Domestic cold water to electric water coolers
 - iii. Domestic hot and cold water to staff break room sink
 - iv. Domestic hot and cold water to exam room sinks
 - v. Domestic hot and cold water to surgery room sinks
 - f. Pet Boarding
 - i. Domestic hot and cold water for restrooms
 - ii. Domestic cold water to electric water coolers
 - iii. Domestic hot and cold water to staff break room sink
 - iv. One automatic animal drinking water manifold in grooming area, play area and training area
 - v. Domestic hot and cold water hose bibbs equipped with a detergent dispenser in grooming area, play area and training area
 - g. USDA Equine Import & Export
 - i. Domestic hot and cold water for restrooms
 - ii. Domestic cold water to electric water coolers
 - iii. Domestic hot and cold water to staff break room sink
 - iv. One automatic animal drinking water manifold per stall
 - v. Domestic hot and cold water hose bibbs equipped with a detergent dispenser per stall
 - h. Livestock Handling
 - i. One automatic animal water manifold per stall
 - ii. Domestic hot and cold water hose bibbs equipped with a detergent dispenser per stall
2. Sanitary
- a. Utility Service.
 - i. Existing sanitary outfall will remain and serve portions of the renovation.
 - ii. Floor drain/floor troughs (with cover) shall be provided in animal holding area. All floor drain shall be 6" in diameter.
 - b. Air Cargo

- i. Existing trench drains will be cleaned, re-grated and re-used.
 - ii. Sanitary and Vent for restrooms
 - iii. Sanitary and vent for electric water coolers
 - c. Business Center
 - i. Sanitary and Vent for restrooms
 - ii. Sanitary and vent for electric water coolers
 - d. USDA Aviary Quarantine
 - i. Sanitary and Vent for restrooms
 - ii. Sanitary and vent for electric water coolers
 - iii. Sanitary and Vent for staff break room sink
 - iv. Floor drain/floor troughs (with cover). All floor drain shall be 6" in diameter, equipped with flushing valves, traps and clean outs.
 - v. Sanitary and vent for floor drains
 - e. Veterinary Clinic
 - i. Sanitary and Vent for restrooms
 - ii. Sanitary and vent for electric water coolers
 - iii. Sanitary and Vent for staff break room sink
 - iv. Sanitary and vent for exam room sinks
 - v. Sanitary and vent for surgery room sinks
 - vi. Floor drain/floor troughs (with cover). All floor drain shall be 6" in diameter, equipped with flushing valves, traps and clean outs.
 - f. Pet Boarding
 - i. Sanitary and Vent for restrooms
 - ii. Sanitary and vent for electric water coolers
 - iii. Sanitary and Vent for staff break room sink
 - iv. Floor drain/floor troughs (with cover) in grooming area, play area and training area. All floor drain shall be 6" in diameter, equipped with flushing valves, traps and clean outs.
 - v. Sanitary and vent for floor drains
 - g. USDA Equine Import & Export
 - i. Sanitary and Vent for restrooms
 - ii. Sanitary and vent for electric water coolers
 - iii. Sanitary and Vent for staff break room sink
 - iv. Floor drain/floor troughs (with cover) for per stall and corridor. All floor drain shall be 6" in diameter, equipped with flushing valves, traps and clean outs.

- v. Sanitary and vent for floor drains
 - h. Livestock Handling
 - i. Floor drain/floor troughs (with cover) for per stall and corridor. All floor drain shall be 6" in diameter, equipped with flushing valves, traps and clean outs.
 - ii. Sanitary and vent for floor drains
- 3. Storm Water
 - a. The current storm water system consists of pitched roof draining to gutters and downspouts. This system will be repaired.
- 4. Natural Gas
 - a. The natural gas service will be modified to serve the new equipment. Piping will be black steel with malleable iron fittings. Refer to D30 for equipment requiring natural gas. Natural gas service will also be required for the site incinerator.
- 5. Medical Gas
 - a. The medical gas systems shall be not required.

D30 Mechanical Systems

The HVAC system will consist of the following:

- 1. Utilities
 - a. Heating: Gas fired heating equipment will be used throughout. A boiler will serve terminal reheat in the Ark only area of the building. The Cargo area will utilize the existing gas fired radiant system.
 - b. Air conditioning shall be furnished by direct expansion split systems.
 - c. Two clean steam generators for the steam humidifiers installed in AHUs serving the animal handling areas.
- 2. Air Cargo:
 - a. Design set points:
 - i. Open Area:
 - 1. Heating: 68degrees F
 - 2. Cooling: Not Applicable
 - ii. Office Areas:
 - 1. Heating 68 degrees F
 - 2. Cooling: 78 degrees F
 - b. Ventilation
 - i. Open Area: Natural Ventilation
 - ii. Enclosed Offices: Mechanical Ventilation
 - c. Heat:
 - i. Open Area: Gas Fired Infra-Red Heaters
 - ii. Enclosed Offices: Refer to Air Conditioning for system

description.

d. Air Conditioning

i. Open Area: None;

ii. Enclosed Offices: The Mechanical system will be a forced constant volume air system consisting of roof mounted gas heating electric dx cooling air handlers.

1. Option: Console fan coils with exterior wall louver

e. Humidification is not included.

3. Business Center

a. Design set points:

i. Open Area:

1. Heating: 68degrees F

2. Cooling: 78 degrees F

b. Mechanical Ventilation, Refer to Air Conditioning for system description

c. Heat:

i. Exterior entrances will be provided with electric wall heaters

ii. Office areas will be provided with forced air heating system. Refer to Air Conditioning System description.

d. Air Conditioning

i. The Mechanical system will be a forced air variable air volume system consisting of gas fired heating electric DX cooling packaged roof mounted air handlers.

ii. Air Distribution

1. Air will be distributed to hot water VAV box terminal equipment through medium pressure supply air distribution. Common main unit return ductwork will draw out of common return air plenum.

iii. Humidification is not included

4. USDA Aviary Quarantine

a. Design set points:

i. Heating: 68degrees F

ii. Cooling: 78 degrees F

iii. Relative Humidity: Minimum of 30% winter, 70% maximum in summer.

b. Mechanical Ventilation, Refer to Air Conditioning for system description

c. Heat: Forced air heating system. Refer to Air Conditioning System description.

d. Pressurization: Cascade pressure designed with negative pressure for the spaces handling animals.

e. Air Conditioning

- i. The Mechanical system will be a forced air variable air volume system designed with a minimum of 10 air changes per hour and 100% fresh air consisting of gas fired heating electric DX cooling packaged roof mounted air handlers.
 1. Air Distribution
 - a. Air will be distributed to hot water VAV box terminal equipment through medium pressure supply air distribution.
 - b. Exhaust air will be fully ducted to energy recovery coll. Exhaust grilles will have MERV 8 from the spaces handling animals.
 - ii. Relative Humidity: Minimum of 30% winter, 70% maximum in summer.
 1. Pressurization: Cascade pressure designed with negative pressure for the spaces handling animals.

5. Veterinary Clinic

- a. Design set points:
 - i. Heating: 68degrees F
 - ii. Cooling: 78 degrees F
 - iii. Relative Humidity: Minimum of 30% winter, 70% maximum in summer.
- b. Mechanical Ventilation, Refer to Air Conditioning for system description
- c. Heat, Forced air heating system. Refer to Air Conditioning System description.
- d. Air Conditioning
 - i. The Mechanical system will be a forced air system designed with a minimum of 10 air changes per hour and 50% fresh air consisting of gas fired heating electric DX cooling packaged roof mounted air handlers.
 1. Air Distribution
 - a. Air will be distributed to hot water VAV box terminal equipment through medium pressure supply air distribution.
 - b. Return air will be fully ducted. Return grilles will have MERV 8 from the spaces handling animals. HEPA filters shall be provided in return airstream in AHU.
 - ii. Relative Humidity: Minimum of 30% winter, 70% maximum in summer.
 1. Pressurization: Cascade pressure designed with negative pressure for the spaces handling animals.

- iii. A Common Variable Air Volume system will serve the following a terminal reheat VAV box per individual space:
 - 1. Exam Rooms
 - 2. Reception/Waiting
 - 3. Offices
 - 4. Pharmacy
 - 5. Lab
 - 6. Treatment Area
 - 7. Cat Ward
 - 8. Grooming
 - 9. Staff Lounge
 - 10. Dental Area
 - 11. Dog Run
- iv. A Common Constant Volume system will serve the following spaces with a constant volume terminal reheat VAV box per space and air distribution through terminal HEPA filtration units:
 - 1. If needed.
- v. Dedicated exhaust will be provided for the dog run and restroom areas

6. Pet Boarding

- a. Design set points:
 - i. Heating: 68degrees F
 - ii. Cooling: 78 degrees F
 - iii. Relative Humidity: Minimum of 30% winter, 70% maximum in summer.
- b. Mechanical Ventilation, Refer to Air Conditioning for system description
- c. Heat, Forced air heating system. Refer to Air Conditioning System description.
- d. Air Conditioning
 - i. The Mechanical system will be a forced air system designed with a minimum of 15 air changes per hour and 100% fresh air consisting of gas fired heating electric DX cooling packaged roof mounted air handlers.
 - 1. Air Distribution
 - a. Air will be distributed to hot water VAV box terminal equipment through medium pressure supply air distribution.
 - b. Exhaust air will be fully ducted to energy recovery coil. Exhaust grilles will have MERV

- 8 from the spaces handling animals.
 - ii. Relative Humidity: Minimum of 30% winter, 70% maximum in summer.
 - 1. Pressurization: Cascade pressure designed with negative pressure for the spaces handling animals.
 - iii. A Common Variable Air Volume system will serve the following a terminal reheat VAV box per individual space:
 - 1. Lobby
 - 2. Executive Suites
 - 3. Deluxe Suites
 - 4. Presidential Suites
 - 5. Mixed Occupancy
 - 6. Lounges
 - iv. A Common Variable Air Volume system will serve the following spaces with a terminal reheat VAV box per space and air distribution through ceiling diffusers:
 - 1. Play Area
 - 2. Training
 - v. Dedicated exhaust will be provided for the restroom areas
7. USDA Equine Import & Export
- a. Design set points:
 - i. Heating: 68degrees F
 - ii. Cooling: 78 degrees F
 - iii. Relative Humidity: Minimum of 30% winter, 70% maximum in summer.
 - b. Mechanical Ventilation, Refer to Air Conditioning for system description
 - c. Heat, Forced air heating system. Refer to Air Conditioning System description.
 - d. Air Conditioning
 - i. The Mechanical system will be a forced air system designed with a minimum of 15 air changes per hour and 100% fresh air consisting of gas fired heating electric DX cooling packaged roof mounted air handlers.
 - 1. Air Distribution
 - a. Air will be distributed to hot water VAV box terminal equipment through medium pressure supply air distribution.
 - b. Exhaust air will be fully ducted to energy recovery coil. Exhaust grilles will have MERV 8 from the spaces handling animals.

- ii. Relative Humidity: Minimum of 30% winter, 70% maximum in summer.
 - 1. Pressurization: Cascade pressure designed with negative pressure for the spaces handling animals.
- iii. A Common Variable Air Volume system will serve the following a terminal reheat VAV box per individual space:
 - 1. Offices
 - 2. Labs
- iv. A constant supply air control valve with hot water terminal reheat and a constant exhaust air control valve shall be provided to each stall/cell with air distribution through ceiling diffusers and exhaust grilles at 12" to 24" above finish floor for the following spaces. Negative pressure in relationship to the corridor shall be maintained for each stall/cell through the air control valves.
 - 1. Import holding stalls
 - 2. Export holding stalls
- v. All holding stalls shall be 100% exhausted and fully ducted to energy recovery coil. Exhaust grilles will have MERV 8 from each stall.

8. Livestock Handling

- a. Livestock handling areas are all open to the exterior environment and will not be heated, ventilated or air conditioned. Overhead circulating fan shall be provided for air circulation in this area.

D40 Fire Protection Systems

The existing wet-pipe sprinkler system will be modified as required due to the modifications to the interior space layout.

D50 Electrical Systems

The project will install and utilize S & C switches when connecting to the Port Authority's 5kV system.

A. Main Facility Electrical Service

The existing, 5 KV, medium voltage, underground feeder distribution system including the 5 KV free standing switchgear, and two pad mount transformers shall be retained and modified accordingly for the Cargo Area. The Ark shall replace the transformer, feeders and switchgear. The equipment configuration and capacity shall be determined by the Site Electrical Engineering Consultant and the utility company. The service voltage from the pad mount transformer(s) will be 480/277 volts, 3 phase and 4 wire._

Underground Electrical Service Lateral(s) from the new pad mount transformer(s) to the

Electrical Service Equipment will be provided for the ARK Building. The ampere rating of the service laterals will be determined as the design advances.

"Electrical Service Entrance Rated Switchboards (MSB's)" at the Ark will be installed under this project. The service entrance section(s) will have a main service disconnecting means with ground fault protection. The number of electrical services required and the ampere rating of the service equipment will be determined as the design advances. Each MSB will have distribution sections with dedicated branch feeder circuit breakers for each tenant and a dedicated circuit breaker(s) will be provided to supply "House" loads.

The dedicated "feeders" for each of the seven tenant areas and for the "house" loads will be routed through utility company metering equipment.

Each tenant and the "house" will receive a monthly bill from the utility company that identifies the kwh consumption and the associated charges and the KW Demand and associated charges for the respective area.

B. Tenant Space Electrical Services

The service to the Cargo space shall be retained.

The ampere ratings of the 480 volt feeder and the 480 volt Main Distribution Panel (MDP-BC) for the Business Center will be determined as the design advances. All fixtures and equipment within the Business Center space will be supplied from MDP-BC.

The ampere ratings of the 480 volt feeder and the 480 volt Main Distribution Panel (MDP-VC) for the Veterinary Clinic will be determined as the design advances. All fixtures and equipment within the Veterinary Clinic space will be supplied from MDP-VC.

The ampere ratings of the 480 volt feeder and the 480 volt Main Distribution Panel (MDP-PB) for Pet Boarding will be determined as the design advances. All fixtures and equipment within the Pet Boarding space will be supplied from MDP-PB.

The ampere ratings of the 480 volt feeder and the 480 volt Main Distribution Panel (MDP-IE) for USDA Equine Import & Export and USDA Aviary Quarantine will be determined as the design advances. All fixtures and equipment within the USDA Equine Import & Export space will be supplied from MDP-IE.

The ampere ratings of the 480 volt feeder and the 480 volt Main Distribution Panel (MDP-LH) for Livestock Handling will be determined as the design advances. All fixtures and equipment within the Livestock Handling space will be supplied from MDP-LH.

The ampere ratings of the 480 volt feeder and the 480 volt Main Distribution Panel (MDP-

H) for HOUSE loads will be determined as the design advances. Fixtures and equipment supplied from MDP-H may include but not be limited to the following: Outdoor site lighting, outdoor wall mount lighting, roof top air craft warning lights, outdoor security access systems (Gate Control), outdoor intrusion alarm systems (CCTV), Emergency/Standby System, etc.

C. Standby Power Systems

A permanently installed standby generator for systems will be installed under this project. At least one 480 volt, 3-pole output circuit breaker (size to be determined) will be installed.

Life Safety Systems include indoor emergency egress lighting, exit lighting, outdoor emergency lighting to the public way, aircraft warning lights, and Building Wide Fire Alarm Systems. Emergency ballasts will be installed on fluorescent light fixtures and/or Self-contained Emergency Light Fixtures (with integral battery backup) to provide the required emergency egress lighting. Exit light fixtures will be supplied with integral battery backup.

A single emergency generator shall be designed to accommodate life safety and standby power that is needed for the tenants.

D. Electrical Systems by Tenant

a. Air Cargo

- i. The existing systems shall be retained and modified to meet their respective needs.

b. Business Center

Electrical systems will consist of some or all of the following:

- i. 480/277 volt panels to supply equipment, light fixtures, etc.
- ii. Dry type transformers with kVA rating as required to support loads being served at 208 and 120 volts
- iii. 208/120 volt panels to supply convenience outlets, special purpose outlets, small equipment, etc.
- iv. Light fixtures to achieve lighting levels as recommended by IESNA and light fixture types that are suitable for their installed conditions and intended purpose
- v. Lighting control devices and/or equipment to manage lighting systems as required by IECC
- vi. Emergency egress lighting system and exit lighting system as required by code
- vii. 120 volt convenience outlets at work stations
- viii. 120 volt GFI receptacles in all rest rooms and within 6 feet of any

sink

- ix. 120 volt GFI receptacles on outside building wall at all exit door and overhead door locations as applicable
- x. 480 and/or 208 volt receptacles for specific loads as directed by the Business Center
- xi. Standby power connections to equipment as directed by Business Center representatives
- xii. Electrical connections to HVAC equipment
- xiii. Electrical connection to Elevator
- xiv. Limited Interior Fire Alarm Systems as required by applicable code
- xv. Security Access, Intrusion Alarm and CCTV Surveillance Systems as directed by Business Center representatives
- xvi. Voice and Data Distribution from utility source to Business Center's Data Closet
- xvii. Voice and Data raceway system within tenant's space as directed by Business Center representatives
- xviii. CATV Distribution from utility source to Business Center's Data Closet
- xix. CATV raceway system within tenant's space as directed by Business Center representatives

c. USDA Aviary Quarantine

Electrical systems will consist of some or all of the following:

- i. 480/277 volt panels to supply equipment, light fixtures, etc.
- ii. Dry type transformers with kVA rating as required to support loads being served at 208 and 120 volts
- iii. 208/120 volt panels to supply convenience outlets, special purpose outlets, small equipment, etc.
- iv. Light fixtures to achieve lighting levels as recommended by IESNA and light fixture types that are suitable for their installed conditions and intended purpose
- v. Lighting control devices and/or equipment to manage lighting systems as required by IECC
- vi. Emergency egress lighting system and exit lighting system as required by code
- vii. 120 volt convenience outlets at work stations
- viii. 120 volt GFI receptacles in all rest rooms and within 6 feet of any sink
- ix. 480 and/or 208 volt receptacles for specific loads as directed by the USDA Aviary Quarantine
- x. Emergency power connections to equipment as required by applicable code

- xi. Standby power connections to equipment as directed by USDA Aviary Quarantine's representatives
- xii. Electrical connections to HVAC equipment
- xiii. Limited Interior Fire Alarm Systems as required by applicable code
- xiv. Security Access, Intrusion Alarm and CCTV Surveillance Systems as directed by USDA Aviary Quarantine's representatives
- xv. Voice and Data Distribution from utility source to each USDA Aviary Quarantine's Data Closet
- xvi. Voice and Data raceway system within tenant's space as directed by USDA Aviary Quarantine's representatives
- xvii. CATV Distribution from utility source to each tenant's Data Closet
- xviii. CATV raceway system within tenant's space as directed by USDA Aviary Quarantine's representatives

d. Veterinary Clinic

Electrical systems will consist of some or all of the following:

- i. 480/277 volt panels to supply equipment, light fixtures, etc.
- ii. Dry type transformers with kVA rating as required to support loads being served at 208 and 120 volts
- iii. 208/120 volt panels to supply convenience outlets, special purpose outlets, small equipment, etc.
- iv. Light fixtures to achieve lighting levels as recommended by IESNA and light fixture types that are suitable for their installed conditions and intended purpose
- v. Lighting control devices and/or equipment to manage lighting systems as required by IECC
- vi. Emergency egress lighting system and exit lighting system as required by code
- vii. 120 volt and/or GFI convenience outlets at Exam Rooms, Reception/Waiting, Offices, Pharmacy, Labs, Treatment Areas, Cat Ward, Boarding Areas, Extended Stay Areas, ICU Rooms, Isolation Room, Surgery Rooms, Radiology, etc.
- viii. 120 volt GFI receptacles in all rest rooms and within 6 feet of any sink
- ix. 120 volt GFI receptacles on outside building wall at all exit door and overhead door locations as applicable
- x. 480 and/or 208 volt receptacles for specific loads as directed by the Veterinary Clinic
- xi. Standby power connections to equipment as directed by Veterinary Clinic representatives
- xii. Electrical connections to HVAC equipment
- xiii. Electrical connection to vertical transportation

- xiv. Limited Interior Fire Alarm Systems as required by applicable code
- xv. Security Access, Intrusion Alarm and CCTV Surveillance Systems as directed by Veterinary Clinic representatives

e. Pet Boarding

Electrical systems will consist of some or all of the following:

- i. 480/277 volt panels to supply equipment, light fixtures, etc.
- ii. Dry type transformers with kVA rating as required to support loads being served at 208 and 120 volts
- iii. 208/120 volt panels to supply convenience outlets, special purpose outlets, small equipment, etc.
- iv. Light fixtures to achieve lighting levels as recommended by IESNA and light fixture types that are suitable for their installed conditions and intended purpose
- v. Lighting control devices and/or equipment to manage lighting systems as required by IECC
- vi. Emergency egress lighting system and exit lighting system as required by code
- vii. 120 volt convenience outlets at Lobby, Executive Suites, Deluxe Suites, Presidential Suites, Mixed Occupancy, Lounges, Play Areas, Training Areas, etc.
- viii. 120 volt GFI receptacles in all rest rooms and within 6 feet of any sink
- ix. 120 volt GFI receptacles on outside building wall at all exit door and overhead door locations as applicable
- x. 480 and/or 208 volt receptacles for specific loads as directed by Pet Boarding
- xi. Standby power connections to equipment as directed by Pet Boarding representatives
- xii. Electrical connections to HVAC equipment
- xiii. Limited Interior Fire Alarm Systems as required by applicable code
- xiv. Security Access, Intrusion Alarm and CCTV Surveillance Systems as directed by Pet Boarding representatives
- xv. Voice and Data Distribution from utility source to each Pet Boarding's Data Closet

f. USDA Equine Import & Export

Electrical systems will consist of some or all of the following:

- i. 480/277 volt panels to supply equipment, light fixtures, etc.
- ii. Dry type transformers with kVA rating as required to support loads being served at 208 and 120 volts

- iii. 208/120 volt panels to supply convenience outlets, special purpose outlets, small equipment, etc.
- iv. Light fixtures to achieve lighting levels as recommended by IESNA and light fixture types that are suitable for their installed conditions and intended purpose
- v. Lighting control devices and/or equipment to manage lighting systems as required by IECC
- vi. Emergency egress lighting system and exit lighting system as required by code
- vii. 120 volt convenience outlets at work stations in offices, labs, etc.
- viii. 120 volt GFI receptacles in all rest rooms and within 6 feet of any sink
- ix. 120 volt GFI receptacles on outside building wall at all exit door and overhead door locations as applicable
- x. 480 and/or 208 volt receptacles for specific loads as directed by USDA Equine Import & Export
- xi. Emergency power connections to equipment as required by applicable code
- xii. Standby power connections to equipment as directed by USDA Equine Import & Export representatives
- xiii. Electrical connections to HVAC equipment
- xiv. Limited Interior Fire Alarm Systems as required by applicable code
- xv. Security Access, Intrusion Alarm and CCTV Surveillance Systems as directed by USDA Equine Import & Export representatives at import and export holding stalls, etc.
- xvi. Voice and Data Distribution from utility source to each USDA Equine Import & Export's Data Closet
- xvii. Voice and Data raceway system within tenant's space as directed by USDA Equine Import & Export representatives
- xviii. CATV Distribution from utility source to USDA Equine Import & Export's Data Closet
- xix. CATV raceway system within tenant's space as directed by USDA Equine Import & Export representatives

g. Livestock Handling

Electrical systems will consist of some or all of the following:

- i. 480/277 volt panels to supply equipment, light fixtures, etc.
- ii. Dry type transformers with kVA rating as required to support loads being served at 208 and 120 volts
- iii. 208/120 volt panels to supply convenience outlets, special purpose outlets, small equipment, etc.
- iv. Light fixtures to achieve lighting levels as recommended by IESNA

and light fixture types that are suitable for their installed conditions and intended purpose

- v. Lighting control devices and/or equipment to manage lighting systems as required by IECC
- vi. Emergency egress lighting system and exit lighting system as required by code
- vii. 120 volt GFI receptacles on outside building wall for maintenance
- viii. 480 and/or 208 volt receptacles for specific loads as directed by Livestock Handling
- ix. Standby power connections to equipment as directed by Livestock Handling representatives
- x. Electrical connections to LIFT equipment
- xi. CCTV Surveillance Systems as directed by Livestock Handling representatives at import and export holding stalls, etc.
- xii. Voice and Data Distribution from utility source to location to be determined
- xiii. Voice and Data raceway system within the tenant's area as directed by Livestock Handling representative

h. HOUSE AREAS

Electrical systems will consist of some or all of the following:

- i. 480/277 volt panels to supply equipment, light fixtures, etc.
- ii. Dry type transformers with kVA rating as required to support loads being served at 208 and 120 volts
- iii. 208/120 volt panels to supply convenience outlets, special purpose outlets, small equipment, etc.
- iv. Outdoor wall mount light fixtures to achieve lighting levels as recommended by IESNA at public side of building and FAA
- v. Outdoor wall mount and/or roof mount light fixtures to achieve lighting levels as required by FAA at air side of building
- vi. Roof mount, aircraft warning light fixtures as required by FAA
- vii. All light fixtures shall be suitable for their installed conditions and intended purpose
- viii. Lighting control devices and/or equipment to manage lighting systems as required by IECC
- ix. Emergency egress lighting system to the "public way" as required by code
- x. 120 volt GFI receptacles on outside building wall at all exit door and overhead door locations
- xi. Standby power connections to equipment as required, i.e. Gate Controllers, etc.
- xii. CCTV Surveillance Systems as directed by ARK representatives

xiii. Voice and Data Distribution from utility source to House Data C

I. Incinerator

Electrical system will include power to the incinerator as required. Power will initiate from a 'House' panel and run underground to the incinerator electrical connection point at a location on site.

D60 Communication and Security

A. Voice and Data Service(s)

Telephone and/or Fiber Optic communication systems services to the ARK Building are to be removed and replaced with new as determined by the Site Electrical Engineering Consultant.

Dedicated Telephone and/or Fiber Optic Services will be extended to each tenant space (Air Cargo, Business Center, USDA Aviary Quarantine, Veterinary Clinic, Pet Boarding, USDA Equine Import & Export and Livestock Handling) and to the "House". Voice and Data distribution from the utility source at the main communications rooms to each data closet in the tenant spaces will be provided including conduit and fiber optic backbone. The type and capacity of each service will be determined by the tenant as the design advances.

Voice and Data Distribution for each tenant will include backbone infrastructure (back boxes, conduit stubs, and cable tray), cabling, and coordination with the tenant's I.T. personnel. System requirements, head end equipment, devices and terminations to be the responsibility of each tenant.

B. Community Access Television Service (CATV)

CATV service to the ARK Building shall be provided.

Dedicated CATV Services will be extended to Air Cargo, Business Center, USDA Aviary Quarantine, Veterinary Clinic, Pet Boarding and to USDA Equine Import & Export and Livestock Handling as directed by each tenant. Distribution from the utility source at the main communications rooms to a data closet in the tenant spaces will be provided including conduit and cable. The type and capacity of each service will be determined by the tenant as the design advances.

Distribution for each tenant will include backbone infrastructure (back boxes, conduit stubs, and cable tray) and cabling. System requirements, equipment, devices and terminations to be the responsibility of each tenant.

E. BUILDING SITE WORK

The following narrative describes the scope of civil and utility work associated with the renovations of Hangar 78 at the JFK Airport. The program includes the renovation of the existing building into an air cargo and animal handling facilities. Each facility will operate independently with separate vehicle access and parking areas. Design Vehicles for each facility are as follows:

- a. Air Cargo
 - i. Parking – to be determined
 - ii. Truck Docks - +/- 8
 - iii. Truck Size - WB-67
 - iv. Access from Radar Road off of North Boundary Road

- b. Animal Handling Facility
 - i. Parking - to be determined
 - ii. Truck Docks – 4
 - iii. Truck size WB-50 max
 - iv. Access from Old Rockaway Blvd.

E10 Site Preparation

The extent of civil removals work is limited to removal and repair of existing pavement and drainage system, construction of a new main building entrance, installation of new utility services for the renovated building uses.

Fill material will be installed along the east side of the building to eliminate the existing depressed docks and raise the site up to the finish floor elevation.

Treatment or removal of any unsuitable excavated material will be in accordance with the PANYNJ specifications.

Existing utility structures (catch basins, vaults, chambers and manholes) and distribution systems (pipes, conduits and ductbanks) that are not required as part of the permanent works will either be demolished and removed or filled and capped in-situ as required by the contract documents.

An erosion and sedimentation control plan will be required to be implemented by the contractor prior to any construction commencing, including temporary sediment barriers and stabilized construction entrances.

E20 Site Pavement

The existing pavements on the site appear to be in satisfactory condition with the need for some localized repairs. Since the facility was previously used by tractor trailers the pavement section should be adequate to support the proposed uses. A pavement evaluation will be completed as part of the geotechnical investigation to

verify existing conditions and determine the need for a more extensive pavement rehabilitation program.

New pavement will be required along the east side of the building after the fill is placed to eliminate the existing depressed truck docks along this building face.

New sidewalks will be provided at the new main entrance plaza separated from vehicular pavement by non-mountable 6" curbs.

Applicable codes and references for the pavement design include, but are not limited to :

- o PANYNJ Civil Engineering Design Guidelines – 1 April 2010
- o PANYNJ Tenant Construction Review Manual – December 2008

E30 Site Utilities

The existing building is currently served with water, sanitary sewer, electric, and gas. If new or increased capacity is required, new building services will be provided from the existing site infrastructure. A summary of existing infrastructure is provided below.

i. Water

The existing building has a 4 inch domestic water supply and an 8 inch fire sprinkler supply located at the east corner of the building, which connects to an 8 inch water main. The 8 inch water main is located parallel to and connected to a 36 inch CIP water main, which is located in Old Rockaway Blvd. and crosses North Boundary Road. The 8 inch water main loops around the south side of the building where it was capped for a future connection to another building to the west, which may or may not have been connected by this time. To the north side of the building, the 8 inch main was capped for a future water main extension by the Port Authority of New York & New Jersey, which may or may not have been extended by this time. A total of six fire hydrants are located around the perimeter of the building and three Siamese connections for the fire department are located on the north and east sides of the building. The available flow and pressure within the existing distribution system has not been verified, the project is responsible for ensuring that domestic water and fire protection systems are designed for reasonable flexibility and will be compatible with the water pressures provided.

ii. Sanitary Sewer

- iii. A 6 inch ductile iron sanitary lateral (0.98% slope) exits the south side of existing building and connects to a submersible lift station located approximately 65 feet outside of the building. From the submersible lift station, a 4 inch ductile iron force main discharges to an 8" gravity sewer manhole on the east side of Old Rockaway Blvd. The 8" gravity sewer flows south from this point. The invert of the gravity sewer is approximately 8.5 feet deep. The 6" building lateral has a peak flow capacity of approximately

150 gpm. Record information for the existing pump station has not been reviewed and a site inspection has not been completed; as such, the need for improvements is not known at this time. Electric Service
Two transformers are located at the east corner of the building, each with (2) 5 inch conduits connecting to a larger duct bank. The primary switchgear is located at the south corner of North Boundary Road and Farmers Blvd. A large concrete duct bank containing (18) 5 inch conduits and another concrete duct bank containing (6) 4 inch conduits are located along the south side of North Boundary Road. A concrete duct bank containing (6) 5 inch conduits for 27 KV Electric is located on the northwest side of the building from the airfield side to North Boundary Road. The size, phase and source of the electricity feed for the building could not be determined from the record plans provided.

iv. Gas Service

The existing building has a 4 inch gas service located at the east corner of the building, which connects to a 12 inch gas main located along the west side of Old Rockaway Blvd. and crosses North Boundary Road. The capacity of the gas main could not be determined from the record plans provided. Gas Service shall be coordinated with National Grid and all costs associated with any modifications that are required to support the design are the responsibility of the Project.

v. Communications & CATV

Review of record drawings did not indicate that the existing facility has communication or CATV service. Should additional research confirm this, it will be necessary to provide service to a central demarcation location for service to each of the facilities.

Applicable codes and references include, but are not limited to:

- o American Water Works Association (AWWA)
- o City of New York Department of Environmental Protection, Bureau of Water Supply and Wastewater Collection
- o New York City Building Code - July 2008
- o Underwriters Laboratories Inc. (UL)
- o American Society for Testing and Materials (ASTM)
- o NFPA 24 Private Fire Service Mains - 2007 Edition
- o PANYNJ Tenant Construction and Alteration Process Manual – 2013 Edition
- o PANYNJ Tenant Construction Review Manual - December 2008
- o PANYNJ Civil Engineering Design Guidelines - 1 April 2010

E40 Site Stormwater

The existing site has several roof drains, trench drains and catch basins from parking lots that are connected to 30 inch and 54 inch reinforced concrete pipes. The 30 inch and 54 inch reinforced concrete pipes convey drainage from the airfield side of the building and are located under the foundation of building #78 (Air Cargo facility side of the building). The gravity system flows northeast toward

North Boundary Road to an 8'x17' box culvert that drains in to the southeast. All drainage in the area of building #78 is conveyed to the box culvert.

Numerous 6 inch roof leaders connect to 8 inch, 10 inch or 12 inch storm pipes and flow to manholes located on the northeast, east, west and southwest sides of the building. A 15 inch storm pipe connects each of the manholes to the larger conveyance system. Slopes of the storm sewer pipes range from 0.3% to 1.0%.

The existing drainage system will be retained. Existing structures, trench drains and catch basins will be rehabilitated as required. Based on the new parking lot layout and curb locations additional catch basins will be installed and connected to the existing drainage infrastructure.

Given the proposed fill along the east side of the building and other miscellaneous site work, site disturbance will exceed 1 acre in area. As such, it will be necessary to comply with NYSDEC SDPES General Permit # GP-10-01 for Construction Activities. Given the existing impervious cover on the site, it is anticipated that peak mitigation will not be required; however water quality treatment will need to be addressed, likely by installing hydrodynamic separators with in the stormwater collection system.

Codes and references applicable to the design of the new stormwater include, but are not limited to:

- o FAA AC 150/5320-5C "Surface Drainage Design" – 29 September 2006
- o PANYNJ Tenant Construction and Alteration Process Manual – 2013 Edition
- o PANYNJ Tenant Construction Review Manual – December 2008
- o PANYNJ Civil Engineering Design Guidelines – 1 April 2010
- o NYSDEC SDPES General Permit #GP-10-01
- o NYSDEC Stormwater Management Design Manual – August 2010

E50 Site Features

Separate access points will be provided to the two facilities, air cargo from Radar Road and animal handling from Old Rockaway Blvd. A new main building entrance will be developed to include a new curbing, a small entrance plaza and landscape enhancements.

Fill material will be installed along the east side of the building to eliminate the existing depressed docks and raise the site up to the finish floor elevation. New pavement, curbing and landscaping (foundation plantings) will be installed for site enhancements in this area.

Site lighting is currently limited to building mounted lighting. Additional lighting will be required for the parking lots and building entrance.

A separate fencing and gate system will be installed around the animal loading area to provide a secure facility.

Port Authority Comments to the Ark Basis of Design, dated August 12, 2014

Gensler responses following each comment in bold italics

Although I see the “code” responses from Gensler and all the code sections that they have cited, please ask if they would be kind enough to respond w/ examples of building / construction elements that will be done to 2014 and ones that will be done to 1968 (such as Fire Alarms, Suspended Ceilings, ADA, Egress, Fire Separation to name a few

Response: The design team’s intent is to follow the 2014 Building Code and only refer to 1968 Building Code if some extra ordinary situation presents itself. We would then ask the Port Authority’s concurrence prior to implementation into the design. No specific item has been identified at this time. In addition, Ark will assume all responsibilities of code compliance.

On p16, B30 Roof System ... they need to comply with the PA’s Sustainability Guidelines ...

Response: On p5, Relevant Codes and Standards, we have added the Port Authority’s Sustainability Guidelines to the list.

On p16 C10.1.14 Lighting (and everywhere else !) ... all lighting should be in conformance with PA Sustainability Guidelines

Response: On p5, Relevant Codes and Standards, we have added the Port Authority’s Sustainability Guidelines to the list.

On p27 D50 A The developer will install and utilize only S & C switches when connecting to the PA’s 5kV system.

Response: On pg 27, D50, the following has been added – “The project will install and utilize S & C switches when connecting to the Port Authority’s 5kV system.”

On p29 D50 D Tenant spaces discuss “emergency” and or “standby” power for “equipment” as directed by code or other entities why isn’t the building back up generator (currently designed to support life safety systems) being designed to support the entire facility we should not buy into a process whereby the “sub-tenants” come forward with individual requests for Emergency Generators (particularly if they are for HVAC “equipment”).

Response: Pg 29, C, a note has been added – “A single generator shall be designed for life safety and any standby power that is needed for the tenants.”

On p37 E30 I ... the BOD states that water pressures have not been verified The BOD must reflect that the Developer is responsible for ensuring that their domestic water and fire protections systems are designed for reasonable flexibility and should be compatible with the water pressures provided ... the PA will not be altering the distribution system in any way.

Response: Pg 37, E30 has been revised to read “The available flow and pressure within the existing distribution system has not be verified, the project is responsible for ensuring that domestic water and fire protection systems are designed for reasonable flexibility and will be compatible with the water pressures provided.”

On p.38 E30 iv the BOD states that the capacity of the existing gas line could not be determined. The BOD must reflect that Gas Service is coordinated with National Grid and that all costs associated with any modifications should they be required to support the design are the responsibility of the developer.

Response: Pg 38, E30 has been revised to read "Gas Service shall be coordinated with National Grid and all costs associated with any modifications that are required to support the design are the responsibility of the Project."

?? do exterior animal handling areas (pens) need to be drained to sanitary or can they dump to storm ?? , especially since all interior floor drains go to sanitary !

Response: Animal Handling areas shall be drained to the sanitary system. Additional systems shall be included in the design to assist in the separation of waste material as we progress through the design.

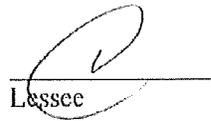
EXHIBIT C

Port Authority Approved Contractors
(attached hereto)



The Port Authority

Initialed by:



Lessee



ARK Contractor List

General Contractor:

Holt Construction Corp.
Chris Asaro, President
875 Avenue of the Americas, 10th Floor
New York, NY 10001
casaro@holtcc.com (212) 391-0462

Master Architect:

Gensler
Cliff Bollman, Director
1230 Avenue of the Americas, Suite 1500
New York, NY 10020
cliff_bollman@gensler.com (212) 492-1607

Owners' Representative:

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Steve Ohnemus
184 N8th St.
Brooklyn, NY 11211
sohnmus@thevoreagroup.com (914) 263-2378

Equine Architect:

Gralla GH2 Equine Architects
Lachlan Oldaker, Senior Architect
230 E Main Street, Suite 200
Norman, OK 73069
lo@gh2.com (405) 701-1515 x27

Livestock Designer:

Grandin Livestock Handling Systems
Mark Deesing
2918 Silver Plume Drive, Suite C3
Fort Collins, CO 80526
Ontheranch1@msn.com (970) 229-0703

Civil Engineer:

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Rich Amadon, Vice President
III Winners Circle, PO Box 5269
Albany, NY 12205
ramadon@chacompanies.com (518) 453-4500



Airside Engineer:

DY Consultants
Dennis Yap, CEO
401 Franklin Ave., Ste. 318
Garden City, NY 11530
d-yap@dyconsultants.com (516) 625-9800

Security:

ISS Action
Yehuda Daphna, COO
JFK International Airport, Building 151, Suite 310a
Jamaica, NY 11430
ydaphna@issaction.com (646) 372-7082

EXHIBIT D

PERFORMANCE AND PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS that we, the undersigned¹⁵ Contractor and surety company (or companies), as principal and surety (or sureties), respectively,

Contractor

Surety

are hereby held and firmly bound unto The Port Authority of New York and New Jersey (herein called the "Authority") in the penal sum of _____ Dollars and _____ Cents (\$ _____), for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, representatives, executors, administrators, successors and assigns. Each surety, however, if there is more than one, shall be jointly and severally liable for said penal sum.

Signed this _____ day of _____ 20

The condition of the above obligation is that

WHEREAS, the above named principal has entered into a Contract in writing with the Authority, a copy of which is hereby made a part of this bond as though herein set forth in full and which is designated Contract _____, and

WHEREAS, the Authority has required this bond for the faithful performance of all obligations imposed by said Contract and also for the payment of all lawful claims of subcontractors, materialmen and workmen arising out of the performance of said Contract;

NOW, if the said principal shall well and faithfully do and perform the things agreed by him to be done and performed according to the terms and true intent and meaning of said Contract and if all lawful claims of subcontractors, materialmen and workmen arising out of the performance of said Contract are paid, then this obligation shall be void, otherwise the same shall remain in full force and effect; it being expressly understood and agreed that, provided the sureties shall comply with the provisions hereof, the aggregate liability of all sureties for any and all claims hereunder shall in no event exceed the penal amount of this obligation as hereinbefore stated.

This undertaking is for the benefit the Authority and all subcontractors, materialmen and workmen having lawful claims arising out of the performance of said Contract, and all such subcontractors, materialmen and workmen (as well as the Authority itself) shall have a direct

¹⁵ Insert names of the Contractor and surety company (or companies) in the appropriate columns. If space is insufficient add rider.

If the Contractor is a corporation, give the state of incorporation, using also the phrase "a corporation organized under the laws of _____".

If the Contractor is an individual using a trade name, give individual name, using also the phrase "an individual doing business under the trade name of _____".

right of action upon this bond; but the rights and equities of such subcontractors, materialmen and workmen shall be subject and subordinate to those of the Authority.

The sureties, for value received, hereby stipulate and agree that the obligations of said sureties and their bond shall be in no way impaired or affected by any extensions of time, modification, omission, addition or change in or to the said Contract or the construction to be performed thereunder, or by any supervision or inspection or omission to supervise or inspect the construction, or by any payment thereunder before the time required therein, or by any waiver of any provision or condition thereof (whether precedent or subsequent), or by any assignment, subletting or other transfer thereof or of any part thereof or of any construction to be performed or any moneys due or to become due thereunder; and said sureties do hereby waive notice of any and all of such extensions, modifications, omissions, additions, changes, payments, waivers, assignments, subcontracts and transfers, and hereby expressly stipulate and agree that any and all things done and omitted to be done by and in relation to assignees, subcontractors and other transferees shall have the same effect as to said sureties as though done by or in relation to said principal.

The sureties shall give the General Counsel of the Authority the following notices:

A. Written notice of an intent to pay any claim of a subcontractor, materialman or workman hereunder;

B. Written notice within five days of the institution of an action by a subcontractor, materialman or workman hereunder.

The sureties shall not pay the claim of any subcontractor, materialman or workman hereunder until the expiration of thirty days after receipt by said General Counsel of notice under either Subparagraph A or B above, describing the claim to be paid.

IN WITNESS WHEREOF, the principal and the sureties have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Principal
(Seal)

By¹⁵ _____

Surety

By¹⁶ _____

APPROVED AS TO ACCEPTABILITY OF SURETIES: _____

Credit Manager _____ 20

¹⁵ If a bond is signed by an officer or agent, give title; if signed by a corporation, affix corporate seal.

¹⁶ Add signatures of additional sureties, if any.

ACKNOWLEDGMENT OF PRINCIPAL, IF A CORPORATION

State of _____ SS:
County of _____

On this _____ day of _____, 20, before me personally came and appeared _____, to me known, who being by me duly sworn, did depose and say that he resides at _____; that he is the _____ of _____ the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such seal; that it was so affixed by order of the directors of said corporation, and that he signed his name thereto by like order.

(Seal) _____
ACKNOWLEDGMENT OF PRINCIPAL, IF A PARTNERSHIP

State of _____ SS:
County of _____

On this _____ day of _____, 20, before me personally came and appeared _____, to me known, and known to me to be one of the members of the firm of _____ described in and who executed the foregoing instrument and he acknowledged to me that he executed the same as and for the act and deed of said firm.

(Seal) _____

ACKNOWLEDGMENT OF PRINCIPAL, IF AN INDIVIDUAL

State of _____
County of _____ SS:

On this _____ day of _____, 20____, before me personally came and appeared _____, to me known and known to me to be the person described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

(Seal)
AFFIX ACKNOWLEDGMENT AND JUSTIFICATION OF SURETY _____



The Port Authority

Initialed by:



Lessee

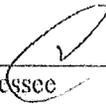
EXHIBIT E

Initial Environmental Report
(attached hereto)



The Port Authority

Initialed by:



Lessee

**Engineering/Architecture Design Division
Environmental Engineering Unit**

**John F. Kennedy
International Airport
Building 78**

**Environmental Subsurface
Baseline Investigation**

Final Report

July 2013

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EXECUTIVE SUMMARY

The Environmental Engineering Unit of the Port Authority of New York and New Jersey (Port Authority) conducted an environmental baseline investigation at Building 78 at John F. Kennedy International Airport (JFK Airport) to determine the subsurface conditions. The investigation included the installation of monitoring wells and the collection of soil and groundwater samples.

A total of eleven (11) soil borings were drilled at the site and all of the borings were completed as permanent monitoring wells. Soil samples collected from the soil borings were submitted for laboratory analysis. Groundwater samples were collected from the monitoring wells for laboratory analysis.

The soil and groundwater samples were analyzed for parameters on the U.S. Environmental Protection Agency (EPA) Priority Pollutants plus 40 (PP+40) List, the parameters listed on the tables of the New York State Department of Environmental Conservation (NYSDEC) STARS Memo #1, tertiary butyl alcohol (TBA), total petroleum hydrocarbons (TPHC), ethylene glycol and propylene glycol.

The sample results indicated the presence of semivolatile organic compounds (SVOCs), metals, pesticides and TPHC in several soil samples with volatile organic compounds (VOCs) PCBs, TPHC and cyanide detected more sporadically.

The groundwater sample results indicated the presence of MTBE, naphthalene, metals, pesticides and TPHC sporadically at the site.

The complete laboratory reports are available upon request.

1.0 INTRODUCTION

This report summarizes results and findings of the baseline subsurface environmental investigation performed at Building 78 at JFK Airport. The report includes a description of the site, a discussion of field activities and analytical results, and a summary of the investigation's findings.

1.1 Site Location Description

Building 78 is located on North Boundary Road and is bounded by Building 79 to the west and Building 196 to the east. The location of Building 78 is shown on the Site Location Map (Figure 1).

1.2 Geological Background

In general, the soils found beneath JFK Airport consist of a top layer of fine to medium sand to a depth of approximately seven to ten feet below grade. This brown and gray sand originated from Jamaica Bay and was hydraulically placed prior to the development of the airport in the 1940's. Underlying the fill in most areas is a layer of relatively impermeable organic soils. This layer varies from two to seven feet in thickness and is made up of intermittent layers of organic peat and gray organic silt and clays (commonly referred to as the "meadowmat"). This is the original marsh soil which covered most of JFK Airport prior to airport development. Beneath the organic material is a stratum of glacial outwash. In areas where the organic layer exists, a perched water table can be found at approximately six feet below grade. In other areas, the groundwater is eight to ten feet below grade and generally flows south towards Jamaica Bay.

Building 78 is paved with twelve (12) to eighteen (18) inches of asphalt. The organic layer was not encountered at the site. From below the asphalt to sixteen (16) feet below surface, the soil is characterized as fill comprised of brown coarse to fine sand containing trace silt and trace gravel. Groundwater was encountered from approximately six feet to nine feet below grade and flows in a northeasterly direction towards Thurston Basin.

1.3 Site Background

The primary tenants that had occupied Building 78 were AMR and Airborne Express. Building 78 was used for cargo handling and activities included aircraft fueling, aircraft deicing and aircraft maintenance. Airborne Express also operated two underground storage tanks (USTs) registered with the NYSDEC: one 4,000-gallon diesel UST and one 4,000-gallon gasoline UST. Building 78 is currently vacant.

There are two spill numbers associated with Building 78 that were closed by the NYSDEC in October 1998.

1.3.1 NYSDEC Closed Spill 9408594

Airborne Express reported a diesel fuel spill to the NYSDEC on September 28, 1994 when the diesel UST failed a tightness test and spill number 9408594 was assigned to the spill. The tanks were retested on October 3, 1994 and passed the tightness test. Airborne Express removed the tanks in February 1998 and prepared a Tank Closure/Site Assessment Report.

Based on the results of the diesel tank passing a retest on October 3, 1994 and the Tank Closure/Site Assessment Report which showed no contamination detected, the NYSDEC closed spill number 9408594 on October 7, 1998.

1.3.2 NYSDEC Closed Spill 9712657

Airborne Express reported a gasoline spill to the NYSDEC on February 12, 1998 when contaminated soil was discovered around the gasoline UST and spill number 9712657 was assigned. Airborne Express removed the tanks in February 1998 and prepared a Tank Closure/Site Assessment Report.

Based on the results of the February 1998 Tank Closure/Site Assessment Report prepared by Airborne Express and the April 1997 Baseline Report prepared by the Port Authority which showed non-detect to low levels of contamination in the area of the removed tank, the NYSDEC closed spill number 9712657.

The correspondence from the NYSDEC that closed spill numbers 9408594 and 9712657 including the spill reports and the tank facility information report is presented in Appendix A.

1.4 Objective of the Baseline Investigation

The baseline investigation establishes existing contaminant concentrations in the subsurface soils and groundwater and identifies any elevated levels of contaminants resulting from past or current operations at or near the site. The results of the baseline investigation report will be included in future lease agreements for the site. The lease exhibit is presented in Appendix B.

2.0 FIELD PROCEDURES AND SAMPLING METHODOLOGY

Soil borings and monitoring wells were installed at the site to collect soil and groundwater samples. All work was performed in accordance with the Port Authority's "Field Standard Operating Procedures Manual" and in conformance with NYSDEC and U.S. EPA requirements. This section describes the procedures for soil borings and well installation and the methods employed during sampling activities.

2.1 Soil Boring and Monitoring Well Installation

Between May 29, 2013 and June 6, 2013, eleven (11) soil borings were drilled at the site. All of the borings were completed as permanent monitoring wells. The Port Authority identified soil boring locations based on areas likely to have contributed to subsurface contamination. For those areas not likely to have contributed to subsurface contamination and a grid pattern was used to select sampling locations. Prior to the drilling of the soil boring the utilities were cleared using One Call Center. Additionally, hand augering was used for the first six feet to verify that underground utilities were not present.

Soil samples were collected to determine the condition of the soil and the possible impact to the groundwater. The monitoring wells were installed to assess the groundwater conditions, measure groundwater elevation and determine the direction of groundwater flow. The locations of the borings were finalized during field installation after field screening of obstructions and utility clearance. After installation, the monitoring well locations were surveyed by a Port Authority Construction Engineering representative for elevations and location coordinates.

The borings were installed as per ASTM standard protocol using a drill rig equipped with 6-inch inside diameter (I.D.) hollow-stem augers. Before drilling each boring, all downhole equipment was decontaminated to protect against cross-contamination. Monitoring wells were installed and developed according to Port Authority's guidelines for unconfined, unconsolidated monitoring well installation and development procedures. The wells are constructed of a 4-inch I.D., flush-joint, polyvinyl chloride (PVC) casing with a 0.020-inch machine slotted well screen and were installed so the screens intercept the groundwater table. All wells were finished with a flush-mounted curb box with a 9-inch diameter steel manhole cover set in concrete. All wellheads are equipped with locking caps.

All drilling and monitoring well installation was performed by Craig Drilling. A Port Authority Materials Engineering representative was present during all drilling activities to log soil lithology, note any visible signs of contamination, screen and collect soil samples, ensure that standard drilling and well installation protocols were followed, and complete Boring Logs and Well Installation Reports.

The soil boring and monitoring well locations are shown on Figure 2 (Sample Location Map). Table 1 presents a summary of the soil boring and well installation data, including survey coordinates. Drilling logs and well construction data are presented in Appendix C.

2.2 Sampling Methodology

This section describes the field methods used to screen and collect soil samples from the borings and collect groundwater samples from the monitoring wells. Sufficient volume of each media was collected for each sample to allow for laboratory analysis of parameters from the EPA PP+40 List including the parameters listed on the tables of the NYSDEC STARS Memo #1, MTBE, TBA, ethylene glycol, propylene glycol and TPHC.

2.2.1 Soils

Soils from each boring were sampled at two-foot intervals, from the surface to a depth of 10-12 feet below grade, using a split-spoon sampler. At each interval, from ground level to the bottom of the boring, the samples were placed in jars and screened for total ionizable vapors using an HNu Model photoionization detector (PID).

The sample in the first two-foot interval and the sample collected in the interval immediately above the groundwater table were submitted for chemical analysis. The soil boring reports in Appendix C indicate which soil samples from each boring were submitted for laboratory analysis.

2.2.2 Groundwater

On June 17, 2013, a Port Authority Materials Engineering representative gauged the eleven (11) monitoring wells installed at the site. Monitoring well gauging was performed to determine the groundwater table elevation in the wells and to determine if free product was present in the wells.

A phase interface probe was used to gauge the depth to groundwater and to detect free product in the wells. The total well depth was also measured. The probe is accurate to within 0.01 feet. The measurements were taken relative to the surveyed top of casing elevation of each well. The probe was decontaminated before gauging each well. Table 2 summarizes the data generated by the well gauging activities, including groundwater table elevations.

After the gauging activity, each well was sampled. On June 17, 2013 and June 18, 2013, groundwater samples were collected from the eleven monitoring wells for chemical analysis to determine the presence of dissolved contaminants. Prior to a sample being collected, the wells were purged using a low flow method described in the EPA's Region 2 Low Flow Purging and Sampling Guidance document. After each well volume was purged, pH, conductivity, turbidity, dissolved oxygen, temperature, salinity, oxidation-reduction potential (ORP) and total dissolved solids (TDS) were measured and recorded. When the parameters stabilized, a stainless steel submersible, positive-displacement pump with controller and dedicated tubing was used to perform the groundwater sampling. The purge data sheets are included in Appendix D.

3.0 INVESTIGATION RESULTS

This section describes the findings of the baseline investigation performed at Building 78 at JFK Airport. Site hydrogeology is discussed and analytical results for soil and groundwater samples are presented and discussed.

3.1 Site Hydrogeology

The groundwater at JFK Airport is known to flow generally south towards Jamaica Bay. The groundwater gradient at the site ranges from 0.0000364 foot per foot to 0.00256 foot per foot, with an average gradient of approximately 0.000538 foot per foot. The groundwater elevation across the site ranges from 2.47 feet (B78-MW-09) to 2.98 feet (B78-MW-11) and local groundwater flow is in a northeasterly direction toward Thurston Basin. The groundwater contour map is shown on Figure 3.

3.2 Analytical Results

Soil and groundwater samples collected from the site were analyzed for parameters from the EPA PP+40 List, parameters listed on the tables of the NYSDEC STARS Memo #1, MTBE, TBA, ethylene glycol, propylene glycol and TPHC.

3.2.1 Soils

During field screening of the soil samples with an HNu meter PID readings were not detected in any of the soil borings. The soil samples submitted for laboratory analysis are noted on the soil boring logs in Appendix C.

A total of twenty-two (22) soil samples were collected during the investigation. The soil sample in the first two foot interval and the sample interval immediately above the groundwater were submitted for laboratory analysis.

Table 3 summarizes the results of the laboratory analysis of the soil samples.

Semivolatile organic compounds (SVOCs) classified as polycyclic aromatic hydrocarbons (PAHs) and the metals arsenic, copper, lead, nickel, chromium and zinc were generally detected throughout the site at levels typically found in the historic fill at JFK Airport. The pesticide dieldrin and total petroleum hydrocarbons (TPHC) were detected in several soil samples.

Other analytes were either detected in a few samples or were not detected in any of the other soil samples.

3.2.2 Groundwater

A total of eleven groundwater samples were submitted for laboratory analysis.

Table 4 summarizes the results of the laboratory analysis of the groundwater samples.

The results indicate that only methyl-tertiary-butyl ether (MTBE) naphthalene, arsenic, lead, dieldrin and TPHC were detected from the groundwater samples collected from the site.

FIGURES

TABLES

Table 1

John F. Kennedy International Airport
Building 78

Baseline Investigation

Soil Boring and Monitoring Well Installation Data Summary

Well/Boring Identification	Date Installed	Depth of Boring	Depth of Well	Surface Elevation	Casing Elevation	Survey Coordinates	
						Easting	Northing
B78-MW-01	5/30/2013	16	16	9.52	9.21	1046452.01	178592.99
B78-MW-02	5/31/2013	16	16	9.64	9.33	1046579.74	178629.82
B78-MW-03	5/29/2013	16	16	10.73	10.45	1046737.95	178532.13
B78-MW-04	5/29/2013	16	16	11.27	10.92	1046867.14	178531.57
B78-MW-05	5/31/2013	16	16	10.06	9.69	1046821.78	178656.1
B78-MW-06	5/30/2013	16	16	10.51	10.15	1046566.14	178822.67
B78-MW-07	5/31/2013	16	16	11.22	10.89	1046728.03	178852.19
B78-MW-08	6/6/2013	16	16	8.13	7.78	1046871.04	179096.76
B78-MW-09	6/5/2013	16	16	10.67	10.12	1047151.33	178833.96
B78-MW-10	6/4/2013	16	16	8.11	7.79	1047146.73	178592.95
B78-MW-11	6/5/2013	16	16	11.66	11.2	1047010.26	178498.88

All measurements are in feet

Survey coordinates are in New York State Plane Long Island NAD 83 (horizontal datum) and NAVD88 (vertical datum)

Table 2
John F. Kennedy International Airport
Building 78
Baseline Investigation
Monitoring Well Gauging Summary and Groundwater Table Elevations

Well Identification	Date Gauged	Depth of Well	Depth to Water	Casing Elevation	Groundwater Elevation
B78-MW-01	6/17/2013	14.7	6.3	9.21	2.91
B78-MW-02	6/17/2013	15	6.46	9.33	2.87
B78-MW-03	6/17/2013	15.5	7.62	10.45	2.83
B78-MW-04	6/17/2013	15.43	8.14	10.92	2.78
B78-MW-05	6/17/2013	15.05	7.03	9.69	2.66
B78-MW-06	6/17/2013	15	7.3	10.15	2.85
B78-MW-07	6/17/2013	15.7	8.17	10.89	2.72
B78-MW-08	6/17/2013	16.04	5.21	7.78	2.57
B78-MW-09	6/17/2013	15.74	7.65	10.12	2.47
B78-MW-10	6/17/2013	15.93	5.2	7.79	2.59
B78-MW-11	6/17/2013	15.99	8.22	11.2	2.98

All measurements are in feet

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Volatile Organic Compounds

sys_loc_code	B78-MW-01	B78-MW-01	B78-MW-02	B78-MW-02	B78-MW-02	B78-MW-03	B78-MW-03
sample_date	5/30/2013	5/30/2013	5/31/2013	5/31/2013	5/31/2013	5/29/2013	5/29/2013
start_depth	1.4	6.5	1.3	6.5	0.9	7.5	
end_depth	1.9	7	1.8	7	1.4	8	
chemical_name	unit						
1,1,1-trichloroethane	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
1,1,2,2-tetrachloroethane	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
1,1,2-trichloroethane	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
1,1,2-dichloroethane	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
1,1-dichloroethylene	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
1,2,4-trimethylbenzene	mg/kg	0.00089 U	0.001 U	0.00094 U	0.00093 U	0.0013 U	0.0013 U
1,2-dichlorobenzene	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
1,2-dichloroethane	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
1,2-dichloropropane	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
1,3,5-trimethylbenzene	mg/kg	0.00089 U	0.001 U	0.00094 U	0.00093 U	0.0013 U	0.0013 U
1,3-dichlorobenzene	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
1,4-dichlorobenzene	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
2-chloroethyl vinyl ether	mg/kg	0.00089 U	0.001 U	0.00094 U	0.00093 U	0.0013 U	0.0013 U
4-isopropyltoluene	mg/kg	0.0089 U	0.01 U	0.0094 U	0.0093 U	0.013 U	0.013 U
acrolein	mg/kg	0.0045 U	0.0051 U	0.0047 U	0.0047 U	0.0066 U	0.0066 U
acrylonitrile	mg/kg	0.00089 U	0.001 U	0.00094 U	0.00093 U	0.0013 U	0.0013 U
benzene	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
bromodichloromethane	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
bromoform	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
bromomethane	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
carbon tetrachloride	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
chlorobenzene	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
chloroethane	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
chloroform	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
chloromethane	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
cis-1,3-dichloropropene	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
difromochloromethane	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0025 U	0.0026 U	0.0026 U
ethylbenzene	mg/kg	0.00089 U	0.001 U	0.00094 U	0.00093 U	0.0013 U	0.0013 U
isopropyl benzene	mg/kg	0.00089 U	0.001 U	0.00094 U	0.00093 U	0.0013 U	0.0013 U

mg/kg Milligram per kilogram
 U Not detected at MDL
BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Volatile Organic Compounds

chemical_name	sys_loc_code	B78-MW-01	B78-MW-02	B78-MW-02	B78-MW-02	B78-MW-03	B78-MW-03
	sample_date	5/30/2013	5/31/2013	5/31/2013	5/31/2013	5/29/2013	5/29/2013
	start_depth	1.4	1.3	1.3	6.5	0.9	7.5
	end_depth	1.9	1.8	1.8	7	1.4	8
unit							
m,p-Xylene	mg/kg	0.0021 U	0.0019 U	0.0019 U	0.0019 U	0.0025 U	0.0026 U
methyl tert-butyl ether	mg/kg	0.0089 U	0.0094 U	0.0094 U	0.0093 U	0.0012 U	0.0013 U
methylene chloride	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0019 U	0.0025 U	0.0026 U
naphthalene	mg/kg	0.0089 U	0.0089 U	0.0094 U	0.0093 U	0.0012 U	0.0013 U
n-butylbenzene	mg/kg	0.0089 U	0.0089 U	0.0094 U	0.0093 U	0.0012 U	0.0013 U
n-propylbenzene	mg/kg	0.0089 U	0.0089 U	0.0094 U	0.0093 U	0.0012 U	0.0013 U
o-xylene	mg/kg	0.0089 U	0.0089 U	0.0094 U	0.0093 U	0.0012 U	0.0013 U
sec-butylbenzene	mg/kg	0.0089 U	0.0089 U	0.0094 U	0.0093 U	0.0012 U	0.0013 U
tert-butyl alcohol	mg/kg	0.0089 U	0.0089 U	0.0094 U	0.0093 U	0.0012 U	0.0013 U
tert-butylbenzene	mg/kg	0.0089 U	0.0089 U	0.0094 U	0.0093 U	0.0012 U	0.0013 U
tetrachloroethylene	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0019 U	0.0025 U	0.0026 U
toluene	mg/kg	0.0089 U	0.0089 U	0.0094 U	0.0093 U	0.0012 U	0.0013 U
trans-1,2-dichloroethylene	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0019 U	0.0025 U	0.0026 U
trans-1,3-dichloropropene	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0019 U	0.0025 U	0.0026 U
trichloroethylene	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0019 U	0.0025 U	0.0026 U
vinyl chloride	mg/kg	0.0018 U	0.0021 U	0.0019 U	0.0019 U	0.0025 U	0.0026 U
xylene	mg/kg	0.0089 U	0.0089 U	0.0094 U	0.0093 U	0.0012 U	0.0013 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Volatile Organic Compounds

sys_loc_code	B78-MW-04	B78-MW-04	B78-MW-05	B78-MW-05	B78-MW-05	B78-MW-06	B78-MW-06
sample_date	5/29/2013	5/29/2013	5/31/2013	5/31/2013	5/31/2013	5/30/2013	5/30/2013
start_depth	2.4	8	1.5	7.5	1.4	6.5	6.5
end_depth	2.9	8.5	2	8	1.9	7	7
chemical_name	unit						
1,1,1-trichloroethane	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
1,1,2,2-tetrachloroethane	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
1,1,2-trichloroethane	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
1,1-dichloroethane	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
1,1-dichloroethylene	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
1,2,4-trimethylbenzene	mg/kg	0.00095 U	0.0011 U	0.00096 U	0.0011 U	0.0019	0.00098 U
1,2-dichlorobenzene	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
1,2-dichloroethane	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
1,2-dichloropropane	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
1,3,5-trimethylbenzene	mg/kg	0.00095 U	0.0011 U	0.00096 U	0.0011 U	0.001 U	0.00098 U
1,3-dichlorobenzene	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
1,4-dichlorobenzene	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
2-chloroethyl vinyl ether	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
4-isopropyltoluene	mg/kg	0.00095 U	0.0011 U	0.00096 U	0.0011 U	0.001 U	0.00098 U
acrolein	mg/kg	0.0095 U	0.011 U	0.0096 U	0.011 U	0.01 U	0.0098 U
acrylonitrile	mg/kg	0.0048 U	0.0054 U	0.0048 U	0.0056 U	0.0051 U	0.0049 U
benzene	mg/kg	0.00095 U	0.0011 U	0.00096 U	0.0011 U	0.001 U	0.00098 U
bromodichloromethane	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
bromoform	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
bromomethane	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
carbon tetrachloride	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
chlorobenzene	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
chloroethane	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
chloroform	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
chloromethane	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
cis-1,3-dichloropropene	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
dibromochloromethane	mg/kg	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
ethylbenzene	mg/kg	0.00095 U	0.0011 U	0.00096 U	0.0011 U	0.001 U	0.00098 U
isopropyl benzene	mg/kg	0.00095 U	0.0011 U	0.00096 U	0.0011 U	0.0014	0.00098 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Volatile Organic Compounds

sys_loc_code	sample_date	start_depth	end_depth	unit	B78-MW-04	B78-MW-05	B78-MW-04	B78-MW-05	B78-MW-05	B78-MW-06	B78-MW-06
m,p-Xylene	5/29/2013	2.4	2.9	mg/kg	0.0019 U	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
methyl tert-butyl ether	5/29/2013	2.4	2.9	mg/kg	0.00095 U	0.00096 U	0.0011 U	0.00096 U	0.0011 U	0.001 U	0.00098 U
methylene chloride	5/29/2013	2.4	2.9	mg/kg	0.0019 U	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
naphthalene	5/29/2013	2.4	2.9	mg/kg	0.00095 U	0.00096 U	0.0011 U	0.00096 U	0.0011 U	0.0062	0.00098 U
n-butylbenzene	5/29/2013	2.4	2.9	mg/kg	0.00095 U	0.00096 U	0.0011 U	0.00096 U	0.0011 U	0.001 U	0.00098 U
n-propylbenzene	5/29/2013	2.4	2.9	mg/kg	0.00095 U	0.00096 U	0.0011 U	0.00096 U	0.0011 U	0.0011	0.00098 U
o-xylene	5/29/2013	2.4	2.9	mg/kg	0.00095 U	0.00096 U	0.0011 U	0.00096 U	0.0011 U	0.001 U	0.00098 U
sec-butylbenzene	5/29/2013	2.4	2.9	mg/kg	0.00095 U	0.00096 U	0.0011 U	0.00096 U	0.0011 U	0.0012	0.00098 U
tert-butyl alcohol	5/29/2013	2.4	2.9	mg/kg	0.00095 U	0.00096 U	0.011 U	0.0096 U	0.011 U	0.01 U	0.0098 U
tert-butylbenzene	5/29/2013	2.4	2.9	mg/kg	0.00095 U	0.00096 U	0.0011 U	0.00096 U	0.0011 U	0.001 U	0.00098 U
tetrachloroethylene	5/29/2013	2.4	2.9	mg/kg	0.0019 U	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
toluene	5/29/2013	2.4	2.9	mg/kg	0.00095 U	0.00096 U	0.0011 U	0.00096 U	0.0011 U	0.001 U	0.00098 U
trans-1,2-dichloroethylene	5/29/2013	2.4	2.9	mg/kg	0.0019 U	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
trans-1,3-dichloropropene	5/29/2013	2.4	2.9	mg/kg	0.0019 U	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
trichloroethylene	5/29/2013	2.4	2.9	mg/kg	0.0019 U	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
vinyl chloride	5/29/2013	2.4	2.9	mg/kg	0.0019 U	0.0019 U	0.0021 U	0.0019 U	0.0022 U	0.002 U	0.002 U
xylenes	5/29/2013	2.4	2.9	mg/kg	0.00095 U	0.00096 U	0.0011 U	0.00096 U	0.0011 U	0.001 U	0.00098 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Volatile Organic Compounds

sys_loc_code	B78-MW-07	B78-MW-07	B78-MW-08	B78-MW-08	B78-MW-08	B78-MW-09	B78-MW-09
sample_date	5/31/2013	5/31/2013	6/6/2013	6/6/2013	6/6/2013	6/5/2013	6/5/2013
start_depth	0.9	8	1	6	6	0.2	8.5
end_depth	1.4	8.5	1.5	6.5	6.5	0.7	9
chemical_name	unit						
1,1,1-trichloroethane	mg/kg	0.0018 U	0.0022 U	0.002 U	0.002 U	0.002 U	0.0025 U
1,1,2,2-tetrachloroethane	mg/kg	0.0018 U	0.0022 U	0.0022 U	0.002 U	0.002 U	0.0025 U
1,1,2-trichloroethane	mg/kg	0.0018 U	0.0022 U	0.0022 U	0.002 U	0.002 U	0.0025 U
1,1-dichloroethane	mg/kg	0.0018 U	0.0022 U	0.0022 U	0.002 U	0.002 U	0.0025 U
1,1-dichloroethylene	mg/kg	0.0018 U	0.0022 U	0.0022 U	0.002 U	0.002 U	0.0025 U
1,2,4-trimethylbenzene	mg/kg	0.00092 U	0.0011 U	0.00099 U	0.001 U	0.001 U	0.0013 U
1,2-dichlorobenzene	mg/kg	0.0018 U	0.0022 U	0.0022 U	0.002 U	0.002 U	0.0025 U
1,2-dichloroethane	mg/kg	0.0018 U	0.0022 U	0.0022 U	0.002 U	0.002 U	0.0025 U
1,2-dichloropropane	mg/kg	0.0018 U	0.0022 U	0.0022 U	0.002 U	0.002 U	0.0025 U
1,3,5-trimethylbenzene	mg/kg	0.00092 U	0.00089 U	0.0011 U	0.00099 U	0.001 U	0.0013 U
1,3-dichlorobenzene	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
1,4-dichlorobenzene	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
2-chloroethyl vinyl ether	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
4-isopropyltoluene	mg/kg	0.00092 U	0.00089 U	0.0011 U	0.00099 U	0.001 U	0.0013 U
acrolein	mg/kg	0.0092 U	0.0089 U	0.011 U	0.0099 U	0.01 U	0.013 U
acrylonitrile	mg/kg	0.0046 U	0.0044 U	0.0054 U	0.0049 U	0.005 U	0.0063 U
benzene	mg/kg	0.00092 U	0.00089 U	0.0011 U	0.00099 U	0.001 U	0.0013 U
bromodichloromethane	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
bromomethane	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
bromomethane	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
carbon tetrachloride	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
chlorobenzene	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
chloroethane	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
chloroform	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
chloromethane	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
cis-1,3-dichloropropene	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
dibromochloromethane	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
ethylbenzene	mg/kg	0.00092 U	0.00089 U	0.0011 U	0.00099 U	0.001 U	0.0013 U
isopropyl benzene	mg/kg	0.00092 U	0.00089 U	0.0011 U	0.00099 U	0.001 U	0.0013 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Volatile Organic Compounds

chemical_name	unit	B78-MW-07 5/31/2013 0.9 1.4	B78-MW-07 5/31/2013 8 8.5	B78-MW-08 6/6/2013 1 1.5	B78-MW-08 6/6/2013 6 6.5	B78-MW-09 6/5/2013 0.2 0.7	B78-MW-09 6/5/2013 8.5 9
m,p-Xylene	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
methyl tert-butyl ether	mg/kg	0.00092 U	0.00089 U	0.0011 U	0.00099 U	0.001 U	0.0013 U
methylene chloride	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
naphthalene	mg/kg	0.00092 U	0.00089 U	0.0011 U	0.00099 U	0.001 U	0.0013 U
n-butylbenzene	mg/kg	0.00092 U	0.00089 U	0.0011 U	0.00099 U	0.001 U	0.0013 U
n-propylbenzene	mg/kg	0.00092 U	0.00089 U	0.0011 U	0.00099 U	0.001 U	0.0013 U
o-xylene	mg/kg	0.00092 U	0.00089 U	0.0011 U	0.00099 U	0.001 U	0.0013 U
sec-butylbenzene	mg/kg	0.00092 U	0.00089 U	0.0011 U	0.00099 U	0.001 U	0.0013 U
tert-butyl alcohol	mg/kg	0.0092 U	0.0089 U	0.011 U	0.0099 U	0.01 U	0.013 U
tert-butylbenzene	mg/kg	0.00092 U	0.00089 U	0.0011 U	0.00099 U	0.001 U	0.0013 U
tetrachloroethylene	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
toluene	mg/kg	0.00092 U	0.00089 U	0.0011 U	0.00099 U	0.001 U	0.0013 U
trans-1,2-dichloroethylene	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
trans-1,3-dichloropropene	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
trichloroethylene	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
vinyl chloride	mg/kg	0.0018 U	0.0018 U	0.0022 U	0.002 U	0.002 U	0.0025 U
xylenes	mg/kg	0.00092 U	0.00089 U	0.0011 U	0.00099 U	0.001 U	0.0013 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Volatile Organic Compounds

sys_loc_code	B78-MW-10	B78-MW-10	B78-MW-11	B78-MW-11	B78-MW-11
sample_date	6/4/2013	6/4/2013	6/5/2013	6/5/2013	6/5/2013
start_depth	1.2	5.5	1.3	1.3	9.5
end_depth	1.7	6	1.8	1.8	10
chemical_name	unit				
1,1,1-trichloroethane	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
1,1,2,2-tetrachloroethane	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
1,1,2-trichloroethane	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
1,1-dichloroethane	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
1,2,4-trimethylbenzene	mg/kg	0.00099 U	0.00099 U	0.0012 U	0.0013 U
1,2-dichlorobenzene	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
1,2-dichloroethane	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
1,2-dichloropropane	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
1,3,5-trimethylbenzene	mg/kg	0.00099 U	0.00099 U	0.0012 U	0.0013 U
1,3-dichlorobenzene	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
1,4-dichlorobenzene	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
2-chloroethyl vinyl ether	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
4-isopropyltoluene	mg/kg	0.00099 U	0.00099 U	0.0012 U	0.0013 U
acrolein	mg/kg	0.0099 U	0.0099 U	0.012 U	0.013 U
acrylonitrile	mg/kg	0.005 U	0.0049 U	0.0061 U	0.0065 U
benzene	mg/kg	0.00099 U	0.00099 U	0.0012 U	0.0013 U
bromodichloromethane	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
bromoform	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
bromomethane	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
carbon tetrachloride	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
chlorobenzene	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
chloroethane	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
chloroform	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
chloromethane	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
cis-1,3-dichloropropene	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
1,1-dibromochloromethane	mg/kg	0.002 U	0.002 U	0.0024 U	0.0026 U
ethylbenzene	mg/kg	0.00099 U	0.00099 U	0.0012 U	0.0013 U
isopropyl benzene	mg/kg	0.00099 U	0.00099 U	0.0012 U	0.0013 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Volatile Organic Compounds

chemical_name	sys_loc_code	sample_date	start_depth	end_depth	B78-MW-10	B78-MW-10	B78-MW-11	B78-MW-11
	unit							
m,p-Xylene	mg/kg	0.002 U			0.002 U	0.002 U	0.0024 U	0.0026 U
methyl tert-butyl ether	mg/kg	0.00099 U			0.00099 U	0.00099 U	0.0012 U	0.0013 U
methylene chloride	mg/kg	0.002 U			0.002 U	0.002 U	0.0024 U	0.0026 U
naphthalene	mg/kg	0.00099 U			0.00099 U	0.00099 U	0.0012 U	0.0013 U
n-butylbenzene	mg/kg	0.00099 U			0.00099 U	0.00099 U	0.0012 U	0.0013 U
n-propylbenzene	mg/kg	0.00099 U			0.00099 U	0.00099 U	0.0012 U	0.0013 U
o-xylene	mg/kg	0.00099 U			0.00099 U	0.00099 U	0.0012 U	0.0013 U
sec-butylbenzene	mg/kg	0.00099 U			0.00099 U	0.00099 U	0.0012 U	0.0013 U
tert-butyl alcohol	mg/kg	0.0099 U			0.0099 U	0.0099 U	0.012 U	0.013 U
tert-butylbenzene	mg/kg	0.00099 U			0.00099 U	0.00099 U	0.0012 U	0.0013 U
tetrachloroethylene	mg/kg	0.002 U			0.002 U	0.002 U	0.0024 U	0.0026 U
toluene	mg/kg	0.00099 U			0.00099 U	0.00099 U	0.0012 U	0.0013 U
trans-1,2-dichloroethylene	mg/kg	0.002 U			0.002 U	0.002 U	0.0024 U	0.0026 U
trans-1,3-dichloropropene	mg/kg	0.002 U			0.002 U	0.002 U	0.0024 U	0.0026 U
trichloroethylene	mg/kg	0.002 U			0.002 U	0.002 U	0.0024 U	0.0026 U
vinyl chloride	mg/kg	0.002 U			0.002 U	0.002 U	0.0024 U	0.0026 U
xylenes	mg/kg	0.00099 U			0.00099 U	0.00099 U	0.0012 U	0.0013 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Semivolatile Organic Compounds

sys_loc_code	B78-MW-01	B78-MW-01	B78-MW-02	B78-MW-02	B78-MW-02	B78-MW-03	B78-MW-03
sample_date	5/30/2013	5/30/2013	5/31/2013	5/31/2013	5/31/2013	5/29/2013	5/29/2013
start_depth	1.4	6.5	1.3	6.5	0.9	7.5	7.5
end_depth	1.9	7	1.8	7	1.4	8	8
chemical_name	unit						
1,2,4-trichlorobenzene	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
1,2-benzophenanthracene	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
1,2-diphenylhydrazine	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
2,4,6-trichlorophenol	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
2,4-dichlorophenol	0.026 U	0.0095 U	0.018 U	0.0094 U	0.077 U	0.0091 U	0.0091 U
2,4-dimethylphenol	0.026 U	0.0095 U	0.018 U	0.0094 U	0.077 U	0.0091 U	0.0091 U
2,4-dinitrophenol	0.52 U	0.19 U	0.35 U	0.19 U	1.5 U	0.18 U	0.18 U
2,4-dinitrotoluene	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
2,6-dinitrotoluene	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
2-chloronaphthalene	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
2-chlorophenol	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
2-nitrophenol	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
3,3'-dichlorobenzidine	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
4,6-dinitro-o-cresol	0.52 U	0.19 U	0.35 U	0.037 U	1.5 U	0.036 U	0.036 U
4-bromophenylphenyl ether	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
4-chloro-3-methylphenol	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
4-chlorophenylphenyl ether	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
4-nitrophenol	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
acenaphthene	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
acenaphthylene	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
anthracene	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
benzidine	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
benzo[a]anthracene	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
benzo[a]pyrene	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
benzo[b]fluoranthene	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
benzo[ghi]perylene	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
benzo[k]fluoranthene	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
benzyl butyl phthalate	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U
bis(2-chloroethoxy)methane	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.036 U	0.036 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Semivolatile Organic Compounds

sys_loc_code	B78-MW-01	B78-MW-01	B78-MW-01	B78-MW-02	B78-MW-02	B78-MW-02	B78-MW-03	B78-MW-03
sample_date	5/30/2013	5/30/2013	5/30/2013	5/31/2013	5/31/2013	5/31/2013	5/29/2013	5/29/2013
start_depth	1.4	6.5	1.3	6.5	0.9	7.5	0.9	7.5
end_depth	1.9	7	1.8	7	1.4	8	1.4	8
chemical_name	unit							
bis(2-chloroethyl)ether	mg/kg	0.026 U	0.0095 U	0.018 U	0.0094 U	0.077 U	0.077 U	0.0091 U
bis(2-chloroisopropyl)ether	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
bis(2-ethylhexyl)phthalate	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
dibenz[a,h]anthracene	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
diethyl phthalate	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
dimethyl phthalate	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
di-n-butyl phthalate	mg/kg	0.052 U	0.019 U	0.036 U	0.019 U	0.15 U	0.15 U	0.018 U
di-n-octyl phthalate	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
fluoranthene	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
fluorene	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
hexachloro-1,3-butadiene	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
hexachlorobenzene	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
hexachlorocyclopentadiene	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
hexachloroethane	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
indeno[1,2,3-cd]pyrene	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
isophorone	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
naphthalene	mg/kg	0.026 U	0.0095 U	0.018 U	0.0094 U	0.077 U	0.077 U	0.0091 U
nitrobenzene	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
n-nitrosodimethylamine	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
n-nitroso-di-n-propylamine	mg/kg	0.026 U	0.0095 U	0.018 U	0.0094 U	0.077 U	0.077 U	0.0091 U
n-nitrosodiphenylamine	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
pentachlorophenol	mg/kg	0.52 U	0.19 U	0.35 U	0.19 U	1.5 U	1.5 U	0.18 U
phenanthrene	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
phenol	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U
pyrene	mg/kg	0.1 U	0.038 U	0.071 U	0.037 U	0.31 U	0.31 U	0.036 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Semivolatile Organic Compounds

sys_loc_code	sample_date	start_depth	end_depth	unit	B78-MW-04	B78-MW-04	B78-MW-05	B78-MW-05	B78-MW-05	B78-MW-06	B78-MW-06
chemical_name					5/29/2013	5/29/2013	5/31/2013	5/31/2013	5/31/2013	5/30/2013	5/30/2013
1,2,4-trichlorobenzene	0.069 U	2.4	2.9	mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
1,2-benzophenanthracene	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.46	0.13
1,2-diphenylhydrazine	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
2,4,6-trichlorophenol	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
2,4-dichlorophenol	0.017 U			mg/kg	0.0089 U	0.0089 U	0.078 U	0.078 U	0.0098 U	0.027 U	0.0097 U
2,4-dimethylphenol	0.017 U			mg/kg	0.0089 U	0.0089 U	0.078 U	0.078 U	0.0098 U	0.027 U	0.0097 U
2,4-dinitrophenol	0.35 U			mg/kg	0.18 U	0.18 U	1.6 U	1.6 U	0.2 U	0.54 U	0.19 U
2,4-dinitrotoluene	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
2,6-dinitrotoluene	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
2-chloronaphthalene	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
2-chlorophenol	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
2-nitrophenol	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
3,3'-dichlorobenzidine	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
4,6-dinitro-o-cresol	0.35 U			mg/kg	0.035 U	0.035 U	1.6 U	1.6 U	0.039 U	0.54 U	0.19 U
4-bromophenylphenyl ether	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
4-chloro-3-methylphenol	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
4-chlorophenylphenyl ether	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
4-nitrophenol	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
acenaphthene	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
acenaphthylene	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
anthracene	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
benzidine	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
benzo[a]anthracene	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
benzo[a]pyrene	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
benzo[b]fluoranthene	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
benzo[g,h,i]perylene	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
benzo[k]fluoranthene	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
benzyl butyl phthalate	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U
bis(2-chloroethoxy)methane	0.069 U			mg/kg	0.035 U	0.035 U	0.31 U	0.31 U	0.039 U	0.11 U	0.039 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Semivolatile Organic Compounds

sys_loc_code	B78-MW-04	B78-MW-04	B78-MW-05	B78-MW-05	B78-MW-05	B78-MW-06	B78-MW-06
sample_date	5/29/2013	5/29/2013	5/31/2013	5/31/2013	5/31/2013	5/30/2013	5/30/2013
start_depth	2.4	8	1.5	7.5	1.4	1.4	6.5
end_depth	2.9	8.5	2	8	1.9	1.9	7
chemical_name	unit						
bis(2-chloroethyl)ether	0.017 U	0.0089 U	0.078 U	0.0098 U	0.027 U	0.0097 U	
bis(2-chloroisopropyl)ether	0.069 U	0.035 U	0.31 U	0.039 U	0.11 U	0.039 U	
bis(2-ethylhexyl)phthalate	0.069 U	0.035 U	0.31 U	0.039 U	0.11 U	0.039 U	
dibenz[a,h]anthracene	0.069 U	0.035 U	0.31 U	0.039 U	0.11 U	0.039 U	
diethyl phthalate	0.069 U	0.035 U	0.31 U	0.039 U	0.11 U	0.039 U	
dimethyl phthalate	0.069 U	0.035 U	0.31 U	0.039 U	0.11 U	0.039 U	
di-n-butyl phthalate	0.035 U	0.018 U	0.16 U	0.02 U	0.054 U	0.019 U	
di-n-octyl phthalate	0.069 U	0.035 U	0.31 U	0.039 U	0.11 U	0.039 U	
fluoranthene	0.069 U	0.035 U	0.31 U	0.039 U	0.76	0.16	
fluorene	0.069 U	0.035 U	0.31 U	0.039 U	0.18	0.039 U	
hexachloro-1,3-butadiene	0.069 U	0.035 U	0.31 U	0.039 U	0.11 U	0.039 U	
hexachlorobenzene	0.069 U	0.035 U	0.31 U	0.039 U	0.11 U	0.039 U	
hexachlorocyclopentadiene	0.069 U	0.035 U	0.31 U	0.039 U	0.11 U	0.039 U	
hexachloroethane	0.069 U	0.035 U	0.31 U	0.039 U	0.11 U	0.039 U	
indeno[1,2,3-cd]pyrene	0.069 U	0.035 U	0.31 U	0.039 U	0.22	0.074	
isophorone	0.069 U	0.035 U	0.31 U	0.039 U	0.11 U	0.039 U	
naphthalene	0.017 U	0.0089 U	0.078 U	0.0098 U	0.094	0.0097 U	
nitrobenzene	0.069 U	0.035 U	0.31 U	0.039 U	0.11 U	0.039 U	
n-nitrosodimethylamine	0.069 U	0.035 U	0.31 U	0.039 U	0.11 U	0.039 U	
n-nitroso-di-n-propylamine	0.017 U	0.0089 U	0.078 U	0.0098 U	0.027 U	0.0097 U	
n-nitrosodiphenylamine	0.069 U	0.035 U	0.31 U	0.039 U	0.11 U	0.039 U	
pentachlorophenol	0.35 U	0.18 U	1.6 U	0.2 U	0.54 U	0.19 U	
phenanthrene	0.069 U	0.035 U	0.31 U	0.039 U	1.1	0.06	
phenol	0.069 U	0.035 U	0.31 U	0.039 U	0.11 U	0.039 U	
pyrene	0.069 U	0.035 U	0.31 U	0.039 U	0.84	0.19	

mg/kg, Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Semivolatile Organic Compounds

sys_loc_code	B78-MW-07	B78-MW-07	B78-MW-08	B78-MW-08	B78-MW-08	B78-MW-09	B78-MW-09
sample_date	5/31/2013	5/31/2013	6/6/2013	6/6/2013	6/6/2013	6/5/2013	6/5/2013
start_depth	0.9	8	1	6	6.5	0.2	8.5
end_depth	1.4	8.5	1.5	6.5	6.5	0.7	9
chemical_name	unit						
1,2,4-trichlorobenzene	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
1,2-benzophenanthracene	0.33	0.035 U	0.26	0.036 U	0.036 U	0.035 U	0.037 U
1,2-diphenylhydrazine	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
2,4,6-trichlorophenol	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
2,4-dichlorophenol	0.054 U	0.0088 U	0.018 U	0.009 U	0.009 U	0.0088 U	0.0094 U
2,4-dimethylphenol	0.054 U	0.0088 U	0.018 U	0.009 U	0.009 U	0.0088 U	0.0094 U
2,4-dinitrophenol	1.1 U	0.18 U	0.37 U	0.18 U	0.18 U	0.18 U	0.19 U
2,4-dinitrotoluene	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
2,6-dinitrotoluene	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
2-chloronaphthalene	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
2-chlorophenol	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
2-nitrophenol	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
3,3'-dichlorobenzidine	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
4,6-dinitro-o-cresol	1.1 U	0.035 U	0.073 U	0.036 U	0.036 U	0.18 U	0.19 U
4-bromophenylphenyl ether	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
4-chloro-3-methylphenol	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
4-chlorophenylphenyl ether	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
4-nitrophenol	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
acenaphthene	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
acenaphthylene	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
anthracene	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
benzidine	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
benzo[a]anthracene	0.32	0.035 U	0.29	0.036 U	0.036 U	0.035 U	0.037 U
benzo[a]pyrene	0.31	0.035 U	0.27	0.036 U	0.036 U	0.035 U	0.037 U
benzo[b]fluoranthene	0.38	0.035 U	0.36	0.036 U	0.036 U	0.035 U	0.037 U
benzo[g,h,i]perylene	0.23	0.035 U	0.22	0.036 U	0.036 U	0.035 U	0.037 U
benzo[k]fluoranthene	0.22 U	0.035 U	0.12	0.036 U	0.036 U	0.035 U	0.037 U
benzyl butyl phthalate	0.22 U	0.035 U	0.076	0.036 U	0.036 U	0.035 U	0.037 U
bis(2-chloroethoxy)methane	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Semivolatile Organic Compounds

sys_loc_code	B78-MW-07	B78-MW-07	B78-MW-08	B78-MW-08	B78-MW-08	B78-MW-09	B78-MW-09
sample_date	5/31/2013	5/31/2013	6/6/2013	6/6/2013	6/6/2013	6/5/2013	6/5/2013
start_depth	0.9	8	1	6	6	0.2	8.5
end_depth	1.4	8.5	1.5	6.5	6.5	0.7	9
chemical_name	unit						
bis(2-chloroethyl)ether	0.054 U	0.0088 U	0.018 U	0.009 U	0.009 U	0.0088 U	0.0094 U
bis(2-chloroisopropyl)ether	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
bis(2-ethylhexyl)phthalate	5.5	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
dibenz[a,h]anthracene	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
diethyl phthalate	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
dimethyl phthalate	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
di-n-butyl phthalate	0.11 U	0.018 U	0.037 U	0.018 U	0.018 U	0.018 U	0.019 U
di-n-octyl phthalate	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
fluoranthene	0.33	0.035 U	0.41	0.036 U	0.036 U	0.035 U	0.037 U
fluorene	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
hexachloro-1,3-butadiene	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
hexachlorobenzene	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
hexachlorocyclopentadiene	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.18 U	0.19 U
hexachloroethane	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
indeno[1,2,3-cd]pyrene	0.22 U	0.035 U	0.19	0.036 U	0.036 U	0.035 U	0.037 U
isophorone	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
naphthalene	0.054 U	0.0088 U	0.018 U	0.009 U	0.009 U	0.0088 U	0.0094 U
nitrobenzene	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
n-nitrosodimethylamine	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
n-nitroso-di-n-propylamine	0.054 U	0.0088 U	0.018 U	0.009 U	0.009 U	0.0088 U	0.0094 U
n-nitrosodiphenylamine	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
pentachlorophenol	1.1 U	0.18 U	0.12 U	0.06 U	0.06 U	0.18 U	0.19 U
phenanthrene	0.22 U	0.035 U	0.21	0.036 U	0.036 U	0.035 U	0.037 U
phenol	0.22 U	0.035 U	0.073 U	0.036 U	0.036 U	0.035 U	0.037 U
pyrene	0.5	0.035 U	0.45	0.036 U	0.036 U	0.035 U	0.037 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
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 Baseline Investigation
 Soil Sample Results
 Semivolatile Organic Compounds

chemical_name	sys_loc_code	B78-MW-10 6/4/2013 1.2 1.7	B78-MW-10 6/4/2013 5.5 6	B78-MW-11 6/5/2013 1.3 1.8	B78-MW-11 6/5/2013 9.5 10
	sample_date	start_depth	end_depth	unit	unit
1,2,4-trichlorobenzene	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
1,2-benzphenanthracene	mg/kg	0.36	0.035 U	0.3	0.04 U
1,2-diphenylhydrazine	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
2,4,6-trichlorophenol	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
2,4-dichlorophenol	mg/kg	0.018 U	0.0088 U	0.018 U	0.01 U
2,4-dimethylphenol	mg/kg	0.018 U	0.0088 U	0.018 U	0.01 U
2,4-dinitrophenol	mg/kg	0.36 U	0.18 U	0.36 U	0.2 U
2,4-dinitrotoluene	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
2,6-dinitrotoluene	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
2-chloronaphthalene	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
2-chlorophenol	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
2-nitrophenol	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
3,3'-dichlorobenzidine	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
4,6-dinitro-o-cresol	mg/kg	0.072 U	0.18 U	0.072 U	0.04 U
4-bromophenylphenyl ether	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
4-chloro-3-methylphenol	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
4-chlorophenylphenyl ether	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
4-nitrophenol	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
acenaphthene	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
acenaphthylene	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
anthracene	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
benzidine	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
benzo[a]anthracene	mg/kg	0.4	0.035 U	0.32	0.04 U
benzo[a]pyrene	mg/kg	0.38	0.035 U	0.27	0.04 U
benzo[b]fluoranthene	mg/kg	0.53	0.035 U	0.4	0.04 U
benzo[g,h,i]perylene	mg/kg	0.38	0.035 U	0.25	0.04 U
benzo[k]fluoranthene	mg/kg	0.15	0.035 U	0.12	0.04 U
benzyl butyl phthalate	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U
bis(2-chloroethoxy)methane	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Semivolatile Organic Compounds

sys_loc_code	B78-MW-10	B78-MW-10	B78-MW-10	B78-MW-11	B78-MW-11	B78-MW-11
sample_date	6/4/2013	6/4/2013	6/4/2013	6/5/2013	6/5/2013	6/5/2013
start_depth	1.2	5.5	1.3	1.3	9.5	9.5
end_depth	1.7	6	1.8	1.8	10	10
chemical_name	unit					
bis(2-chloroethyl)ether	mg/kg	0.018 U	0.0088 U	0.018 U	0.01 U	0.01 U
bis(2-chloroisopropyl)ether	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U	0.04 U
bis(2-ethylhexyl)phthalate	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U	0.04 U
dibenz[a,h]anthracene	mg/kg	0.08	0.035 U	0.072 U	0.04 U	0.04 U
diethyl phthalate	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U	0.04 U
dimethyl phthalate	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U	0.04 U
di-n-butyl phthalate	mg/kg	0.036 U	0.018 U	0.036 U	0.02 U	0.02 U
di-n-octyl phthalate	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U	0.04 U
fluoranthene	mg/kg	0.49	0.035 U	0.5	0.04 U	0.04 U
fluorene	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U	0.04 U
hexachloro-1,3-butadiene	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U	0.04 U
hexachlorobenzene	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U	0.04 U
hexachlorocyclopentadiene	mg/kg	0.072 U	0.18 U	0.072 U	0.04 U	0.04 U
hexachloroethane	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U	0.04 U
indeno[1,2,3-cd]pyrene	mg/kg	0.31	0.035 U	0.21	0.04 U	0.04 U
isophorone	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U	0.04 U
naphthalene	mg/kg	0.018 U	0.0088 U	0.018 U	0.01 U	0.01 U
nitrobenzene	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U	0.04 U
n-nitrosodimethylamine	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U	0.04 U
n-nitroso-di-n-propylamine	mg/kg	0.018 U	0.0088 U	0.018 U	0.01 U	0.01 U
n-nitrosodiphenylamine	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U	0.04 U
pentachlorophenol	mg/kg	0.12 U	0.18 U	0.12 U	0.068 U	0.068 U
phenanthrene	mg/kg	0.18	0.035 U	0.31	0.04 U	0.04 U
phenol	mg/kg	0.072 U	0.035 U	0.072 U	0.04 U	0.04 U
pyrene	mg/kg	0.56	0.035 U	0.48	0.04 U	0.04 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Metals

chemical_name	sys_loc_code	sample_date	start_depth	end_depth	B78-MW-01	B78-MW-02	B78-MW-02	B78-MW-02	B78-MW-03	B78-MW-03
antimony		2.1 U			2.3 U	2.1 U	2.1 U	2.2 U	2 U	2.2 U
arsenic		4.5			2.3 U	2.1 U	2.2 U	2.2 U	2.1	2.2 U
beryllium		0.62 U			0.68 U	0.64 U	0.57 U	0.57 U	0.61 U	0.65 U
cadmium		0.62 U			0.68 U	0.64 U	0.67 U	0.67 U	0.61 U	0.65 U
copper		68			11	69	7.6	7.6	100	5.5
lead		5.2 U			40	19	5.6 U	5.6 U	35	5.4 U
nickel		6.5			7.7	9.3	14	14	9.8	8.1
selenium		1.9 U			2 U	1.9 U	2 U	2 U	1.8 U	2 U
silver		1.5 U			1.7 U	1.6 U	1.7 U	1.7 U	1.5 U	1.6 U
thallium		1.2 U			1.4 U	1.3 U	1.3 U	1.3 U	1.2 U	1.3 U
total chromium		5.2 U			8.8	7.6	11	11	8.9	10
zinc		66			35	30	13	13	32	13

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Metals

chemical_name	sys_loc_code	B78-MW-04	B78-MW-04	B78-MW-05	B78-MW-05	B78-MW-05	B78-MW-06	B78-MW-06
	sample_date	start_depth	end_depth	5/29/2013	5/31/2013	5/31/2013	5/30/2013	5/30/2013
unit								
antimony		2.1 U	2.1 U	2.1 U	2.4 U	2.4 U	2.2 U	2.3 U
arsenic		2.1 U	2.1 U	2.5	2.4 U	2.4 U	3.4	2.3 U
beryllium		0.62 U	0.64 U	0.62 U	0.71 U	0.71 U	0.65 U	0.7 U
cadmium		0.62 U	0.64 U	0.62 U	0.71 U	0.71 U	0.65 U	0.7 U
copper		110	7.6	110	9.3	9.3	22	11
lead		16	5.3 U	11	5.9 U	5.9 U	32	110
nickel		8.5	11	11	11	11	9.9	7.6
selenium		1.9 U	1.9 U	1.9 U	2.1 U	2.1 U	1.9 U	2.1 U
silver		1.6 U	1.6 U	1.6 U	1.8 U	1.8 U	1.6 U	1.7 U
thallium		1.2 U	1.3 U	1.2 U	1.4 U	1.4 U	1.3 U	1.4 U
total chromium		5.2 U	5.3 U	7.1	7.2	7.2	12	9.2
zinc		40	13	38	15	15	50	93

mg/kg Milligram per kilogram
 U Not detected at MDL
BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Metals

chemical_name	sys_loc_code	sample_date	start_depth	end_depth	B78-MW-07 5/31/2013	B78-MW-07 5/31/2013	B78-MW-08 6/6/2013	B78-MW-08 6/6/2013	B78-MW-08 6/6/2013	B78-MW-09 6/5/2013	B78-MW-09 6/5/2013
antimony		2.2 U			2.1 U	2.2 U	2.2 U	2.2 U	2.1 U	2.2 U	2.2 U
arsenic		2.9			2.1 U	2.2 U	2.2 U	2.2 U	2.1 U	2.2 U	2.2 U
beryllium		0.65 U			0.63 U	0.66 U	0.65 U	0.65 U	0.63 U	0.67 U	0.67 U
cadmium		0.65 U			0.63 U	0.66 U	0.65 U	0.65 U	0.63 U	0.67 U	0.67 U
copper		25			5.4	15	6.7	6.7	7.4	7.2	7.2
lead		38			7.7	37	8.4	8.4	9.1	5.6 U	5.6 U
nickel		9.7			5.3 U	7	9.5	9.5	13	8.3	8.3
selenium		1.9 U			1.9 U	2 U	1.9 U	1.9 U	1.9 U	2 U	2 U
silver		1.6 U			1.6 U	1.6 U	1.6 U	1.6 U	1.6 U	1.7 U	1.7 U
thallium		1.3 U			1.3 U	1.3 U	1.3 U	1.3 U	1.3 U	1.3 U	1.3 U
total chromium		11			7.3	8.7	9.9	9.9	11	6	6
zinc		52			13	41	16	16	20	12	12

mg/kg Milligram per Kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Metals

chemical_name	sys_loc_code	sample_date	start_depth	end_depth	B78-MW-10	B78-MW-10	B78-MW-11	B78-MW-11
antimony		6/4/2013	1.2	1.7	2.2 U	2.1 U	2.2 U	2.4 U
arsenic		6/4/2013	1.2	1.7	3.2	2.1 U	3.2	2.4 U
beryllium		6/4/2013	1.2	1.7	0.65 U	0.63 U	0.65 U	0.72 U
cadmium		6/4/2013	1.2	1.7	0.65 U	0.63 U	0.65 U	0.72 U
copper		6/4/2013	1.2	1.7	23	5.9	21	7.6
lead		6/4/2013	1.2	1.7	49	5.3 U	37	6 U
nickel		6/4/2013	1.2	1.7	9.7	11	8.6	12
selenium		6/4/2013	1.2	1.7	2 U	1.9 U	1.9 U	2.2 U
silver		6/4/2013	1.2	1.7	1.6 U	1.6 U	1.6 U	1.8 U
thallium		6/4/2013	1.2	1.7	1.3 U	1.3 U	1.3 U	1.4 U
total chromium		6/4/2013	1.2	1.7	13	5.9	10	9.5
zinc		6/4/2013	1.2	1.7	56	11	52	25

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Pesticides and PCBs

chemical_name	sys_loc_code	B78-MW-04	B78-MW-04	B78-MW-05	B78-MW-05	B78-MW-06	B78-MW-06
	sample_date	start_depth	end_depth	5/29/2013	5/31/2013	5/30/2013	5/30/2013
unit				2	8	1.4	7
Pesticides							
4,4'-ddd	mg/kg	0.0026 U	0.0027 U	0.0052 U	0.0029 U	0.0027 U	0.0029 U
4,4'-dde	mg/kg	0.0026 U	0.0027 U	0.0052 U	0.0029 U	0.0078	0.0029 U
4,4'-ddt	mg/kg	0.0026 U	0.0027 U	0.0052 U	0.0029 U	0.0027 U	0.0029 U
aldrin	mg/kg	0.0052 U	0.0053 U	0.01 U	0.0059 U	0.0054 U	0.0058 U
alpha-bhc	mg/kg	0.001 U	0.0011 U	0.0021 U	0.0012 U	0.0011 U	0.0012 U
beta-bhc	mg/kg	0.001 U	0.0011 U	0.0021 U	0.0012 U	0.0011 U	0.0012 U
chlordane	mg/kg	0.026 U	0.027 U	0.052 U	0.029 U	0.069	0.029 U
delta-bhc	mg/kg	0.0052 U	0.0053 U	0.01 U	0.0059 U	0.0054 U	0.0058 U
dieldrin	mg/kg	0.016	0.0011 U	0.0021 U	0.0012 U	0.0045 d	0.0012 U
endosulfan i	mg/kg	0.0052 U	0.0053 U	0.01 U	0.0059 U	0.0054 U	0.0058 U
endosulfan ii	mg/kg	0.0052 U	0.0053 U	0.01 U	0.0059 U	0.0054 U	0.0058 U
endosulfan sulfate	mg/kg	0.0052 U	0.0053 U	0.01 U	0.0059 U	0.0054 U	0.0058 U
endrin	mg/kg	0.0052 U	0.0053 U	0.01 U	0.0059 U	0.0054 U	0.0058 U
endrin aldehyde	mg/kg	0.0052 U	0.0053 U	0.01 U	0.0059 U	0.0054 U	0.0058 U
gamma-bhc (lindane)	mg/kg	0.001 U	0.0011 U	0.0021 U	0.0012 U	0.0011 U	0.0012 U
heptachlor	mg/kg	0.0052 U	0.0053 U	0.01 U	0.0059 U	0.0054 U	0.0058 U
heptachlor epoxide	mg/kg	0.0052 U	0.0053 U	0.01 U	0.0059 U	0.0054 U	0.0058 U
toxaphene	mg/kg	0.026 U	0.027 U	0.052 U	0.029 U	0.027 U	0.029 U
PCBs							
aroclor 1016	mg/kg	0.026 U	0.027 U	0.026 U	0.029 U	0.027 U	0.029 U
aroclor 1221	mg/kg	0.026 U	0.027 U	0.026 U	0.029 U	0.027 U	0.029 U
aroclor 1232	mg/kg	0.026 U	0.027 U	0.026 U	0.029 U	0.027 U	0.029 U
aroclor 1242	mg/kg	0.026 U	0.027 U	0.026 U	0.029 U	0.027 U	0.029 U
aroclor 1248	mg/kg	0.026 U	0.027 U	0.026 U	0.029 U	0.027 U	0.029 U
aroclor 1254	mg/kg	0.026 U	0.027 U	0.026 U	0.029 U	0.048	0.029 U
aroclor 1260	mg/kg	0.026 U	0.027 U	0.026 U	0.029 U	0.027 U	0.029 U
pcbs (polychlorinated biphenyls)	mg/kg	0.026 U	0.027 U	0.026 U	0.029 U	0.048	0.029 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Pesticides and PCBs

chemical_name	sys_loc_code	B78-MW-07 sample_date start_depth end_depth	B78-MW-07 5/31/2013 8 8.5	B78-MW-08 6/6/2013 1 1.5	B78-MW-08 6/6/2013 6 6.5	B78-MW-09 6/5/2013 0.2 0.7	B78-MW-09 6/5/2013 8.5 9
	unit						
Pesticides							
4,4'-ddd	mg/kg	0.0054 U	0.0026 U	0.0027 U	0.0027 U	0.0026 U	0.0028 U
4,4'-dde	mg/kg	0.0054 U	0.0026 U	0.004	0.0027 U	0.0026 U	0.0028 U
4,4'-ddt	mg/kg	0.0054 U	0.0026 U	0.0027 U	0.0027 U	0.0026 U	0.0028 U
aldrin	mg/kg	0.011 U	0.0053 U	0.0055 U	0.0054 U	0.0053 U	0.0056 U
alpha-bhc	mg/kg	0.0022 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U
beta-bhc	mg/kg	0.0022 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U
chlordane	mg/kg	0.054 U	0.026 U	0.096	0.027 U	0.026 U	0.028 U
delta-bhc	mg/kg	0.011 U	0.0053 U	0.0055 U	0.0054 U	0.0053 U	0.0056 U
dieldrin	mg/kg	0.0022 U	0.014	0.016 d	0.005	0.0011 U	0.0011 U
endosulfan i	mg/kg	0.011 U	0.0053 U	0.0055 U	0.0054 U	0.0053 U	0.0056 U
endosulfan ii	mg/kg	0.011 U	0.0053 U	0.0055 U	0.0054 U	0.0053 U	0.0056 U
endosulfan sulfate	mg/kg	0.011 U	0.0053 U	0.0055 U	0.0054 U	0.0053 U	0.0056 U
endrin	mg/kg	0.011 U	0.0053 U	0.0055 U	0.0054 U	0.0053 U	0.0056 U
endrin aldehyde	mg/kg	0.011 U	0.0053 U	0.0055 U	0.0054 U	0.0053 U	0.0056 U
gamma-bhc (lindane)	mg/kg	0.0022 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U
heptachlor	mg/kg	0.011 U	0.0053 U	0.0055 U	0.0054 U	0.0053 U	0.0056 U
heptachlor epoxide	mg/kg	0.011 U	0.0053 U	0.0055 U	0.0054 U	0.0053 U	0.0056 U
toxaphene	mg/kg	0.054 U	0.026 U	0.027 U	0.027 U	0.026 U	0.028 U
PCBs							
aroclor 1016	mg/kg	0.027 U	0.026 U	0.027 U	0.027 U	0.026 U	0.028 U
aroclor 1221	mg/kg	0.027 U	0.026 U	0.027 U	0.027 U	0.026 U	0.028 U
aroclor 1232	mg/kg	0.027 U	0.026 U	0.027 U	0.027 U	0.026 U	0.028 U
aroclor 1242	mg/kg	0.027 U	0.026 U	0.027 U	0.027 U	0.026 U	0.028 U
aroclor 1248	mg/kg	0.027 U	0.026 U	0.027 U	0.027 U	0.026 U	0.028 U
aroclor 1254	mg/kg	0.027 U	0.026 U	0.027 U	0.027 U	0.026 U	0.028 U
aroclor 1260	mg/kg	0.027 U	0.026 U	0.027 U	0.027 U	0.026 U	0.028 U
pcbs (polychlorinated biphenyls)	mg/kg	0.027 U	0.026 U	0.027 U	0.027 U	0.18	0.18

mg/kg Milligram per kilogram
 U Not detected at MDL
BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Pesticides and PCBs

chemical_name	sys_loc_code	B78-MW-10 sample_date	B78-MW-10 start_depth	B78-MW-10 end_depth	B78-MW-10 sample_date	B78-MW-10 start_depth	B78-MW-10 end_depth	B78-MW-11 sample_date	B78-MW-11 start_depth	B78-MW-11 end_depth
Pesticides										
4,4'-ddd	mg/kg	0.0027 U	0.0026 U	0.0027 U	0.0026 U	0.0027 U	0.0027 U	0.0027 U	0.0027 U	0.003 U
4,4'-dde	mg/kg	0.018	0.0026 U	0.0077	0.0026 U	0.0077	0.0027 U	0.0027 U	0.0027 U	0.003 U
4,4'-ddt	mg/kg	0.0027 U	0.0026 U	0.0027 U	0.0026 U	0.0027 U	0.0027 U	0.0027 U	0.0027 U	0.003 U
aldrin	mg/kg	0.0054 U	0.0053 U	0.0054 U	0.0053 U	0.0054 U	0.0054 U	0.0054 U	0.0054 U	0.006 U
alpha-bhc	mg/kg	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0012 U
beta-bhc	mg/kg	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0012 U
chlordane	mg/kg	0.16	0.026 U	0.081	0.026 U	0.081	0.081	0.081	0.081	0.03 U
delta-bhc	mg/kg	0.0054 U	0.0053 U	0.0054 U	0.0053 U	0.0054 U	0.0054 U	0.0054 U	0.0054 U	0.006 U
dieldrin	mg/kg	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0053
endosulfan i	mg/kg	0.0054 U	0.0053 U	0.0054 U	0.0053 U	0.0054 U	0.0054 U	0.0054 U	0.0054 U	0.006 U
endosulfan ii	mg/kg	0.0054 U	0.0053 U	0.0054 U	0.0053 U	0.0054 U	0.0054 U	0.0054 U	0.0054 U	0.006 U
endosulfan sulfate	mg/kg	0.0054 U	0.0053 U	0.0054 U	0.0053 U	0.0054 U	0.0054 U	0.0054 U	0.0054 U	0.006 U
endrin	mg/kg	0.0054 U	0.0053 U	0.0054 U	0.0053 U	0.0054 U	0.0054 U	0.0054 U	0.0054 U	0.006 U
endrin aldehyde	mg/kg	0.0054 U	0.0053 U	0.0054 U	0.0053 U	0.0054 U	0.0054 U	0.0054 U	0.0054 U	0.006 U
gamma-bhc (lindane)	mg/kg	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0011 U	0.0012 U
heptachlor	mg/kg	0.0054 U	0.0053 U	0.0054 U	0.0053 U	0.0054 U	0.0054 U	0.0054 U	0.0054 U	0.006 U
heptachlor epoxide	mg/kg	0.0054 U	0.0053 U	0.0054 U	0.0053 U	0.0054 U	0.0054 U	0.0054 U	0.0054 U	0.006 U
toxaphene	mg/kg	0.027 U	0.026 U	0.027 U	0.026 U	0.027 U	0.027 U	0.027 U	0.027 U	0.03 U
PCBs										
aroclor 1016	mg/kg	0.027 U	0.026 U	0.027 U	0.026 U	0.027 U	0.027 U	0.027 U	0.027 U	0.03 U
aroclor 1221	mg/kg	0.027 U	0.026 U	0.027 U	0.026 U	0.027 U	0.027 U	0.027 U	0.027 U	0.03 U
aroclor 1232	mg/kg	0.027 U	0.026 U	0.027 U	0.026 U	0.027 U	0.027 U	0.027 U	0.027 U	0.03 U
aroclor 1242	mg/kg	0.027 U	0.026 U	0.027 U	0.026 U	0.027 U	0.027 U	0.027 U	0.027 U	0.03 U
aroclor 1248	mg/kg	0.027 U	0.026 U	0.027 U	0.026 U	0.027 U	0.027 U	0.027 U	0.027 U	0.03 U
aroclor 1254	mg/kg	0.027 U	0.026 U	0.027 U	0.026 U	0.027 U	0.027 U	0.027 U	0.027 U	0.03 U
aroclor 1260	mg/kg	0.15	0.026 U	0.15	0.026 U	0.15	0.027 U	0.027 U	0.027 U	0.03 U
pcbs (polychlorinated biphenyls)	mg/kg	0.15	0.026 U	0.15	0.026 U	0.15	0.027 U	0.027 U	0.027 U	0.03 U

mg/kg Milligram per Kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Miscellaneous Parameters

chemical_name	sys_loc_code	sample_date	start_depth	end_depth	B78-MW-01 5/30/2013	B78-MW-02 5/31/2013	B78-MW-02 5/31/2013	B78-MW-02 5/31/2013	B78-MW-03 5/29/2013	B78-MW-03 5/29/2013
			1.4	1.9	6.5	1.3	6.5	0.9	7.5	8
					7	1.8	7	1.4		
	unit									
<i>Glycols</i>										
ethylene glycol	mg/kg	52 U			57 U	53 U	56 U	51 U	54 U	54 U
propylene glycol	mg/kg	52 U			57 U	53 U	56 U	51 U	54 U	54 U
total petroleum hydrocarbons	mg/kg	300			68 U	64 U	67 U	1200	65 U	65 U
mercury	mg/kg	0.086 U			0.095 U	0.089 U	0.094 U	0.085 U	0.091 U	0.091 U
cyanide	mg/kg	0.25 U			0.27 U	0.26 U	0.27 U	0.24 U	0.63	0.63
phenols (total)	mg/kg	1.3 U			1.4 U	1.3 U	1.4 U	1.3 U	1.4 U	1.4 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Miscellaneous Parameters

chemical_name	unit	B78-MW-04 5/29/2013 start_depth 2.4 end_depth 2.9	B78-MW-04 5/29/2013 8 8.5	B78-MW-05 5/31/2013 1.5 2	B78-MW-05 5/31/2013 7.5 8	B78-MW-06 5/30/2013 1.4 1.9	B78-MW-06 5/30/2013 6.5 7
<i>Glycols</i>							
ethylene glycol	mg/kg	52 U	53 U	52 U	59 U	54 U	58 U
propylene glycol	mg/kg	52 U	53 U	52 U	59 U	54 U	58 U
total petroleum hydrocarbons	mg/kg	410	64 U	340	71 U	1100	1300
mercury	mg/kg	0.087 U	0.089 U	0.087 U	0.098 U	0.09 U	0.097 U
cyanide	mg/kg	0.25 U	0.26 U	0.25 U	0.28 U	0.26 U	0.28 U
phenols (total)	mg/kg	1.3 U	1.3 U	1.3 U	1.5 U	1.3 U	1.5 U

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Miscellaneous Parameters

chemical_name	sys_loc_code	B78-MW-07	B78-MW-07	B78-MW-08	B78-MW-08	B78-MW-08	B78-MW-09	B78-MW-09
	sample_date	start_depth	end_depth	5/31/2013	6/6/2013	6/6/2013	6/5/2013	6/5/2013
unit				8	1	6	0.2	8.5
		1.4	8.5	1.5	6.5	0.7	9	
<i>Glycols</i>								
ethylene glycol	mg/kg	54 U	53 U	55 U	54 U	53 U	56 U	
propylene glycol	mg/kg	54 U	53 U	55 U	54 U	53 U	56 U	
total petroleum hydrocarbons	mg/kg	810	63 U	180	65 U	160	67 U	
mercury	mg/kg	0.09 U	0.088 U	0.092 U	0.09 U	0.088 U	0.094 U	
cyanide	mg/kg	0.26 U	0.25 U	0.26 U	0.26 U	0.25 U	0.27 U	
phenols (total)	mg/kg	1.3 U	1.3 U	0.66 U	0.65 U	0.63 U	0.67 U	

mg/kg Milligram per kilogram
 U Not detected at MDL
 BOLD indicates analyte detected

Table 3
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Soil Sample Results
 Miscellaneous Parameters

chemical_name	sys_loc_code	sample_date	start_depth	end_depth	unit	B78-MW-10 6/4/2013	B78-MW-10 5.5	B78-MW-10 6	B78-MW-11 6/5/2013	B78-MW-11 1.3	B78-MW-11 1.8	B78-MW-11 6/5/2013	B78-MW-11 9.5	B78-MW-11 10
Glycols														
ethylene glycol			54 U		mg/kg	54 U	53 U	54 U	54 U	54 U	54 U	60 U	60 U	60 U
propylene glycol			54 U		mg/kg	54 U	53 U	54 U	54 U	54 U	54 U	60 U	60 U	60 U
total petroleum hydrocarbons			350		mg/kg	350	63 U	580	580	580	580	72 U	72 U	72 U
mercury			0.091 U		mg/kg	0.091 U	0.088 U	0.09 U	0.09 U	0.09 U	0.09 U	0.1 U	0.1 U	0.1 U
cyanide			0.26 U		mg/kg	0.26 U	0.25 U	0.26 U	0.26 U	0.26 U	0.26 U	0.29 U	0.29 U	0.29 U
phenols (total)			0.65 U		mg/kg	0.65 U	0.63 U	0.65 U	0.65 U	0.65 U	0.65 U	0.72 U	0.72 U	0.72 U

mg/kg Milligram per kilogram
 U Not detected at MDL
BOLD indicates analyte detected

Table 4
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Groundwater Sample Results
 Volatile Organic Compounds

chemical_name	sys_loc_code	sample_date	B78-MW-01	B78-MW-02	B78-MW-03	B78-MW-04	B78-MW-05	B78-MW-06
		unit	6/18/2013	6/17/2013	6/17/2013	6/17/2013	6/17/2013	6/18/2013
1,1,1-trichloroethane	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
1,1,2,2-tetrachloroethane	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
1,1,2-trichloroethane	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
1,1-dichloroethane	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
1,1-dichloroethylene	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
1,2,4-trimethylbenzene	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
1,2-dichlorobenzene	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
1,2-dichloroethane	ug/l		0.5 U					
1,2-dichloropropane	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
1,3,5-trimethylbenzene	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
1,3-dichlorobenzene	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
1,4-dichlorobenzene	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
2-chloroethyl vinyl ether	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
4-isopropyltoluene	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
acrolein	ug/l		5 U	5 U	5 U	5 U	5 U	5 U
acrylonitrile	ug/l		2 U	2 U	2 U	2 U	2 U	2 U
benzene	ug/l		0.5 U					
bromodichloromethane	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
bromoform	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
bromomethane	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
carbon tetrachloride	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
chlorobenzene	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
chloroethane	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
chloroform	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
chloromethane	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
cis-1,3-dichloropropene	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
dibromochloromethane	ug/l		1 U	1 U	1 U	1 U	1 U	1 U
ethylbenzene	ug/l		1 U	1 U	1 U	1 U	1 U	1 U

ug/l Microgram per liter
 U Not detected at MDL
 BOLD indicates analyte detected

Table 4
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Groundwater Sample Results
 Volatile Organic Compounds

chemical_name	sys_loc_code	B78-MW-01	B78-MW-02	B78-MW-03	B78-MW-04	B78-MW-05	B78-MW-06
	sample_date	6/18/2013	6/17/2013	6/17/2013	6/17/2013	6/17/2013	6/18/2013
	unit						
isopropyl benzene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
m,p-Xylene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
methyl tert-butyl ether	ug/l	0.5 U	0.5 U	0.77	0.66	0.79	2.9
methylene chloride	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
naphthalene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
n-butylbenzene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
n-propylbenzene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
o-xylene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
sec-butylbenzene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
tert-butyl alcohol	ug/l	5 U	5 U	5 U	5 U	5 U	5 U
tert-butylbenzene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
tetrachloroethylene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
toluene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
trans-1,2-dichloroethylene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
trans-1,3-dichloropropene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
trichloroethylene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
vinyl chloride	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
xylenes	ug/l	1 U	1 U	1 U	1 U	1 U	1 U

ug/l Microgram per liter
 U Not detected at MDL
BOLD indicates analyte detected

Table 4
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Groundwater Sample Results
 Volatile Organic Compounds

chemical_name	sys_loc_code	sample_date	B78-MW-07	B78-MW-08	B78-MW-09	B78-MW-10	B78-MW-11
		unit	6/18/2013	6/18/2013	6/18/2013	6/17/2013	6/17/2013
1,1,1-trichloroethane		ug/l	1 U	1 U	1 U	1 U	1 U
1,1,2,2-tetrachloroethane		ug/l	1 U	1 U	1 U	1 U	1 U
1,1,2-trichloroethane		ug/l	1 U	1 U	1 U	1 U	1 U
1,1-dichloroethane		ug/l	1 U	1 U	1 U	1 U	1 U
1,1-dichloroethylene		ug/l	1 U	1 U	1 U	1 U	1 U
1,2,4-trimethylbenzene		ug/l	1 U	1 U	1 U	1 U	1 U
1,2-dichlorobenzene		ug/l	1 U	1 U	1 U	1 U	1 U
1,2-dichloroethane		ug/l	0.5 U				
1,2-dichloropropane		ug/l	1 U	1 U	1 U	1 U	1 U
1,3,5-trimethylbenzene		ug/l	1 U	1 U	1 U	1 U	1 U
1,3-dichlorobenzene		ug/l	1 U	1 U	1 U	1 U	1 U
1,4-dichlorobenzene		ug/l	1 U	1 U	1 U	1 U	1 U
2-chloroethyl vinyl ether		ug/l	1 U	1 U	1 U	1 U	1 U
4-isopropyltoluene		ug/l	1 U	1 U	1 U	1 U	1 U
acrolein		ug/l	5 U	5 U	5 U	5 U	5 U
acrylonitrile		ug/l	2 U	2 U	2 U	2 U	2 U
benzene		ug/l	0.5 U				
bromodichloromethane		ug/l	1 U	1 U	1 U	1 U	1 U
bromoform		ug/l	1 U	1 U	1 U	1 U	1 U
bromomethane		ug/l	1 U	1 U	1 U	1 U	1 U
carbon tetrachloride		ug/l	1 U	1 U	1 U	1 U	1 U
chlorobenzene		ug/l	1 U	1 U	1 U	1 U	1 U
chloroethane		ug/l	1 U	1 U	1 U	1 U	1 U
chloroform		ug/l	1 U	1 U	1 U	1 U	1 U
chloromethane		ug/l	1 U	1 U	1 U	1 U	1 U
cis-1,3-dichloropropene		ug/l	1 U	1 U	1 U	1 U	1 U
dibromochloromethane		ug/l	1 U	1 U	1 U	1 U	1 U
ethylbenzene		ug/l	1 U	1 U	1 U	1 U	1 U

ug/l Microgram per liter
 U Not detected at MDL
 BOLD indicates analyte detected

Table 4
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Groundwater Sample Results
 Volatile Organic Compounds

chemical_name	sys_loc_code	sample_date	878-MW-07	878-MW-08	878-MW-09	878-MW-10	878-MW-11
	unit	6/18/2013	6/18/2013	6/18/2013	6/17/2013	6/17/2013	6/17/2013
isopropyl benzene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
m,p-Xylene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
methyl tert-butyl ether	ug/l	7.4	0.5 U				
methylene chloride	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
naphthalene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
n-butylbenzene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
n-propylbenzene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
o-xylene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
sec-butylbenzene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
tert-butyl alcohol	ug/l	5 U	5 U	5 U	5 U	5 U	5 U
tert-butylbenzene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
tetrachloroethylene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
toluene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
trans-1,2-dichloroethylene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
trans-1,3-dichloropropene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
trichloroethylene	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
vinyl chloride	ug/l	1 U	1 U	1 U	1 U	1 U	1 U
xylenes	ug/l	1 U	1 U	1 U	1 U	1 U	1 U

ug/l Microgram per liter
 U Not detected at MDL
BOLD indicates analyte detected

Table 4
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Groundwater Sample Results
 Semivolatile Organic Compounds

chemical_name	sys_loc_code	B78-MW-01	B78-MW-02	B78-MW-03	B78-MW-04	B78-MW-05	B78-MW-06
	sample_date	6/18/2013	6/17/2013	6/17/2013	6/17/2013	6/17/2013	6/18/2013
unit							
1,2,4-trichlorobenzene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
1,2-benzophenanthracene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
1,2-diphenylhydrazine	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
2,4,6-trichlorophenol	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
2,4-dichlorophenol	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
2,4-dimethylphenol	ug/l	0.52 U	0.5 U	0.53 U	0.51 U	0.55 U	0.52 U
2,4-dinitrophenol	ug/l	10 U	10 U	11 U	10 U	11 U	10 U
2,4-dinitrotoluene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
2,6-dinitrotoluene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
2-chloronaphthalene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
2-chlorophenol	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
2-nitrophenol	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
3,3'-dichlorobenzidine	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
4,6-dinitro-o-cresol	ug/l	10 U	10 U	11 U	10 U	11 U	10 U
4-bromophenylphenyl ether	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
4-chloro-3-methylphenol	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
4-chlorophenylphenyl ether	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
4-nitrophenol	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
acenaphthene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
acenaphthylene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
anthracene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
benzidine	ug/l	10 U	10 U	11 U	10 U	11 U	10 U
benzo[a]anthracene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
benzo[a]pyrene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
benzo[b]fluoranthene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
benzo[g,h,i]perylene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
benzo[k]fluoranthene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
benzyl butyl phthalate	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U

ug/l Microgram per liter
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 BOLD indicates analyte detected

Table 4
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Groundwater Sample Results
 Semivolatile Organic Compounds

chemical_name	sys_loc_code	B78-MW-01	B78-MW-02	B78-MW-03	B78-MW-04	B78-MW-05	B78-MW-06
	sample_date	6/18/2013	6/17/2013	6/17/2013	6/17/2013	6/17/2013	6/18/2013
unit							
bis(2-chloroethoxy)methane	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
bis(2-chloroethyl)ether	ug/l	0.52 U	0.5 U	0.53 U	0.51 U	0.55 U	0.52 U
bis(2-chloroisopropyl)ether	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
bis(2-ethylhexyl)phthalate	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
dibenz[a,h]anthracene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
diethyl phthalate	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
dimethyl phthalate	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
di-n-butyl phthalate	ug/l	0.52 U	0.5 U	0.53 U	0.51 U	0.55 U	0.52 U
di-n-octyl phthalate	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
fluoranthene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
fluorene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
hexachloro-1,3-butadiene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
hexachlorobenzene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
hexachlorocyclopentadiene	ug/l	10 U	10 U	11 U	10 U	11 U	10 U
hexachloroethane	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
indeno[1,2,3-cd]pyrene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
isophorone	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
naphthalene	ug/l	0.52 U	0.5 U	0.53 U	0.51 U	0.55 U	0.52 U
nitrobenzene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
n-nitrosodimethylamine	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
n-nitroso-di-n-propylamine	ug/l	0.52 U	0.5 U	0.53 U	0.51 U	0.55 U	0.52 U
n-nitrosodiphenylamine	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
pentachlorophenol	ug/l	10 U	10 U	11 U	10 U	11 U	10 U
phenanthrene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
phenol	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U
pyrene	ug/l	2.1 U	2 U	2.1 U	2 U	2.2 U	2.1 U

ug/l Microgram per liter
 U Not detected at MDL
 BOLD indicates analyte detected

Table 4
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Groundwater Sample Results
 Semivolatile Organic Compounds

chemical_name	sys_loc_code sample_date	B78-MW-07 6/18/2013	B78-MW-08 6/18/2013	B78-MW-09 6/18/2013	B78-MW-10 6/17/2013	B78-MW-11 6/17/2013
	unit					
1,2,4-trichlorobenzene	ug/l	2.1 U	2 U	2 U	2 U	2 U
1,2-benzphenanthracene	ug/l	2.1 U	2 U	2 U	2 U	2 U
1,2-diphenylhydrazine	ug/l	2.1 U	2 U	2 U	2 U	2 U
2,4,6-trichlorophenol	ug/l	2.1 U	2 U	2 U	2 U	2 U
2,4-dichlorophenol	ug/l	2.1 U	2 U	2 U	2 U	2 U
2,4-dimethylphenol	ug/l	0.52 U	0.5 U	0.5 U	0.5 U	0.5 U
2,4-dinitrophenol	ug/l	10 U				
2,4-dinitrotoluene	ug/l	2.1 U	2 U	2 U	2 U	2 U
2,6-dinitrotoluene	ug/l	2.1 U	2 U	2 U	2 U	2 U
2-chloronaphthalene	ug/l	2.1 U	2 U	2 U	2 U	2 U
2-chlorophenol	ug/l	2.1 U	2 U	2 U	2 U	2 U
2-nitrophenol	ug/l	2.1 U	2 U	2 U	2 U	2 U
3,3'-dichlorobenzidine	ug/l	2.1 U	2 U	2 U	2 U	2 U
4,6-dinitro-o-cresol	ug/l	10 U				
4-bromophenylphenyl ether	ug/l	2.1 U	2 U	2 U	2 U	2 U
4-chloro-3-methylphenol	ug/l	2.1 U	2 U	2 U	2 U	2 U
4-chlorophenylphenyl ether	ug/l	2.1 U	2 U	2 U	2 U	2 U
4-nitrophenol	ug/l	2.1 U	2 U	2 U	2 U	2 U
acenaphthene	ug/l	2.1 U	2 U	2 U	2 U	2 U
acenaphthylene	ug/l	2.1 U	2 U	2 U	2 U	2 U
anthracene	ug/l	2.1 U	2 U	2 U	2 U	2 U
benzidine	ug/l	10 U				
benzo[a]anthracene	ug/l	2.1 U	2 U	2 U	2 U	2 U
benzo[a]pyrene	ug/l	2.1 U	2 U	2 U	2 U	2 U
benzo[b]fluoranthene	ug/l	2.1 U	2 U	2 U	2 U	2 U
benzo[g,h,i]perylene	ug/l	2.1 U	2 U	2 U	2 U	2 U
benzo[k]fluoranthene	ug/l	2.1 U	2 U	2 U	2 U	2 U
benzyl butyl phthalate	ug/l	2.1 U	2 U	2 U	2 U	2 U

ug/l Microgram per liter
 U Not detected at MDL
 BOLD indicates analyte detected

Table 4
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Groundwater Sample Results
 Semivolatile Organic Compounds

chemical_name	sys_loc_code	sample_date	unit	B78-MW-07 6/18/2013	B78-MW-08 6/18/2013	B78-MW-09 6/18/2013	B78-MW-10 6/17/2013	B78-MW-11 6/17/2013
bis(2-chloroethoxy)methane			ug/l	2.1 U	2 U	2 U	2 U	2 U
bis(2-chloroethyl)ether			ug/l	0.52 U	0.5 U	0.5 U	0.5 U	0.5 U
bis(2-chloroisopropyl)ether			ug/l	2.1 U	2 U	2 U	2 U	2 U
bis(2-ethylhexyl)phthalate			ug/l	2.1 U	2 U	2 U	2 U	2 U
dibenz[a,h]anthracene			ug/l	2.1 U	2 U	2 U	2 U	2 U
diethyl phthalate			ug/l	2.1 U	2 U	2 U	2 U	2 U
dimethyl phthalate			ug/l	2.1 U	2 U	2 U	2 U	2 U
di-n-butyl phthalate			ug/l	0.52 U	0.5 U	0.5 U	0.5 U	0.5 U
di-n-octyl phthalate			ug/l	2.1 U	2 U	2 U	2 U	2 U
fluoranthene			ug/l	2.1 U	2 U	2 U	2 U	2 U
fluorene			ug/l	2.1 U	2 U	2 U	2 U	2 U
hexachloro-1,3-butadiene			ug/l	2.1 U	2 U	2 U	2 U	2 U
hexachlorobenzene			ug/l	2.1 U	2 U	2 U	2 U	2 U
hexachlorocyclopentadiene			ug/l	10 U				
hexachloroethane			ug/l	2.1 U	2 U	2 U	2 U	2 U
indeno[1,2,3-cd]pyrene			ug/l	2.1 U	2 U	2 U	2 U	2 U
isophorone			ug/l	2.1 U	2 U	2 U	2 U	2 U
naphthalene			ug/l	1.2	0.5 U	0.5 U	0.5 U	0.5 U
nitrobenzene			ug/l	2.1 U	2 U	2 U	2 U	2 U
n-nitrosodimethylamine			ug/l	2.1 U	2 U	2 U	2 U	2 U
n-nitroso-di-n-propylamine			ug/l	0.52 U	0.5 U	0.5 U	0.5 U	0.5 U
n-nitrosodiphenylamine			ug/l	2.1 U	2 U	2 U	2 U	2 U
pentachlorophenol			ug/l	10 U				
phenanthrene			ug/l	2.1 U	2 U	2 U	2 U	2 U
phenol			ug/l	2.1 U	2 U	2 U	2 U	2 U
pyrene			ug/l	2.1 U	2 U	2 U	2 U	2 U

ug/l Microgram per liter
 U Not detected at MDL
 BOLD indicates analyte detected

Table 4
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Groundwater Sample Results
 Metals

chemical_name	sys_loc_code	sample_date	B78-MW-01	B78-MW-02	B78-MW-03	B78-MW-04	B78-MW-05	B78-MW-06
antimony	ug/l	6/18/2013	12 U					
arsenic	ug/l	6/17/2013	7.5 U					
beryllium	ug/l	6/18/2013	4 U	4 U	4 U	4 U	4 U	4 U
cadmium	ug/l	6/17/2013	3.5 U					
copper	ug/l	6/17/2013	50 U					
lead	ug/l	6/18/2013	4.5	4 U	6.3	4 U	4 U	7.5
nickel	ug/l	6/17/2013	50 U					
selenium	ug/l	6/17/2013	40 U					
silver	ug/l	6/17/2013	20 U					
thallium	ug/l	6/17/2013	10 U					
total chromium	ug/l	6/17/2013	50 U					
zinc	ug/l	6/17/2013	50 U					

ug/l Microgram per liter
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Table 4
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Groundwater Sample Results
 Metals

chemical_name	sys_loc_code	B78-MW-07 6/18/2013	B78-MW-08 6/18/2013	B78-MW-09 6/18/2013	B78-MW-10 6/17/2013	B78-MW-11 6/17/2013
	unit					
antimony	ug/l	12 U				
arsenic	ug/l	12	8.2	7.5 U	7.5 U	7.5 U
beryllium	ug/l	4 U	4 U	4 U	4 U	4 U
cadmium	ug/l	3.5 U				
copper	ug/l	50 U				
lead	ug/l	11	8	5.6	4 U	4 U
nickel	ug/l	50 U				
selenium	ug/l	40 U				
silver	ug/l	20 U				
thallium	ug/l	10 U				
total chromium	ug/l	50 U				
zinc	ug/l	50 U				

ug/l Microgram per liter
 U Not detected at MDL
BOLD indicates analyte detected

Table 4
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Groundwater Sample Results
 Pesticides and PCBs

chemical_name	sys_loc_code	B78-MW-01	B78-MW-02	B78-MW-03	B78-MW-04	B78-MW-05	B78-MW-06
	sample_date	6/18/2013	6/17/2013	6/17/2013	6/17/2013	6/17/2013	6/18/2013
unit							
Pesticides							
4,4'-ddd	ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
4,4'-dde	ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
4,4'-ddt	ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
aldrin	ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
alpha-bhc	ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
beta-bhc	ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
chlordane	ug/l	0.1 U	0.1 U	0.1 U	0.1 U	0.1 U	0.1 U
delta-bhc	ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
dieldrin	ug/l	0.013	0.01 U	0.023	0.01 U	0.01 U	0.01 U
endosulfan i	ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
endosulfan ii	ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
endosulfan sulfate	ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
endrin	ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
endrin aldehyde	ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
gamma-bhc (lindane)	ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
heptachlor	ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
heptachlor epoxide	ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
toxaphene	ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
PCBs							
aroclor 1016	ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
aroclor 1221	ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
aroclor 1232	ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
aroclor 1242	ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
aroclor 1248	ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
aroclor 1254	ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
aroclor 1260	ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
pcbs (polychlorinated biphenyls)	ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U

ug/l Microgram per liter
 U Not detected at MDL
BOLD indicates analyte detected

Table 4
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Groundwater Sample Results
 Pesticides and PCBs

chemical_name	sys_loc_code	sample_date	B78-MW-07	B78-MW-08	B78-MW-09	B78-MW-10	B78-MW-11
		unit	6/18/2013	6/18/2013	6/18/2013	6/17/2013	6/17/2013
Pesticides							
4,4'-ddd		ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
4,4'-dde		ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
4,4'-ddt		ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
aldrin		ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
alpha-bhc		ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
beta-bhc		ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
chlordan		ug/l	0.1 U	0.1 U	0.1 U	0.1 U	0.1 U
delta-bhc		ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
dieldrin		ug/l	0.038	0.01 U	0.01 U	0.01 U	0.034 d
endosulfan i		ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
endosulfan ii		ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
endosulfan sulfate		ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
endrin		ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
endrin aldehyde		ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
gamma-bhc (lindane)		ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
heptachlor		ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
heptachlor epoxide		ug/l	0.01 U	0.01 U	0.01 U	0.01 U	0.01 U
toxaphene		ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
PCBs							
aroclor 1016		ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
aroclor 1221		ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
aroclor 1232		ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
aroclor 1242		ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
aroclor 1248		ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
aroclor 1254		ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
aroclor 1260		ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U
pcbs (polychlorinated biphenyls)		ug/l	0.25 U	0.25 U	0.25 U	0.25 U	0.25 U

ug/l Microgram per liter
 U Not detected at MDL
 BOLD indicates analyte detected

Table 4
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Groundwater Sample Results
 Miscellaneous Parameters

chemical_name	sys_loc_code	sample_date	unit	B78-MW-01	B78-MW-02	B78-MW-03	B78-MW-04	B78-MW-05	B78-MW-06
Glycols									
ethylene glycol			ug/l	50000 U					
propylene glycol			ug/l	50000 U					
total petroleum hydrocarbons			ug/l	300 U	300 U	310 U	640	310 U	540
mercury			ug/l	0.7 U					
cyanide			mg/l	0.02 U					
phenols (total)			mg/l	0.05 U					

ug/l Microgram per liter
 mg/l Milligram per liter
 U Not detected at MDL
BOLD indicates analyte detected

Table 4
 John F. Kennedy International Airport
 Building 78
 Baseline Investigation
 Groundwater Sample Results
 Miscellaneous Parameters

chemical_name	sys_loc_code	B78-MW-07	B78-MW-08	B78-MW-09	B78-MW-10	B78-MW-11
	sample_date	6/18/2013	6/18/2013	6/18/2013	6/17/2013	6/17/2013
	unit					
Glycols						
ethylene glycol	ug/l	50000 U				
propylene glycol	ug/l	50000 U				
total petroleum hydrocarbons	ug/l	880	300 U	300 U	300 U	300 U
mercury	ug/l	0.7 U				
cyanide	mg/l	0.02 U				
phenols (total)	mg/l	0.05 U				

ug/l Microgram per liter
 mg/l Milligram per liter
 U Not detected at MDL
BOLD indicates analyte detected

APPENDIX A

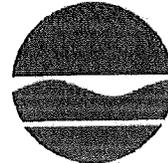
Closed New York State Department of Environmental Conservation (NYSDEC) Spill Information

No Further Action (NFA) Correspondence

Closed Spill Report

Tank Information Report

New York State Department of Environmental Conservation
47-40 21st Street, Long Island City, New York 11101
Telephone (718) 482-4933, extension 7120



John P. Cahill
Commissioner

October 8, 1998

Herbert Shawver
Property Maintenance Supervisor
Airborne Express, Inc.
3131 Elliott Avenue
Seattle, Washington 98121 1047

Re: **Building 78 at JFKIA. NYSDEC Spill Nos. 9408594 & 9712657.
NYSDEC PBS Facility No. 2-603392.**

Dear Mr. Shawver:

New York State Department of Environmental Conservation Spill Report Nos. 9408594 and 9712657 are closed effective 7 October 1998. Dated copies of the closed spill reports are attached for your convenience. Additionally, please find enclosed a copy of a facility information report for your former (unregulated) petroleum bulk storage facility (No. 2-603392) at building 78.

The spill report closures are based on findings presented in the Building 78 Site Investigation Report dated February 1998, and the Building 78 Baseline Environmental Investigation Report dated April 1997. The latter report was recently submitted to the department by the Port Authority of NY & NJ, and the former by your consultant, Malcolm Pirnie, Inc. In particular, the 1997 report provided the necessary follow up tank testing documentation relevant to the closing of Spill Report No. 9408594 (9/28/94 diesel UST tank test failure report).

Finally, these spill report closures are strictly limited to the former tank area at building 78. If you wish to discuss this letter please call me at 718.482.4933, extension 7120.

Sincerely,

Steven Miller, Engineering Geologist
Spills Management, DER

cc: Denise Branch, JFKIA Environmental, The Port Authority of NY & NJ
David Pry, Malcolm Pirnie Inc.
Barry Lucas, The Port Authority of NY & NJ

NYSDEC SPILL REPORT FORM



DEC REGION# 2 (Long Island City) SPILL NUMBER 9408594
 SPILL NAME: AIRBORNE EXPRESS DEC LEAD: MILLER
 CALLER'S NAME: _____ NOTIFIER'S NAME: _____
 CALLER'S AGENCY: _____ NOTIFIER'S AGENCY: _____
 CALLER'S PHONE: _____ EXT. _____ NOTIFIER'S PHONE: _____ EXT. _____

SPILL DATE: 09/28/94 TIME: 14:00
 CALL RECEIVED DATE: 09/28/94 TIME: 14:20 RECEIVED BY CID #: _____

Material Spilled	Mat. Class	Am't Spilled	Units	Am't Recovered
1) DIESEL	<u>Pet-Haz-Other-Unk.</u>	-1	Gal - <u>Lbs</u>	Unknown
2) _____	Pet-Haz-Other-Unk.		Gal - Lbs	
3) _____	Pet-Haz-Other-Unk.		Gal - Lbs	
4) _____	Pet-Haz-Other-Unk.		Gal - Lbs	

SPILL LOCATION
 PLACE: AIRBORNE EXPRESS
 STREET: BUILDING 78 - JFKIA
 C/V: JAMAICA CO: QUEBENS
 CONTACT: _____
 PHONE: _____ EXT. _____

POTENTIAL SPILLER
 NAME: AIRBORNE EXPRESS FREIGHT
 STREET: _____
 CITY: _____
 STATE: _____ ZIP: _____
 CONTACT: _____
 PHONE: _____ EXT. _____

SPILL CAUSE
 Human Error Tank Test Failure *Tank Failure
 Traffic Accident Housekeeping Tank Overfill
 Equipment Failure Deliberate Other
 Vandalism Abandoned Drums Unknown

SPILL SOURCE
 Gas Station Private Dwelling Non-Maj Facility
 Passenger Vehicle Vessel Comm/Indust
 Comm. Vehicle Railroad Car Non-Comm/Instit
 Tank Truck Major Facility Unknown

RESOURCE AFFECTED
On Land Groundwater Air
 In Sewer Surface Water **

SPILL REPORTED BY
 Responsible Party Tank Tester Local Agency
 Affected Persons DEC Federal Gov't
 Police Department Citizen Other
 Fire Department Health Dept.

**WATERBODY: _____
 CALLER REMARKS: _____

PBS Number	Tank Number	Tank Size	Test Method	Leak Rate
		0		0.00

PRIMARY CONTACT CALLED DATE: _____ TIME: _____ REACHED DATE: _____ TIME: _____
 SECONDARY CONT. CALLED DATE: _____ TIME: _____ RATED BY CID#: _____

PIN #	T & A	Cost Center	ISR to Central Office
Cleanup Ceased	Meets S/Ds	YES	Last Inspection
RP-CUI	ENF-INIT	INVS-COM	PENALTY NO
UST Trust Eligible	YES	Site: A B <u>C</u> D E	Resp. Party 1 2 3 <u>4</u> 5 6
Reg Close Date		10/07/98	

NYDEC 10/98 AAA

Spill Number: 9408594 Spill Name: AIRBORNE EXPRESS

Printed on: 10/08/98

DEC REMARKS

(SEE SPILL REPORT NO. 9712657 FOR ADDITIONAL INFORMATION.)

ACCORDING TO 2/98 TANK CLOSURE/SITE ASSESSMENT REPORT, THE DIESEL UST SYSTEM HAD FAILED THE INITIAL PRECISION TEST DUE TO LIKELY TRAPPED VAPOR; SUBSEQUENT TEST (10/3/94) PASSED SYSTEM; REPORT INCLUDES 12/94 LETTER AND F&N TEST RESULTS. '98 REPORT ALSO PROVIDES BASE-NEUTRALS SOIL ANALYSIS @BELOW DETECTION LIMITS.

NYSDEC SPILL REPORT FORM



EC REGION# 2 (Long Island City) SPILL NUMBER 9712657
 PILL NAME: AIRBORNE EXPRESS DEC LEAD: MILLER
 ALLER'S NAME: _____ NOTIFIER'S NAME: _____
 ALLER'S AGENCY: _____ NOTIFIER'S AGENCY: _____
 ALLER'S PHONE: _____ EXT. _____ NOTIFIER'S PHONE: _____ EXT. _____

PILL DATE: 02/12/98 TIME: 09:06
 CALL RECEIVED DATE: 02/12/98 TIME: 10:06 RECEIVED BY CID #: _____

Material Spilled	Mat. Class	Am't Spilled	Units	Am't Recovered
) <u>GASOLINE</u>	<u>Pet-Haz-Other-Unk.</u>	<u>Unknown</u>	<u>Gal</u> -Lbs	<u>0</u>
) _____	<u>Pet-Haz-Other-Unk.</u>	_____	<u>Gal</u> - Lbs	_____
) _____	<u>Pet-Haz-Other-Unk.</u>	_____	<u>Gal</u> - Lbs	_____
) _____	<u>Pet-Haz-Other-Unk.</u>	_____	<u>Gal</u> - Lbs	_____

SPILL LOCATION		POTENTIAL SPILLER	
PLACE: <u>AIRBORNE EXPRESS</u>	NAME: <u>J F K AIRPORT</u>	STREET: <u>B-78 NORTH BOUNDRY RD</u>	CITY: <u>JAMAICA</u>
STREET: <u>BUILDING 78 - JFKIA</u>	STATE: <u>NY</u>	ZIP: _____	
LOC/V: <u>JAMAICA</u> CO: <u>QUEBENS</u>	CONTACT: <u>DAVID PRY</u>	PHONE: <u>(201) 529-4700</u> EXT. _____	

SPILL CAUSE			SPILL SOURCE		
Human Error	Tank Test Failure	*Tank Failure	Gas Station	Private Dwelling	Non-Maj Facility
Traffic Accident	Housekeeping	Tank Overfill	Passenger Vehicle	Vessel	<u>Comm/Indust</u>
Equipment Failure	Deliberate	Other	Comm. Vehicle	Railroad Car	Non-Comm/Instlt
Vandalism	Abandoned Drums	<u>Unknown</u>	Tank Truck	Major Facility	Unknown

RESOURCE AFFECTED			SPILL REPORTED BY		
<u>On Land</u>	Groundwater	Air	Responsible Party	Tank Tester	Local Agency
in Sewer	Surface Water	**	<u>Affected Persons</u>	DEC	Federal Gov't
			Police Department	Citizen	Other
			Fire Department	Health Dept.	

WATERBODY: _____
 CALLER REMARKS: CONTAMINATED SOIL AROUND TANK
 ATTN STEVE MILLER

PBS Number	Tank Number	Tank Size	Test Method	Leak Rate

PRIMARY CONTACT CALLED DATE: _____ TIME: _____ REACHED DATE: _____ TIME: _____
 SECONDARY CONT. CALLED DATE: _____ TIME: _____ FAILED BY CID#: _____

PIN #	T & A	Cost Center	ISR to Central Office
Cleanup Ceased	Meets St'ds	YES	Last Inspection
Penalty	NO		
RP-CUI	ENF-INIT	INVS-COM	CAP
UST Trust Eligible	NO	Site: A B <u>C</u> D E	Resp. Party 1 2 3 <u>4</u> 5 6
Reg Close Date	10/07/98		

Created on 02/12/98 Last Updated on 10/07/98 Is Updated? NO EDO DATA INPUT []
 Date Printed: 10/08/98

Spill Number: 9712657 Spill Name: AIRBORNE EXPRESS

Printed on: 10/08/98

DEC REMARKS

SEE SPILL REPORT NO. 9408594 FOR ADDITIONAL INFORMATION.)
THE SPILL NUMBER IS CLOSED BASED ON: AIRBORNE'S 2/98 TANK CLOSURE/SITE
ASSESSMENT REPORT; AIRBORNE'S FOLLOW UP 10/94 TANK RETEST (DIESEL/PASSING)
RESULTS; PORT AUTHORITY'S 4/97 BASELINE INVESTIGATION REPORT. THE LATTER SHOWED
O TCLP VOA'S & BASE NEUTRALS FOR SOILS, AND GROUND WATER CONCENTRATION LEVELS
IN VICINITY OF FORMER USTS ARE NON-DETECT TO VERY LOW BACKGROUND.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
 Petroleum Bulk Storage Program
 Facility Information Report

Printed : 10/08/98

PBS # : 2-603392

Site : AIRBORNE EXPRESS AIR CARGO TERMINAL
 BUILDING 78-KFK INTERNATIONAL AIRPORT
 NORTH BORDARY ROAD
 JAMAICA, NY 11430

Site status : Under 1101 gal.
 Total Active Tanks : 0
 Active Capacity : 0 gals.

Owner : PORT AUTHORITY OF NY/NJ

J.P.K. INTERNATIONAL AIRPORT
 JAMAICA, NY 11430

County : QUEENS Town : NEW YORK CITY

Reg Expires : 03/25/03

Phone : (718) 244-3542
 Owner Type : Corporate/Commercial

Latitude : N Longitude : W

Last Inspection : / /
 Cert Printed : 04/02/98

Mail : MALCOLM FIRMS, INC.
 ONE INTERNATIONAL BLVD.
 BAHAMAS, NY 07495

SPDS# : CS# :
 Site Type : Info Not Given.

Operator : GEORGE HINO (718) 532-8848
 Emergency : JOHN KEANE (718) 656-0490

Site Errors : Minor Data Missing
 Owner Error : Minor Data Missing
 Tank Errors : No Data

Att : DAVID L. PRY (201) 529-4700

TankNo	TankLoc	Stat	DateIn	Capac (G)	Product	TankType	TankInt	TankBct	PipeLoc	PipeType	PipeInt	PipeBct	SecCont	Leak	Overfill	Disp	LastTest	NextTest
696-84-001	4	3	02/98	4,000	2	5	3	4	2	3	2	2	2	1	2	1		REMOVED : 02/98
696-84-002	4	3	02/98	4,000	5	5	3	4	2	3	3	2	2	1	2	1		REMOVED : 02/98

APPENDIX B

Lease Exhibit

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

CONSENT TO SUBLEASE

John F. Kennedy International Airport
Lease AYE-245
Consent No. AYE-245.[]

THIS CONSENT TO SUBLEASE (this "*Consent*"), dated as of [],
by and among THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY
(the "*Port Authority*"), a body corporate and politic, established 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 at 225 Park Avenue South, New York, New York 10003, ARK
DEVELOPMENT LLC (the "*Lessee*"), a Delaware limited liability company, having an office
address at c/o Racebrook Capital Partners LLC, 488 Madison Avenue, Suite 201, New York,
New York 10022 and [INSERT NAME OF SUBLESSEE] [d/b/a], a
[corporation/limited liability company/partnership] ("*Sublessee*") with an office and place of
business at [], whose representative is [].

Capitalized terms used herein that are not otherwise defined shall have the meanings
ascribed to them in the Lease.

WITNESSETH, That:

WHEREAS, the Port Authority and the Lessee have heretofore entered into an agreement
of lease dated as of [], [] and identified by Port Authority Lease No.
AYE-245 (hereinafter, as the same has been or may hereafter be supplemented and amended and
extended, collectively called the "*Lease*"), for the letting of certain space (the "*premises*") at the
Airport (as defined in Section 21 herein) and pursuant to which the Lessee must renovate the
premises including, without limitation, the enclosed portion of the premises (the "*Facility*"), a
portion of which is to be operated as an air cargo service facility all as more particularly
described in the Lease; and

WHEREAS, pursuant to and in accordance with the terms of the Lease, the Lessee and
Sublessee entered into a proposed sublease agreement, dated [], pursuant
to which the Sublessee is granted and accepts the right to occupy and use the portion of the
Facility to be operated as an air cargo service facility (such portion hereinafter sometimes called
the "*Space*"), a copy of which is attached hereto, hereby made a part hereof and hereinafter
called the "*Sublease*", which Sublease is subject and subordinate to the terms and conditions of
the Lease, and the effectiveness and terms of which Sublease are subject to the consent of the
Port Authority and the execution of a consent agreement by and among the Lessee, the Sublessee
and the Port Authority; and

WHEREAS, the Lessee and Sublessee have requested that the Port Authority provide its requisite consent to the Sublease, retroactive to the Effective Date (as hereinbelow defined), and the Port Authority is willing to provide such consent subject to the terms and conditions of this Consent;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Lessee and the Sublessee hereby agree, effective, unless otherwise specified herein, as of [INSERT EFFECTIVE DATE OF THE SUBLEASE] ("*Effective Date*"), as follows:

1. **Consent.** On the terms and conditions hereinafter set forth the Port Authority consents to the Sublease.
2. **Term.** Notwithstanding anything to the contrary stated or implied in the Sublease, this Consent and the Sublease shall terminate, without notice to the Lessee or the Sublessee, on the day preceding the date of expiration or earlier termination of the Lease, or on such earlier date as the Lessee and the Sublessee may agree upon. In the event of such termination, the Sublessee shall cease its activities and operations at the Space, quit the Space and remove its property and property for which it is responsible therefrom on or before the effective date of termination of the Sublease.
3. **Payment Default by Lessee.** If the Lessee shall at any time be in default of any of its monetary obligations under the Lease, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Lessee. No such payment shall relieve the Lessee from any obligation under the Lease or under this Consent, but all such payments shall be credited against the obligations of the Lessee or of the Sublessee as the Port Authority may determine for each payment or part thereof.
4. **General Consent Terms and Conditions.**
 - (a) **Applicability of Terms and Conditions of Lease.** The Sublessee shall be bound by and subject to all the terms and provisions of the Lease as to the Sublessee's occupancy and use of the Space and the Sublessee's operations and activities on the Airport, to the same extent and with like effect as to the Port Authority as if it were the Lessee under the Lease including, but not limited to, the obligations of the Lessee under the Lease dealing with law compliance, compliance with Airport Rules and Regulations, the conduct of prohibited activities and operations, rights of entry, non-construction and non-discrimination. Without in any way affecting the obligations of the Lessee under the Lease and under this Consent, all acts and omissions of the Sublessee (including but not limited to those on or with respect to non-exclusive areas, if any) shall be deemed to be acts and omissions of the Lessee under the Lease and, as between the Lessee and the Port Authority, the Lessee shall also be severally responsible for said acts and omissions, including, but not limited to, the obligations of indemnification and repair. Accordingly, pursuant to the foregoing sentence, those acts or omissions of the Sublessee that, if undertaken by the Lessee, would constitute a default or breach under the Lease are subject to the application of Lease provisions that are relevant to default and breach by the Lessee.

(b) Indemnification.

(i) Without in any way affecting the obligations of the Lessee under the Lease and under this Consent, and the obligations of the Sublessee with regard to the indemnification provisions of the Lease, the Sublessee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including attorneys' fees and other legal expenses, including the costs of its "in-house" legal staff as such costs are determined by the Port Authority, incurred in connection with the defense of) all claims and demands of third persons, including but not limited to, claims and demands for death and personal injuries or for property damages arising out of the interest of the Sublessee under the Sublease, any default of the Sublessee in the performance or observance of any term or provision hereof or out of the use, operation, control, or occupancy of the Space by the Sublessee or by others with its consent or out of any of the acts or omissions of the Sublessee, its officers, employees, managers (in their capacity as managers if Sublessee is a limited liability entity), members (in their capacity as members if Sublessee is a limited liability entity), partners (if Sublessee is a partnership), contractors, agents, representatives, guests, and invitees on said Space or out of any of the acts or omissions of the Sublessee, its officers, agents, representatives, employees, members (if Sublessee is a limited liability entity, as aforesaid), managers (if Sublessee is a limited liability entity, as aforesaid), and partners (if the Sublessee is a partnership) elsewhere at the Airport, including claims and demands of the City of New York from which the Port Authority derives its rights in the Airport, for indemnification arising by operation of law or through agreement of the Port Authority with the said City.

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

(iii) Notwithstanding anything to the contrary stated herein, in any instance where the Sublessee's obligation to indemnify and hold harmless the Port Authority under this Consent is inconsistent with, in conflict with or otherwise different from any obligation to indemnify the Port Authority under any provision of the Lease (to which the Sublease is subordinate and subject) that requires the Lessee to cause its subtenants to indemnify the Port Authority, then the controlling provisions shall be those that provide the broadest and most comprehensive indemnification of the Port Authority.

(c) No Further Rights. Neither this Consent nor anything contained herein shall constitute, or be deemed to constitute, a consent to nor shall there be created an implication or inference that there has been consent to any enlargement or change in the rights, powers and privileges granted to the Lessee under the Lease, nor consent to the granting or conferring of any rights, powers or privileges to the Sublessee as may be provided under the Sublease if not granted to the Lessee under the Lease, nor any limitation, diminishment, change or impairment

of any of the rights, powers, privileges or remedies of the Port Authority under the Lease. Nor shall this Consent or anything contained herein impair or affect any of the duties, liabilities, or obligations imposed on the Lessee under the Lease or constitute or be deemed to constitute a release of the Lessee from any such duties, liabilities or obligations.

(d) No Agreement between Port Authority and Sublessee. The Sublease is an agreement between the Lessee and the Sublessee with respect to the various matters set forth therein. Neither this Consent nor anything contained herein shall constitute an agreement between the Port Authority and the Lessee and/or the Sublessee that the provisions of the Sublease shall apply and pertain as between them, it being understood that the terms, provisions, covenants, conditions and agreements of the Lease shall, in all respects, be controlling, effective and determinative.

(e) Inconsistency between Agreements. In the event of differences and inconsistencies between the terms of the Sublease and the terms of the Lease, the terms of the Lease shall control, it being the intention of the Lessee and the Port Authority merely to permit the conduct of cargo handling operations by the Sublessee to the extent permitted by the Lease, the Sublease and this Consent and not to enlarge or otherwise change the rights granted by the Lease. All of the terms, provisions, covenants and conditions of the Lease shall be and remain in full force and effect. In addition, in any case of difference or inconsistency between the provisions of this Consent and those of the Sublease, this Consent shall be controlling. The specific mention of or reference to the Port Authority in any part of the Sublease 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 or shall hereafter 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 discretion of the Port Authority as to any such consent or approval shall in any way be affected or impaired. The lack of any specific reference in any provision of the Sublease to the Port Authority's approval or consent shall not be deemed to imply that no such approval or consent is required and the Lease shall, in all respects, be controlling, effective and determinative.

(f) Limited Consent. No provision of the Sublease including, but not limited to, those imposing obligations on the Sublessee with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority. Nor shall the existence of any provision of the Sublease covering actions that shall or may be undertaken by the Sublessee or the Lessee including, but not limited to, construction on the Space, title to property, the right to assign the Sublessee's interest in the Sublease, or to further sublease the subject Space or any part thereof, and the right to perform services, be deemed to imply or infer that the Port Authority's consent or approval thereto will be given or that the discretion of the Port Authority with respect thereto will be in any way affected or impaired. Reference in this paragraph to specific matters and provisions contained in the Sublease shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding of approvals or consents as to other matters and provisions in the Sublease that are not specifically referred to herein.

(g) No Port Authority Monetary Obligations. It is hereby acknowledged and agreed by the Lessee and the Sublessee that the Port Authority has no obligation under the Lease, this Consent or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of capital investment that the Sublessee or the Lessee may have invested in the Space or at the premises. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Lease or upon revocation of this Consent with or without cause, of any amount of capital investment (unamortized or otherwise) that the Sublessee or the Lessee may have invested in the Space or at the premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Lessee to pay, subsidize or finance said capital investment.

5. Consent Fee

(a) Sublease Payments.

(i) **“Gross Receipts”** shall include all monies paid or payable to the Lessee for sales made and for services rendered by Sublessee at or from the Space, regardless of when or where the order therefor is received, and outside the Airport, if the order therefor is received at the Space, including any other revenues of any type arising out of or in connection with the Sublessee’s operations at the Space, excluding those amounts (x) paid by the customer for any taxes imposed by law which are separately stated and directly payable to the taxing authority by the Sublessee and (y) paid and payable as non-percentage rent by the Sublessee to the Lessee.

(ii) **“Consent Fee”** shall be a monthly amount paid or payable to the Port Authority by the Lessee and the Sublessee as a joint and several obligation, which amount shall be equal to the applicable percent provided in the Payment Table below multiplied by the Gross Receipts for such month.

PERCENT TABLE

<u>Lease Year</u>	<u>Percent</u>
Year 1* - Year 5	0%
Year 6 - Year 10	5%
Year 11 - Year 15 (if Sublessee exercises 1 st renewal option)	7.5%
Year 16 - Year 20 (if Sublessee exercises 2 nd renewal option)	10%

*Year 1 commences on the AB Rent Commencement Date as defined in the Lease.

(b) Fee Obligation. Notwithstanding Sublessee’s joint and several obligation under Subparagraph (a) (ii), effective as of the Effective Date, the Lessee as shall pay to the Port Authority the Consent Fee at the times set forth in and in accordance with subparagraph (c) below. Notwithstanding the preceding sentence, if the Sublessee has no obligation to pay the

Lessee a Sublease Payment or the percent provided in the Percent Table above is 0%, then the neither the Lessee nor the Sublessee shall have an obligation to pay the Consent Fee.

(c) Payment Schedule. Notwithstanding Sublessee's joint and several obligation under Subparagraph (a) (ii), the Consent Fee shall be paid to the Port Authority by the Lessee in monthly installments as follows: on the 20th day of each and every calendar month during the time this Consent shall remain in effect and including the calendar month following the expiration or earlier termination of this Consent. With each monthly payment of the Consent Fee, the Lessee or the Sublessee shall render to the Port Authority a statement sworn to by a responsible fiscal or executive officer of the Lessee or the Sublessee showing all the Sublease Payments paid or payable for such month.

(d) Amounts Excluded from Fee. There shall be excluded from Sublease Payments any sum paid by the Sublessee to the Lessee for (i) building janitorial services and (ii) building maintenance services; provided, said sums are separately stated to and paid by the Sublessee and, provided further, that the Sublessee and the Lessee each acknowledge and agree that the Port Authority does and shall continue to have the right at any time and from time to time to withdraw the foregoing exclusions from Sublease Payments, in whole or in part, upon sixty (60) days' prior written notice to the Sublessee and the Lessee.

(e) Additional Rent.

(i) It is understood and agreed by the Lessee that the Consent Fee shall be payable by the Lessee to the Port Authority with the same force and effect as if it were rent or additional rent payable under the Lease.

(ii) The obligation of the Sublessee to pay the Consent Fee 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 Lessee.

(f) Records. In connection with the payment of the Consent Fee hereunder, the Lessee and the Sublessee shall each, from and after the first day of Year 6, as provided in the Percent Table above, through the remainder of the time this Consent shall remain in effect, maintain in accordance with accepted accounting practice, for three (3) years after expiration or earlier termination, revocation or cancellation thereof, and for a further period extending until the Lessee shall receive written permission from the Port Authority to do otherwise, records and books of account recording all transactions in any way connected with the Sublease and the Sublessee's use and occupancy of the Space, which records and books of account shall be kept at all times within the Port of New York District or if not kept in the Port of New York District, made available therein within ten (10) days after request therefor by the Port Authority. Further, the Lessee and the Sublessee shall each permit in ordinary business hours during the time the Sublease shall remain in effect, and for three years thereafter, the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account.

(g) No Relationship. Neither a partnership nor any joint venture is hereby created or implied notwithstanding the fact that the Consent Fee to be paid hereunder is an obligation of the Sublessee and the Lessee and shall be determined based upon a percentage of the Sublease Payments.

(h) No Diversion of Revenues. Neither the Lessee nor the Sublessee shall divert or allow to be diverted from payment under the Sublease any revenues arising out of or in connection with the Sublease or the Sublessee's use and occupancy of the Space.

(i) No Privity. Nothing contained herein including without limitation the obligation of the Sublessee to pay the Consent Fee nor the payment thereof by the Sublessee nor the acceptance thereof by the Port Authority, shall create or be deemed to have created a landlord tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Lease.

6. Attornment. If the Lessee shall at any time be in default of its obligations under the Lease to make payments to the Port Authority, or if there shall occur at any time an event involving insolvency, bankruptcy, arrangement or reorganization of the Lessee that under the terms of the Lease would constitute an event the occurrence of which grants the Port Authority the right to terminate the Lease, and provided the same has not been cured within the time expressly granted therefor, if any, under the Lease, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any fee or other amount due to the Lessee. No such payment shall relieve the Lessee from any obligations under the Lease or under this Consent but all such payments shall be credited against the obligations of the Lessee and of the Sublessee for each payment or part thereof.

7. Sublease Amendments. The Sublease shall not be modified, discharged, extended, restated or renewed except by written instrument duly executed by the parties thereto and only with the prior written consent of the Port Authority, and without which the same shall not be binding or effective upon the Port Authority.

8. Port Authority As Third Party Beneficiary. The Port Authority shall have the right, throughout the Sublease term, as an express and intended third party beneficiary, to enforce directly against the Sublessee the obligations of the Sublessee under the Sublease.

9. Construction. Except to the extent expressly permitted by the Lease, anything contained in the Sublease to the contrary notwithstanding, nothing in the Sublease or this Consent shall be deemed to imply that the Sublessee has the right to make any alteration, demolition, installation, addition or improvement to the premises or the Space, structural or non-structural, exterior or interior including, without limitation, the installation of any signs at the Airport, except pursuant to an approved alteration application (in accordance with the Port Authority's Tenant Construction and Alteration Process), which the Lessee shall prepare and submit to the Port Authority as more specifically provided in the Lease.

10. **Revocation.**

(a) **Port Authority Right of Revocation.** The Port Authority shall have the right to revoke this Consent at any time, without cause, on thirty (30) days' notice to the Lessee and Sublessee, and no such revocation shall be deemed to affect the Lease or the continuance thereof. In the event of any default by the Sublessee under any of the provisions of this Consent or the Lease, the Port Authority shall have the right to revoke the consent granted hereunder upon ten (10) days' written notice to the Lessee and the Sublessee, but no such revocation shall be deemed to affect the Lease and the continuance thereof, it being understood, moreover, that the foregoing shall not be deemed to affect or limit any rights of the Port Authority under the Lease.

(b) **Reimbursement.** The Lessee and the Sublessee acknowledge and agree that, in the event the Port Authority exercises its right to revoke or terminate this Consent for any reason other than "without cause", the Lessee and the Sublessee shall be jointly and severally obligated to pay to the Port Authority an amount equal to all costs and expenses, if any, reasonably incurred by the Port Authority in connection with such revocation or termination including, without limitation, any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space that may be used and occupied under this Consent (on failure of the Lessee or the Sublessee to have it restored), preparing such space for use by a succeeding sublessee or other occupant, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal fees and expenses (including but not limited to the cost to the Port Authority of in-house legal services), brokerage fees and commissions, repairing and altering the space and putting the space in order (such as but not limited to cleaning and decorating the same). In the event of a revocation of the consent hereunder, the Lessee shall immediately terminate the Sublease.

11. **Construction by Sublessee.** Nothing contained in this Consent or the Sublease shall be deemed to be a consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space including without limitation the installation of any signs at the Airport. The Lessee and Sublessee agree that no construction or installation, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Lease and of the Sublease and an approved alteration application pursuant to the Port Authority Tenant Construction and Alteration Manual, which application the Lessee shall prepare and submit to the Port Authority.

12. **Security Deposit.** If the Sublessee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Sublessee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Sublessee'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 and any interest thereon also shall be deemed to be obligations of the Sublessee under this Consent and as security hereunder as well as under any other agreement, all provisions of such agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit hereby being 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 and additionally as therein provided.

13. **No Assumption by Port Authority.** Neither any assignment by the Lessee to the Port Authority of its interest under the Sublease, nor the application or payment of security deposits to or for the benefit of the Port Authority, nor any direction to the Sublessee to pay rent or other amounts to the Port Authority, nor the payment thereof to and acceptance thereof by the Port Authority shall constitute or denote an assumption by the Port Authority of any of the obligations of the Lessee under the Sublease.

14. **Provision of Other Services.** With respect to this Consent, the Lessee and the Sublessee understand and agree that the Lessee may not and is expressly prohibited from performing any services or functions on the Space or at the Facility or any other portion of the premises under the Lease (even though the Lessee may perform the same for itself pursuant to the Lease) that are performed by organizations at the Airport authorized by permit, lease or contract from the Port Authority to perform such services or functions, unless the Lessee is specifically authorized by lease, permit or contract from the Port Authority to perform such services or functions for others at the Space at the Facility or at the Airport and in such event said service and function shall be performed pursuant thereto. The Lessee, however, may make the necessary arrangements with the authorized organizations performing such services or functions at the Airport to have such services or functions performed for the Sublessee by such organizations or to the extent permitted by Airport policy the Sublessee may perform such services and functions for itself.

15. **Effect of Use and Occupancy of Space After Expiration, Termination or Revocation.**

(a) **Holdover.** The Sublessee and the Lessee acknowledge that the failure of the Sublessee to cease to perform the operations at the Airport authorized by the Sublease and this Consent from the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Sublessee and the Lessee hereby assume 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. The Sublessee and the Lessee hereby expressly agree to indemnify and hold the Port Authority harmless against any such injury, damage or loss. The Sublessee and the Lessee acknowledge that the Port Authority reserves all its legal and equitable rights and remedies in the event of such failure by the Sublessee to cease performance of the authorized operations.

(b) **Survival of Obligations.** The Sublessee and the Lessee each hereby acknowledges and agrees that, subject to the foregoing, all terms and provisions of this Consent shall be and continue in full force and effect during any period following such expiration, revocation or termination.

16. **No Port Authority Obligation.** The Lessee and the Sublessee acknowledge and agree that, except as may be specifically and expressly set forth in the Lease and subject to the terms and conditions of the Lease, the Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with the Sublease or the use and occupancy of the

Space thereunder including, without limitation, any obligation to provide or install or cause to be provided or installed any meters or submeters.

17. **Insurance.**

(a) **Liability Requirements.** In addition to the insurance required to be maintained by the Lessee under the Lease, the Sublessee during the period the Sublease shall remain in effect shall in its own name as insured and including the Port Authority, the City Insureds (as defined herein), and the Lessee as additional insureds (except with respect to workers' compensation insurance and product liability insurance, if required hereunder) obtain, maintain and pay the premiums on a policy or policies of commercial general liability insurance, covering bodily injury, including death, products liability and property damage liability, none of the foregoing to contain care, custody or control exclusions, the foregoing to provide for coverage in the limits set forth below; Commercial Automobile Liability Insurance covering owned, non-owned and hired vehicles and including automatic coverage for newly acquired vehicles and providing for coverage in the limit set forth below; Cargo Liability Insurance providing for coverage in the limit set forth below; and Workers' Compensation Insurance in accordance with the requirements of law. All policies required to be procured hereunder ("***Procured Liability Policies***") shall provide that, in the event other insurance also provides coverage for a loss within the coverage of the Procured Policies, then (i) the Procured Policies will pay on a primary basis; (ii) no other insurance will contribute concurrently with such Procured Policies, whether on a pro rata basis or otherwise, but shall only attach on an excess basis, after the per occurrence limits of such Procured Liability Policies have been exhausted. All insurance policies shall not contain the "Conditions of Coverage" or similar endorsements

	<u>Minimum Limit</u>
Combined single limit per occurrence for death, bodily injury and property damage liability (including products liability)	\$[_____]
Commercial Automobile Liability: Combined single limit per occurrence for death, bodily injury and property damage liability	\$[_____]
Cargo Liability Insurance per occurrence	\$[_____]

(b) **Other Requirements as to Insurance.**

(i) ***Contractual Liability Coverage.*** Each Procured Policy shall contain contractual liability coverage covering the insurable obligations assumed by the Lessee under any indemnification provisions set forth in this Consent. The policies required hereunder shall

not be limited by any limitations expressed in the indemnification provisions set forth in this Consent.

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

(iii) *No Impairment.* The Sublessee shall provide coverages that are not impaired or the aggregate is not impaired by any other risk, past or present, and the limits required, shall be fully available to the Port Authority. Each such limit will be restored as soon as possible if depleted below the required limit during the Sublease term.

(iv) *Losses and Deductibles Are Sublessee's Responsibility.* Losses, which are not recoverable by insurance, or which are deductible, shall be the sole responsibility of the Sublessee, as shall be other losses and expenses not covered by insurance. Sublessee's insurance shall be primary insurance with respect to the Port Authority and the City Insureds. Any insurance or self-insurance maintained by the Port Authority and the City Insureds shall not contribute to any loss or claim. Any deductible shall not impair or otherwise reduce the limits required for each insurance policy required to be procured and maintained hereunder.

(v) *Restrictions on Insurance.* Self-funded, self-insurance, self insured retention, policy fronting, or other non-risk transfer insurance mechanisms by the Sublessee or its contractors are not permitted.

(c) Port Authority Review of Policies. All insurance coverages and policies required under this paragraph may be reviewed by the Port Authority for adequacy of terms, conditions and limits of coverage at any time and from time to time during the period the Sublease remains in effect. The Port Authority at any such time may make additions, deletions, amendments to or modifications of the above-scheduled insurance requirements, including an increase in such minimum limits, and may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem advisable and the Sublessee shall promptly comply therewith.

(d) Certain Endorsements.

(i) *Port Authority and Sublessee Claims.* All the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protection afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority, but such endorsement shall not limit, vary, change or affect the protection afforded the Port Authority as additional insured. In addition, the insurance required hereunder shall provide or contain an endorsement providing that the protection afforded the Port Authority thereunder as additional insured with respect to any claim or action against the Port Authority by the Sublessee shall be the same as the protection afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person as if the Port Authority was the named insured thereunder.

(ii) *Notice of Cancellation.* Each policy required under this Consent shall be specifically endorsed to provide that the policy may not be cancelled, terminated, changed or modified (other than to effectuate an increase in coverage) without giving at least thirty (30) days' advance written notice thereof to the Port Authority, and an endorsement to the effect that the insurance as to the interest of the Port Authority and the City Insureds shall not be invalidated by any act or omission, including negligence, of the Sublessee or any other insured.

(iii) *Immunity Consent Requirement.* Each policy and each insurance certificate required under this Consent shall contain an endorsement providing that in any action or proceeding under or in connection with such policy, the insurance carrier shall not, without obtaining express advance consent from the General Counsel of the Port Authority, raise any defense involving in any way the immunity of the Port Authority, the governmental nature of the Port Authority, the provisions of any statutes respecting suits against the Port Authority or the jurisdiction of the tribunal over the person of the Port Authority.

(e) No Limitations on Lessee Insurance Requirements. The requirements for insurance procured by the Sublessee shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Lessee under this Consent or by law. The insurance requirements, or the receipt of any certificates or insurance, are not a representation by the Port Authority as to the adequacy of the insurance to protect the Lessee against the obligations imposed on them by law, by this Consent or by any other agreement.

(f) Rights of Additional Insureds. Endorsements adding additional insureds to required policies shall contain no limitations, conditions, restrictions or exceptions to coverage beyond those that apply under the policy generally, and shall state that the interests and protections of each additional insured shall not be affected by any misrepresentation, act or omission of a named insured or any breach by a named insured of any provision in the policy that would otherwise result in forfeiture or reduction of coverage.

(g) Certificates; Nature of Insurance Company. As to the insurance required by the provisions of this paragraph, a certified copy of the policies or a certificate or certificates or binders satisfactory to the Port Authority evidencing the existence thereof, shall be delivered by Lessee to the Port Authority upon delivery of this Consent to the Port Authority. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. In the event a binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. 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 Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. All insurance carried hereunder shall be issued by an insurance company having an A.M. Best Rating of at least A- (A minus) (VII) or an equivalent rating by a comparable insurance rating agency. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall be or become unsatisfactory to the Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement thereof. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

18. **No Waiver.** The granting of this Consent by the Port Authority shall not be or be deemed to operate as a waiver of the rights of the Port Authority or as a consent as to any subsequent use, occupancy or sublease of the Space or any other portion or area of the premises under the Lease, or to any assignment of the Lease or the Sublease or of any rights under either of them, whether in whole or in part, by operation of law or otherwise.

19. **Sublessee.**

(a) Reference herein to the “Sublessee” shall mean and include the Sublessee, its officers, agents, employees, managers (if Sublessee is a limited liability entity), members (if Sublessee is a limited liability entity), partners (if Sublessee is a partnership) and also others on the Airport with the consent of the Sublessee.

(b) [IF TENANT CONSISTS OF MORE THAN ONE PARTY - Notwithstanding anything to the contrary stated or implied in this Consent or the Sublease, each of the entities comprising the [partnership][joint venture] known as [insert name of the partnership/joint venture] shall be and be deemed to be jointly and severally liable to the Port Authority and all other Port Authority-related indemnified persons for each and every obligation under this Consent and the Sublease.] [NOTE: signature block for this CSL, in the event the Sublessee is a partnership or a joint venture must contain all of the partnership/joint venture and each of the component persons/entities comprising the partnership/joint venture. All of them collectively are to be defined as the Sublessee. For the avoidance of doubt, if the Sublessee is a GP, the signatories and parties are the GP and each general partner.]

20. **Non-Liability of Individuals.** No Commissioner, director, officer, agent or employee of any party shall be charged personally by the other parties with any liability, or held liable to the other parties, under any term or provision of this Consent, or because of the party’s execution or attempted execution, or because of any breach thereof.

21. **Certain Definitions.**

(a) “*Airport*” shall mean John F. Kennedy International Airport, consisting of certain premises identified as “JFK International Airport” on Sheet JFK-1 of Exhibit A, and more particularly described in Exhibit B, annexed to the Basic Lease, and such other property as may be acquired in connection with and added to such premises pursuant to the terms of the Basic Lease.

(b) “*City*” shall mean The City of New York, a municipal corporation of the State of New York.

(c) “*City Insureds*” shall mean the following entities: The City of New York, the officials and employees of The City of New York (to the extent that the officials and employees of the Port Authority of New York and New Jersey are likewise insured) and the New York City Economic Development Corporation, a local development corporation formed pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York, or such successor entity as may be designated by the City.

(d) "*City Lease*" shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and The Port Authority of New York and New Jersey, as Tenant, dated as of November 24, 2004 and recorded in the office of the City Register of the City on December 3, 2004 under City Register File No. 2004000748687, as the same may have been or may be amended or supplemented.

22. **The City Lease.**

(a) Copy of City Lease. The Lessee and the Sublessee acknowledge that they have received a copy of, and are familiar with the contents of, the City Lease (excepting exhibits, schedules and appendices referenced therein, copies of which are available to, but were not requested by, the Lessee and Sublessee). The Sublessee acknowledges that no greater rights or privileges are hereby granted to the Lessee and the Sublessee than the Port Authority has the power to grant under the City Lease.

(b) Requirements of City Lease. In accordance with the provisions of the City Lease, the Port Authority, the Lessee and the Sublessee hereby agree as follows:

(i) This Consent and the Sublease are subject and subordinate to the City Lease and to any interest superior to that of the Port Authority;

(ii) The Lessee and the Sublessee shall not pay the fees or other sums under this Consent for more than one (1) month in advance (excluding security and other deposits required under this Consent);

(iii) With respect to this Consent, the Lessee and the Sublessee on the termination of the City Lease will, at the option of the City, enter into a direct agreement on identical terms with, the City;

(iv) The Lessee and the Sublessee shall indemnify the City with respect to all matters described in Section 31 of the City Lease that arise out of the Lessee's or Sublessee's operations, as the case may be, at the Airport, or arise out of the acts or omissions of the Lessee's or Sublessee's officers, employees, agents, representatives, contractors, customers, business visitors and guest at the Airport with consent of the Lessee or Sublessee, as the case may be;

(v) The Lessee and the Sublessee shall not use any portion of the Airport for any use other than as permitted under the City Lease;

(vi) The Lessee and the Sublessee shall exercise the privileges granted under the Lease and the Sublease, respectively, in a manner consistent with the Port Authority's obligations under Section 28 of the City Lease to the extent applicable to, for the Lessee, Lessee's obligations under the Lease, and for the Sublessee, Sublessee's obligations under the Sublease and this Consent;

(vii) The failure of the Lessee and the Sublessee to comply with the foregoing provisions (after, with respect to the Lessee, any applicable notice and the cure period set forth in the Lease) shall be an event of default under this Consent, which shall provide the Port Authority

with the right to terminate this Consent and exercise any other rights that the Port Authority may have as the grantor of the privilege hereunder; and

(viii) The City Insureds shall be named as additional insureds or loss payees, as applicable, under each policy of insurance procured by the Lessee and the Sublessee pursuant to the terms of the Lease, the Sublease and this Consent, as applicable.

23. **Late Fees; Audit Findings.**

(a) **Late Fees.** If the Sublessee shall fail to pay any amount required under this Consent when due to the Port Authority including, without limitation, any payment of basic, percentage or other rental, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this paragraph, with respect to such unpaid amount. Nothing in this paragraph is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Consent or (ii) any obligations of the Sublessee under this Consent or the Sublease. 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 Consent shall be payable instead at such legal maximum.

(b) **Audit Findings.** In the event that upon conducting an examination and audit as described in this paragraph the Port Authority determines that unpaid amounts are due to the Port Authority by the Sublessee, the Sublessee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount of five percent (5%) of each amount determined by the Port Authority audit findings to be unpaid. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Sublessee under this Consent or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this paragraph with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid. Nothing in this paragraph is intended to, or shall be deemed to, affect, alter,

modify or diminish in any way (i) any rights of the Port Authority under this Consent, including, without limitation, the Port Authority's rights to revoke this Consent or (ii) any obligations of the Sublessee under this Consent or the Sublease.

24. **Notice.** Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail or a nationally recognized overnight carrier. Until further notice, the Port Authority hereby designates its Executive Director as its officer upon whom notices and requests may be served, and the Lessee designates the General Counsel, as its representative upon whom notices and requests may be served; and the Port Authority designates its office at 225 Park Avenue South, New York, NY 10003 as its office where notices and requests may be served and the Lessee designates its office at c/o Racebrook Capital Partners LLC, 488 Madison Avenue, Suite 201, New York, New York 10022 as its office where notices and requests may be served. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent as its office where notices and requests may be served. If mailed or delivered by a nationally recognized overnight carrier, the notices herein required to be served shall be deemed effective and served as of the date of receipt of the registered or certified mailing or delivery by a nationally recognized overnight carrier thereof.

25. **Affirmative Action; Non-Discrimination.**

(a) **Non-Discrimination.** Without limiting the generality of any of the provisions of this Consent, the Sublessee, its successors in interest and assigns, as a part of the consideration hereof, does hereby agree that (1) no person on the grounds of race, creed, color, national origin or sex shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of any space at the Airport and the exercise of any privileges under this Consent, (2) that in the construction of any improvements on, over, or under any space at the Airport and the furnishing of any service thereon by the Sublessee, no person on the grounds of race, creed, color, national origin or sex shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that the Sublessee shall use any space at the Airport and exercise any privileges under this Consent 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 Sublessee's operations thereat, whether by reason of agreement between the Port Authority and the United States Government or otherwise.

(b) Affirmative Action. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee 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 the subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee 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.

26. Place of Payments. All payments required to be made to the Port Authority by the Lessee and/or the Sublessee pursuant to this Consent or the Lease including, but not limited to, subletting and consent fees, if any, shall be sent to the following address:

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY
P.O. BOX 95000-1556
PHILADELPHIA, PENNSYLVANIA 19195-0001

or via the following wire transfer instructions:

Credit Bank: TD Bank
Credit Bank ABA Number: 031201360
Beneficiary Account Number:
Beneficiary Name: The Port Authority of New York and New Jersey

or to such other address, office or location as may hereafter be substituted therefor by the Port Authority, from time to time, by notice to the Lessee and the Sublessee. If the Lessee shall not have rendered the monthly statements called for under the Lease with respect to the Sublease as of the execution of this Consent, the Lessee shall submit a detailed cumulative statement for such period or periods not previously reported with respect to the Sublease.

27. Counterclaims. The Sublessee and the Lessee each 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 that may be brought by the Port Authority unless such claims would be deemed waived if not so interposed.

28. Interpretation

(a) No Presumption. This Consent (and any amendment, addendum, supplement, Exhibit or Schedule hereto) shall be construed without regard to any presumption or other rule requiring construction against the party causing this Consent or any part thereof to be drafted. The Sublessee expressly acknowledges that it has been, or has had the opportunity to be, advised and represented by counsel in the negotiation, execution and delivery of this Consent.

(b) Governing Law. This Consent and any claim, dispute or controversy arising out of, under or related to this Consent, the relationship of the parties hereunder, and/or the interpretation and enforcement of the rights and obligations of the parties hereunder shall be

governed by, interpreted and construed in accordance with the laws of the State of New York, without regard to choice of law principles.

(c) Headings. The descriptive headings herein are for convenience only, and shall be of no force or effect in construing or interpreting any of the provisions hereof.

29. Counterparts. This Consent may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

30. Entire Agreement. This Consent constitutes the entire agreement of the parties on the subject matter hereof and may not be changed modified, discharged, restated or extended except by a written agreement duly executed by the Port Authority, the Lessee and the Sublessee. The Lessee and the Sublessee agree that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in this Consent.

[Signature page to follow]

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

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

By _____

Print Name _____

(Title) _____

ARK DEVELOPMENT LLC,
a Delaware limited liability company

By: _____

Name: John J. Cuticelli, Jr.

Title: Chairman, CEO and President

[NAME OF SUBLESSEE]

By _____

Print Name _____

(Title) _____

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

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

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

On the _____ day of _____ in the year 20____, before me, the undersigned, a Notary Public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

STATE OF _____)
) ss.
COUNTY OF _____)

On the _____ day of _____ in the year 20____, before me, the undersigned, a Notary Public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

STATE OF _____)
) ss.
COUNTY OF _____)

On the _____ day of _____ in the year 20____, before me, the undersigned, a Notary Public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

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 of Port Authority Agreement No. **AYE-245** (herein called the "Agreement") with **ARK Development LLC** (herein and in this Agreement called the "Lessee"). The provisions set forth in this Part I are similar to the conditions for bidding on federal government contract adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

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

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

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

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

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

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

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

(c) As used in these specifications:

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

(2) "Minority" includes:

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

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

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

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

(d) Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the construction work involving any construction trade, it shall

physically include in each subcontract in excess of \$10,000 those provisions which include the applicable goals for minority and female participation.

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

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

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

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

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

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

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

(3) Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a

recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

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

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

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

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

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

(9) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations and to State-certified minority referral agencies serving the Contractor's recruitment area and employment needs. Not later than one month prior

to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

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

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

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

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

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

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

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

(i) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (Subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under Paragraph (h) hereof provided that: the Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the

effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

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

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

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

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

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

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work 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 this Agreement, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Port Authority.

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

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

- (a) Dividing the work to be subcontracted into smaller portions where feasible.
- (b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female contractor associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.
- (c) Making plans and specifications for prospective construction work available to MBEs and WBEs in sufficient time for review.

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

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

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

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

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

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

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

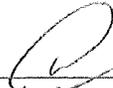
Only MBE's and WBE's certified by the Port Authority will count toward the MBE and WBE goals.

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



For the Port Authority

Initialed:



For the Lessee

SCHEDULE F

LOCAL BUSINESS ENTERPRISES PROGRAM

As a matter of policy the Port Authority hereby requires the Lessee and the Lessee shall require any Contractor, as hereinafter defined, employed in the future by the Lessee to perform construction work on the premises, to comply with the provisions set forth hereinafter in this Schedule F.

(1) The Lessee and each contractor and subcontractor of the Lessee (herein collectively called 'Contractor') shall use every good faith effort 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 Manager 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 business 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, diminish or modify any of the obligations under this Agreement 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 above in Schedule E hereof.



For the Port Authority

Initialed:



For the Lessee

For the Port Authority

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

On the 29th day of December in the year 2014, 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 whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



(notarial seal and stamp)

MICHAEL F. SCHMIDT
Notary Public, State of New York
No. 01SC6118149
Qualified in New York County
Commission Expires November 1, 2016

For ARK Development LLC

STATE OF)
) ss
COUNTY OF)

On the 16th day of December in the year 2014, before me, the undersigned, a Notary Public in and for said state, personally appeared John J. Winkler, Jr., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



(notarial seal and stamp)
AARON S. PERL
NOTARY PUBLIC-STATE OF NEW YORK
No. 01SC6241239
Qualified in New York County
My Commission Expires May 09, 2015